



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **Am. H.B. 104**

132nd General Assembly

(As Reported by H. Financial Institutions, Housing, and Urban Development)

**Reps.** Schaffer, Henne, Bocchieri, Seitz, Becker, Riedel, Hood, Brinkman, Stein, Bishoff, Dever, Brenner

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### **BILL SUMMARY**

- Allows vendors to deduct or receive a refund of sales tax remitted for bad debts on private label credit accounts when the debt is charged off as uncollectible by the credit account lender or by a person succeeding to such accounts (e.g., debt collector).
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### **CONTENT AND OPERATION**

#### **Sales tax deduction or refund for bad debts**

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 "private label credit accounts" used to make purchases from the vendor or the vendor's affiliates, even though the debt is charged off as uncollectible on the books of the owner of the credit account (referred to as a "lender") and not on the vendor's books.<sup>1</sup>

The deduction currently is available when a vendor makes a sale on credit, collects the sales tax due and remits it to the state, and eventually suffers a default by the purchaser. The debt must have remained uncollected for at least six months, and the deduction may be obtained only for debts that have become worthless or uncollectible during the most recent sales tax reporting period and that the vendor may deduct for federal income tax purposes. The deduction is applied against the vendor's sales tax remittances. A refund is available if a vendor's bad debt for a reporting period exceeds the vendor's taxable sales for that period.

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<sup>1</sup> R.C. 5739.121.

For the bill's purposes, a private label credit account is a credit account that carries, refers to, or is branded with the vendor's name. A typical private label credit account arrangement might involve a department store (the vendor) contracting with a bank (the lender) for the bank to issue a charge account labeled with the department store's name; the charge account 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 department store in exchange for retaining a fee from the store. Unpaid bills are a debt held by the bank, not the store.

For a vendor to receive the bill's expanded deduction or refund, the private label credit account debt must be deductible by the lender for federal income tax purposes, and the lender must charge off the debt as uncollectible on or after January 1, 2018. The expanded deduction or refund is available not only for the bad debt of the original account issuer but also the bad debt of any other person that acquired the accounts, or acquired receivables arising from such accounts, from either a third party or the vendor, provided the vendor has remitted the sales tax. (Such other persons, such as debt collectors or factoring agents, are all defined to be "lenders," and their bad debt is "accounts or receivables bad debt.") As with the existing deduction for a vendor's own bad debts, the bill's expanded deduction requires the vendor to repay any deducted tax if the lender eventually collects its debt after the vendor claims the deduction for that debt.

The bill permits a vendor to claim the deduction or refund on the basis of a lender's bad debt without regard to the vendor's reporting period during which the debt became worthless or uncollectible to the lender.

Under current law, a 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. Current law does not allow a deduction or refund to be claimed on the basis of bad debts on anyone else's books.<sup>2</sup>

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## HISTORY

ACTION	DATE
Introduced	03-01-17
Reported, H. Financial Institutions, Housing & Urban Development	04-26-17

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<sup>2</sup> R.C. 5739.121(F). See, e.g., *Home Depot U.S.A. v. Levin*, 121 Ohio St.3d 482 (2009).

