Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: S.B. 244 of the 131st G.A.

Date: May 10, 2016

Status: As Introduced

Sponsor: Sen. Patton

Local Impact Statement Procedure Required: Yes

Contents: To permit certain bad debt sales tax deductions and refunds for unpaid private label credit card debts

State Fiscal Highlights

STATE FUND	FY 2017	FY 2018	FUTURE YEARS
General Revenue Fund			
Revenues	Loss of up to $9.0 million from ongoing bad debt deductions; additional loss of several millions of dollars from tax refunds	Loss of up to $9.0 million from ongoing bad debt deductions; additional loss of several millions of dollars from tax refunds	Loss of up to $9.0 million annually from ongoing bad debt deductions
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2018 is July 1, 2017 – June 30, 2018.

- The bill allows certain bad debt deductions and refunds for unpaid private label credit card debts. The potential revenue loss from the bill may be up to $9.3 million per year on an ongoing basis. However, the initial fiscal cost of the bill is likely to be several millions above that amount due to refunds from bad debts realized before the enactment of the bill. The amount of refunds is uncertain.
- State sales and use tax receipts are deposited in the GRF which would bear the majority of the revenue loss. Any reduction to GRF tax receipts would also reduce the amount distributed to the Local Government Fund (LGF) and Public Library Fund (PLF) as these funds receive distributions from GRF tax receipts.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2016	FY 2017	FUTURE YEARS
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	Potential loss	Potential loss up to $0.3 million from ongoing bad debt deductions; additional loss from tax refunds	Potential loss up to $0.3 million annually from ongoing bad debt deductions
Expenditures	- 0 -	- 0 -	- 0 -
Counties and Transit Authorities			
Revenues	Potential loss	Loss of up to $2.3 million from ongoing bad debt deductions; additional loss from tax refunds	Loss of up to $2.3 million annually from ongoing bad debt deductions; additional loss from tax refunds
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill would reduce revenue from local permissive county and transit authority sales taxes. Those taxes share the same base as the state sales and use tax.
- Receipts from the state sales and use tax are deposited in the GRF. A share of GRF tax revenues is distributed under permanent law to the LGF and PLF. Thus, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.

Detailed Fiscal Analysis

The bill allows sales tax vendors to deduct or apply for a refund of sales tax remitted for bad debts on private label credit cards used to make purchases from the vendor, even though the debt is charged off on the books of a credit card lender, as defined by the bill. The deduction applies to bad debts charged off on or after July 1, 2015. The bill defines a private label credit card as a charge card, credit card, or charge account bearing a vendor's name or logo. A typical (but not all) private label credit card arrangement might involve a retailer contracting with a bank to issue a card labelled with the retailer's name; the card is used to make purchases at the store on credit; and the bank extends the credit, processes the credit purchases, bills customers, and remits payments, including sales tax, to the retailer in exchange for retaining a fee from the store; and the retailer remits the sales tax to the state. If the customer does not pay the credit card balance, unpaid bills are thus a debt held by the bank, not the store.

Under current law, a sales tax vendor may claim the bad debt deduction or refund on the basis of sales tax the vendor previously remitted only if bad debts are charged off as uncollectible on the vendor's books. Thus, the bill expands an existing sales tax deduction for bad debts by allowing vendors to take a deduction or claim a refund of sales tax remitted for bad debts on accounts for private label credit cards even though the debt is charged off as uncollectible on the books of the vendor's affiliates, the lender, or any other person that acquired the card accounts (or receivables arising from such accounts). The bill permits the deduction or refund claim without regard to the vendor reporting period during which the debt became worthless or uncollectible to the lender or another person.

The bad debt deduction provision in the bill may decrease revenue from the sales and use tax by up to $9.3 million per year on an ongoing basis. However, the initial fiscal cost of the bill is likely to be several millions above that amount due to the refund provision. Potential sales tax refunds for bad debts realized after July 1, 2015, but prior to the enactment of the bill, are unknown and likely to be several millions of dollars.

Receipts from the state sales and use tax are deposited into the GRF. Under permanent law, a portion of GRF tax receipts is subsequently transferred to the Local Government Fund (LGF) and the Public Library Fund (PLF), with each local fund receiving 1.66% of GRF tax revenue.[1] Thus, the potential annual revenue loss to the GRF would be up to $9.0 million, while the combined reduction in tax revenue to the LGF and PLF would total $0.3 million per year. However, as mentioned above, the GRF and the local government funds will sustain additional revenue reductions of several millions due to the sales tax bad debt refund provision in the bill, most likely in the first year or two after the bill becomes effective.

[1] H.B. 64 of the 131st General Assembly temporarily increased the PLF share to 1.70% for FY 2016 and FY 2017.

The bill will also reduce revenue from local permissive county and transit authority sales taxes. Those local taxes share the same tax base as the state sales tax, and were imposed on taxable purchases made with the credit cards, and would be returned. At about 24.5% of state sales tax collections, the revenue reduction to permissive county and transit authorities' governments would total up to $2.3 million per year. However, the sales tax refund provision is likely to result in outsized revenue losses in the first years after enactment of the bill.

This estimate is based on consumer data from a Federal Reserve Payments Study published in 2013, which provides net purchase transactions and dollar volume for private label credit card processors, and statistics on charge-off rates on consumer credit cards, also from the Federal Reserve. The estimate assumes that the sales tax vendor (retailer) does not issue or manage the private label card, or collect the payments from cardholders. The Federal Reserve estimated the value of transactions for consumer private label credit card accounts at about $170 billion nationwide in 2012. Federal data were adjusted using Ohio's share of the Gross Domestic Product for the retail trade industry. Other adjustments were made for transactions that may not give rise to sales tax collections. The charge-off rate on bad debts was assumed to be 3.5%. Please note that the charge-off rate would vary with economic conditions. The last economic recession pushed up the charge-off rate to above 10% in 2010, but that rate has gradually come down over the last few years. Thus, in years where the charge-off rate is higher than assumed above, the annual revenue loss would potentially increase. In addition, if the value of transactions on private label credit cards increases substantially from the amount estimated by the Federal Reserve in 2012, future tax revenue losses may be understated. Please note that the estimate above excludes transactions with prepaid private label credit cards or debit cards on the likelihood of few or no defaults on those types of accounts, or transactions involving co-branded cards. Finally, the bill may plausibly increase the likelihood that certain delinquent accounts may be determined to become worthless earlier than would otherwise be the case. This potential change in behavior of holders of bad debts is not taken into account in the Fiscal Note.

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