

2013 DRAFTING REQUEST

Bill

Received: 10/22/2013 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Alberta Darling (608) 266-5830 By/Representing: andrew
May Contact: Drafter: jkreye
Subject: Tax, Other - sales Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Darling@legis.wisconsin.gov
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Bad debt return adjustments for private-label credit card bad debt

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 10/22/2013	kfollett 10/30/2013		_____			
/P1	jkreye 11/13/2013		jmurphy 10/31/2013	_____	lparisi 10/31/2013		State S&L
/1	jkreye 11/13/2013	scalvin 11/13/2013	rschluet 11/13/2013	_____	mbarman 11/13/2013		State S&L
/2		kfollett		_____	lparisi	mbarman	State

Vers. Drafted

Reviewed
11/13/2013

Typed

Proofed

Submitted
11/13/2013

Jacketed
1/3/2014

Required
S&L

FE Sent For:

@intro.

<END>

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/1	jkreye 11/13/2013	scalvin 11/13/2013	rschluet 11/13/2013	_____	mbarman 11/13/2013		State S&L
/2		kfollett		_____	lparisi		State

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Subject: **Tax, Other - sales** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
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Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**

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/P1	jkreye 11/13/2013		jmurphy 10/31/2013	_____	lparisi 10/31/2013		State S&L
/1		scalvin 11/13/2013	rschlue 11/13/2013	_____	mbarman 11/13/2013		State S&L

12/5/13
11/13

12/5/13
11/13

FE Sent For:

<END>

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Subject: Tax, Other - sales Addl. Drafters:
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Requester's email: Sen.Darling@legis.wisconsin.gov
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

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Topic:

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Instructions:

See attached

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/?	jkreye 10/22/2013	kfollett 10/30/2013		_____			
/P1		1/ SAC 11/13/2013	jmurphy 10/31/2013	_____	lparisi 10/31/2013		State S&L
FE Sent For:			1/ SAC 11/13/2013				

<ENB> 1313

2013 DRAFTING REQUEST

Bill

Received: 10/22/2013 Received By: jkreye
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For: Alberta Darling (608) 266-5830 By/Representing: andrew
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/?	jkreye	1 P11/gf 10/30	1 P11/gf 10/30	_____	_____	_____	_____
FE Sent For:				Jan 10/31			

<END>

Kreye, Joseph

From: Evenson, Andrew
Sent: Tuesday, October 22, 2013 9:42 AM
To: Kreye, Joseph
Subject: FW: Message from "313EAST"
Attachments: 20131022095255048.pdf

Hello,

Can we have this drafted? Please let me know if you have any questions.

Sincerely,

Andrew Evenson
Office of State Senator Alberta Darling
State Capitol 317 East
(608) 266-5830

-----Original Message-----

From: networkscanning@legis.wisconsin.gov [<mailto:networkscanning@legis.wisconsin.gov>]
Sent: Tuesday, October 22, 2013 9:53 AM
To: Evenson, Andrew
Subject: Message from "313EAST"

This E-mail was sent from "313EAST" (MP 6001/LD360).

Scan Date: 10.22.2013 09:52:54 (-0500)
Queries to: networkscanning@legis.wisconsin.gov

Bad Debt Sales Tax Deduction

Current law:

- Under current Wisconsin law, a retailer is permitted to seek a refund of sales tax previously remitted on a sale in instances where the customer has defaulted on their credit account.
- In order to claim the deduction, two criteria must be met. First, the claimant must be the one who sold the product and remitted the sales tax. Secondly, the claimant must also be able to charge off the bad debt. Retailers with a private label credit card (PLCC) meet the first criteria, but not the second.

Proposal:

- Clarify that Wisconsin's law regarding bad debt sales tax deduction applies to retailers who partner with a third-party lender for consumer credit.

Background:

- Over time, in an effort to modernize business practices, retailers have begun to partner with lenders to offer customers credit through PLCCs.
- As demand for consumer credit grew – retailers realized that they needed to focus on what they do best – selling products. So many of them decided to utilize the expertise of third-party lenders to issue, administer, and maintain their PLCCs.
- This proposal would only apply to purchases made from the retailer who issued the PLCC. It would not apply to general issued credit cards, nor would it apply to purchases made by dual-purpose PLCCs at different retailers.

WISCONSIN

Relief for sales tax paid on PLCC Amounts Charged Off as Bad Debt

Draft Language

March 18, 2013

Create sec. 77.585 (1m) to provide:

The following shall apply only with respect to amounts found to be worthless on accounts or receivables for private label credit cards, dual-purpose private label credit cards, and dealer credit programs:

(a) A retailer or lender may take the amount found to be worthless as a refund or a deduction from the measure of tax due provided that the amounts are found to be worthless, have been charged off as bad debt on the lender's books and records, and are eligible to be deducted as bad debts for federal income tax purposes. The amount deductible shall not include financing charges or interest, sales or use taxes imposed on the sales price or purchase price, uncollectible amounts on tangible personal property or items, property, or goods under s. 77.52(1)(b), (c), or (d) that remain in the seller's or lender's possession until the full sales price or purchase price is paid, expenses incurred in attempting to collect any debt, and the value of any repossessed property or items. All of the following conditions must also be met:

1. The retailer previously reported and paid the sales tax due under this subchapter on such amount.
2. No deduction or refund was previously claimed by or allowed to either the retailer or the lender on such amount.
3. The amount deductible is limited to credit sale transactions included in the account or receivable that is charged off on the lender's books and records on or after January 1, 2013, regardless of the date on which the credit sale transaction actually occurred.
4. The retailer and lender execute an election designating which party is entitled to claim the deduction or refund under this section. This election shall be provided for in a written agreement between the retailer and lender and shall be available for review by the department. In the event the party eligible to claim the deduction or refund is no longer in business, then the other party shall be entitled to claim the deduction or refund without any further election.

(b) A retailer or lender that claims the deduction or refund under this subsection:

1. Shall maintain adequate books, records or other documentation to support the deduction taken or refund claimed under this subsection.
2. May use one of the following methods to determine the amount of the deduction or refund:
 - (i). An apportionment method to substantiate the amount of tax imposed under this chapter which is included in the bad debt to which the deduction or refund applies. The

WISCONSIN

Relief for sales tax paid on PLCC Amounts Charged Off as Bad Debt

Draft Language

March 18, 2013

method must use the retailer's Wisconsin and non-Wisconsin sales, the retailer's taxable and nontaxable sales, and the amount of tax the retailer remitted to this state;

(ii). A specified percentage of the accounts or receivables giving rise to the deduction or refund, which is derived from a sampling of the retailer's or lender's records in accordance with a methodology agreed upon by the department and the retailer.

For purposes of computing the deduction or refund, payments on the accounts or receivables shall be allocated based on the terms and conditions of the contract between the retailer or lender and the consumer; or

(iii) A direct method as agreed to by the Department.

3. If a retailer or lender subsequently collects, in whole or in part, any amount for which a deduction or refund was claimed under this subsection, it shall include the taxable percentage of the amount collected and pay the tax on the return filed for the period in which the amount is collected.
4. A retailer or lender's deduction for tax on bad debt may be claimed on a return filed by an entity related by a direct or indirect common ownership of 50 percent or more.

(c) For purposes of this subsection:

1. "Private label credit card" means any charge card or credit card that carries, refers to, or is branded with the name or logo of a retailer and can be used for purchases only from the retailer whose name or logo appears on the card or for purchases from any of the retailer's affiliates or franchisees.
2. "Dual purpose private label credit cards," are credit cards that otherwise meet the definition of "private label credit card" that may also be used to make purchases from persons other than the retailer whose name or logo appears on the card or the retailer's affiliates or franchisees. The issuer of the dual-purpose private label credit card must be able to determine the sales receipts of the retailer and that retailer's affiliates or franchisees apart from any sales receipts of unrelated persons. This subsection only authorizes a deduction or refund for credit sales by the retailer and the retailer's affiliates and does not authorize any deduction or refund with respect to sales by such unrelated persons.
3. "Dealer credit program" means an arrangement where credit is extended for a specific purchase from a retailer. The term does not include purchases of titled property, such as aircraft, motor vehicles, vessels, or motor homes.
4. "Retailer's affiliates" means all entities that are members of the same affiliated group as the retailer under section 1504 of the Internal Revenue Code and are eligible to file a single consolidated return for federal income tax purposes.
5. "Lender" means any person who owns a private label credit card account, a dual-purpose private

WISCONSIN

Relief for sales tax paid on PLCC Amounts Charged Off as Bad Debt

Draft Language

March 18, 2013

label credit card account, or a dealer credit account, or an interest in a private label credit card receivable, dual-purpose private label credit card receivable, or dealer credit receivable:

- i) That the person purchased directly from a retailer who remitted the tax imposed under this subchapter or its affiliates, or transferred from a third party;
- ii) That the person originated pursuant to that person's contract with the retailer who remitted the tax imposed under this subchapter or its affiliates; or
- iii) That is affiliated in the manner described under 26 U.S.C. s. 1504 (regardless of whether the different entities are corporations) to a person described in subds. (i) or (ii), or an assignee or other transferee of a person described in subds. (i) or (ii).



Thomas
(comb)

RM not R

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 12-22-13

500N

DTN

Gen

- 1 AN ACT ...; relating to: sales tax bad debt return adjustments for private label
- 2 credit card bad debt.

Analysis by the Legislative Reference Bureau

Under current law, for sales tax purposes, a seller may claim on a sales tax return a deduction for the amount of any bad debt that the seller writes off as uncollectible in the seller's books and records, if the amount may be deducted as bad debt for federal income tax purposes, regardless of whether the seller must file a federal income tax return.

Under this bill, a lender who extends credit through a private label credit card, dual purpose credit card, or dealer credit program, may enter into an agreement with a seller so that the seller, the lender, or the lender's affiliate may claim a deduction or a refund for bad debt. A private label credit card is any credit card that identifies a seller's name or logo on the card and that may be used only for purchases from that seller or from any of the seller's affiliates. A dual purpose card is a credit card that may be used as a private label credit card or to make purchases from persons other than the seller whose name or logo appears on the card. A dealer credit program is an arrangement for extending credit for a specific purchase from a seller.

credit

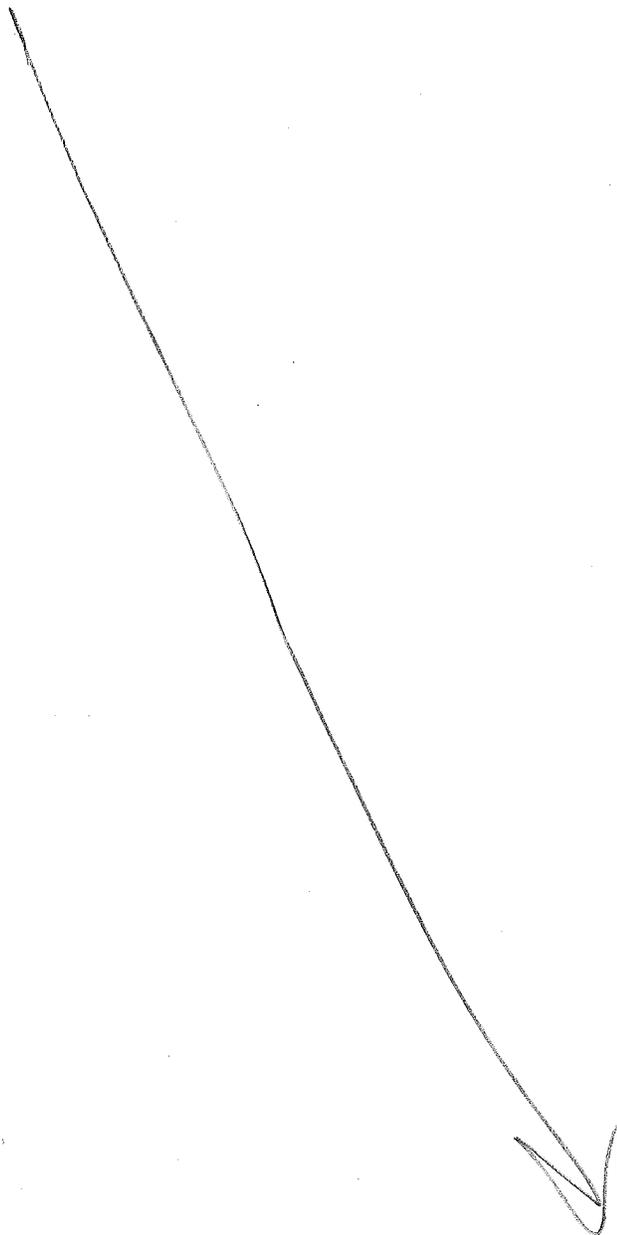
Under the bill, a person who is eligible to claim a deduction or refund for bad debt related to using a private label credit card, dual purpose credit card, or dealer credit program, but who is not required to file a sales tax return, may claim the deduction or refund on the person's income or franchise tax return.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

(END)





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 40**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 737, line 24: after that line insert:

3 **"SECTION 1499d.** 77.585 (11) of the statutes is created to read:

4 77.585 (11) (a) In this subsection:

5 1. "Dealer credit program" means an arrangement for extending credit for a
6 specific purchase from a seller, not including the purchase of an aircraft, a motor
7 vehicle, a vessel, a motor home, or any other item for which a title is required.

8 2. "Dual purpose credit card" means a credit card that may be used as a private
9 label credit card or to make purchases from persons other than the seller whose name
10 or logo appears on the card or the seller's affiliates or franchisees, if the credit card
11 issuer is able to determine the sales receipts of the seller and the seller's affiliates
12 or franchisees apart from any sales receipts of unrelated persons.

1 3. a. "Lender" means any person who owns a private label credit card account,
2 a dual purpose credit card account, or a dealer credit program account, or an interest
3 in a receivable from any such account, if the person purchased the account or interest
4 directly from a seller who remitted the sales or use tax or from the seller's affiliate,
5 the person received the account or interest from a third party, or the person
6 originated the account or interest pursuant to the person's contract with the seller
7 who remitted the sales or use tax or with the seller's affiliate.

8 b. "Lender" includes any person who is a member of the same affiliated group,
9 as defined under section 1504 of the Internal Revenue Code, as a lender described
10 under subd. 3. a. or is an assignee or other transferee of a lender described under
11 subd. 3. a.

12 4. "Private label credit card" means any charge card or credit card that
13 identifies a seller's name or logo on the card and that may ^{be} used only for purchases
14 from that seller or from any of the seller's affiliates.

15 5. "Seller's affiliate" means any entity that is a member of the same affiliated
16 group, as defined under section 1504 of the Internal Revenue Code, as the seller that
17 may file a single consolidated return for federal income tax purposes.

18 (b) A lender who extends credit through a private label credit card, dual
19 purpose credit card, or dealer credit program, may enter into an agreement with a
20 seller so that the seller, the lender, or an affiliate of the lender may claim a deduction
21 or a refund for bad debt under sub. (1) if all of the following apply:

22 1. The seller previously reported and paid the tax due related to the bad debt.

23 2. No deduction or refund was previously claimed by, or allowed to, either the
24 seller or the lender on the bad debt.

1 3. The amount for which the seller or lender claims a deduction or refund under
2 sub. (1) is limited to credit sale transactions included in the account or receivable that
3 is charged off on the lender's books and records after December 31, 2012, regardless
4 of the date on which the credit sale transaction occurred.

5 4. The seller and lender designate which party is entitled to claim the deduction
6 or refund, specify that designation in the written agreement between the seller and
7 the lender, and make the agreement available for review by the department. The
8 written agreement shall also provide that if the party that is entitled to claim the
9 deduction or refund is no longer in business, the other party may claim the deduction
10 or refund.

11 (c) A seller or lender who claims a deduction or a refund as provided under this
12 subsection shall maintain adequate books, records, or other documents to support
13 the deduction or refund. A seller or lender shall use one of the following methods for
14 determining the amount of the deduction or refund:

15 1. An apportionment method that determines the amount of the sales or use
16 tax included in the bad debt to which the deduction or refund applies using the
17 seller's in-state and out-of-state sales, the seller's taxable and nontaxable sales,
18 and the amount of the tax the seller remitted to the state.

19 2. A specified percentage of the accounts or receivables giving rise to the
20 deduction or refund, if the specified percentage is derived from a sampling of the
21 seller's or lender's records, as appropriate, in accordance with a methodology agreed
22 on by the department and the seller or lender, as appropriate. For purposes of this
23 subdivision, in order to compute the deduction or refund, payments on the accounts
24 or receivables shall be allocated based on the terms and conditions of the contract
25 between the seller or lender and the consumer.

1 3. A direct method approved by the department.

2 (d) A seller or lender who claims a deduction or refund as provided under this
3 subsection and who subsequently collects, in whole or in part, any amount for which
4 the deduction or refund was claimed, shall include the taxable percentage of the
5 amount collected and pay the tax on the return filed for the period corresponding to
6 the date when the amount is collected.

7 (e) 1. A seller's or lender's deduction for tax paid on bad debt may be claimed
8 by an entity related to the seller or lender if the entity is related by a direct or indirect
9 common ownership of 50 percent or more.

10 2. A seller may claim a deduction or refund under this subsection in the manner
11 provided under sub. (1).

12 3. An entity that is eligible to claim a deduction or a refund under this
13 subsection and that is not otherwise required to file a return under s. 77.58, may
14 claim the deduction or the refund on the entity's income or franchise tax return no
15 later than 4 years after the due date of the income or franchise tax return that
16 corresponds to when the bad debt was charged off on the entity's books and records." 

17

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3490/7dn

JK:.....

1/11
gf

Date

Senator Darling:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3490/P1dn

JK:kjf:jm

October 31, 2013

Senator Darling:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Kreye, Joseph

From: Evenson, Andrew
Sent: Wednesday, November 06, 2013 9:19 AM
To: Kreye, Joseph
Subject: FW: PLCC Bad Debt Draft

Hello,

We reviewed the Bad Debt draft and had a few things come up:

Page 3, Line 3: Under the definition of PLCC, the language submitted said: "... any charge card or credit card from any of the seller's affiliates or franchisees." Franchisees were left out. Is there a reason, or can it be added back in?

Page 4, Line 23: Is this language necessary? Isn't it duplicative of 77.585 (11)(b)?

Page 5, Lines 1 – 5: Is there a reason this language was added to the draft?

Sincerely,

Andrew Evenson
Office of State Senator Alberta Darling
State Capitol 317 East
(608) 266-5830



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3490/P1
JK:sac&kjf:fr

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 11-13-13

Today

- gen cat

- 1 AN ACT *to create* 77.585 (11) of the statutes; **relating to:** sales tax bad debt
- 2 return adjustments for private label credit card bad debt.

Analysis by the Legislative Reference Bureau

Under current law, for sales tax purposes, a seller may claim on a sales tax return a deduction for the amount of any bad debt that the seller writes off as uncollectible in the seller's books and records, if the amount may be deducted as bad debt for federal income tax purposes, regardless of whether the seller must file a federal income tax return.

Under this bill, a lender who extends credit through a private label credit card, dual purpose credit card, or dealer credit program, may enter into an agreement with a seller so that the seller, the lender, or the lender's affiliate may claim a deduction or a refund for bad debt. A private label credit card is any credit card that identifies a seller's name or logo on the card and that may be used only for purchases from that seller or from any of the seller's affiliates. A dual purpose credit card is a credit card that may be used as a private label credit card or to make purchases from persons other than the seller whose name or logo appears on the card. A dealer credit program is an arrangement for extending credit for a specific purchase from a seller.

Under the bill, a person who is eligible to claim a deduction or refund for bad debt related to using a private label credit card, dual purpose credit card, or dealer credit program, but who is not required to file a sales tax return, may claim the deduction or refund on the person's income or franchise tax return.

or franchisees

6

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 77.585 (11) of the statutes is created to read:

2 77.585 (11) (a) In this subsection:

3 1. “Dealer credit program” means an arrangement for extending credit for a
4 specific purchase from a seller, not including the purchase of an aircraft, a motor
5 vehicle, a vessel, a motor home, or any other item for which a title is required.

6 2. “Dual purpose credit card” means a credit card that may be used as a private
7 label credit card or to make purchases from persons other than the seller whose name
8 or logo appears on the card or the seller’s affiliates or franchisees, if the credit card
9 issuer is able to determine the sales receipts of the seller and the seller’s affiliates
10 or franchisees apart from any sales receipts of unrelated persons.

11 3. a. “Lender” means any person who owns a private label credit card account,
12 a dual purpose credit card account, or a dealer credit program account, or an interest
13 in a receivable from any such account, if the person purchased the account or interest
14 directly from a seller who remitted the sales or use tax or from the seller’s affiliate,
15 the person received the account or interest from a third party, or the person
16 originated the account or interest pursuant to the person’s contract with the seller
17 who remitted the sales or use tax or with the seller’s affiliate.

18 b. “Lender” includes any person who is a member of the same affiliated group,
19 as defined under section 1504 of the Internal Revenue Code, as a lender described
20 under subd. 3. a. or is an assignee or other transferee of a lender described under
21 subd. 3. a.

1 4. “Private label credit card” means any charge card or credit card that
2 identifies a seller’s name or logo on the card and that may be used only for purchases
3 from that seller or from any of the seller’s affiliates *or franchisees*

4 5. “Seller’s affiliate” means any entity that is a member of the same affiliated
5 group, as defined under section 1504 of the Internal Revenue Code, as the seller that
6 may file a single consolidated return for federal income tax purposes.

7 (b) A lender who extends credit through a private label credit card, dual
8 purpose credit card, or dealer credit program, may enter into an agreement with a
9 seller so that the seller, the lender, or an affiliate of the lender may claim a deduction
10 or a refund for bad debt under sub. (1) if all of the following apply:

11 1. The seller previously reported and paid the tax due related to the bad debt.

12 2. No deduction or refund was previously claimed by, or allowed to, either the
13 seller or the lender on the bad debt.

14 3. The amount for which the seller or lender claims a deduction or refund under
15 sub. (1) is limited to credit sale transactions included in the account or receivable that
16 is charged off on the lender’s books and records after December 31, 2012, regardless
17 of the date on which the credit sale transaction occurred.

18 4. The seller and lender designate which party is entitled to claim the deduction
19 or refund, specify that designation in the written agreement between the seller and
20 the lender, and make the agreement available for review by the department. The
21 written agreement shall also provide that if the party that is entitled to claim the
22 deduction or refund is no longer in business, the other party may claim the deduction
23 or refund.

24 (c) A seller or lender who claims a deduction or a refund as provided under this
25 subsection shall maintain adequate books, records, or other documents to support

1 the deduction or refund. A seller or lender shall use one of the following methods for
2 determining the amount of the deduction or refund:

3 1. An apportionment method that determines the amount of the sales or use
4 tax included in the bad debt to which the deduction or refund applies using the
5 seller's in-state and out-of-state sales, the seller's taxable and nontaxable sales,
6 and the amount of the tax the seller remitted to the state.

7 2. A specified percentage of the accounts or receivables giving rise to the
8 deduction or refund, if the specified percentage is derived from a sampling of the
9 seller's or lender's records, as appropriate, in accordance with a methodology agreed
10 on by the department and the seller or lender, as appropriate. For purposes of this
11 subdivision, in order to compute the deduction or refund, payments on the accounts
12 or receivables shall be allocated based on the terms and conditions of the contract
13 between the seller or lender and the consumer.

14 3. A direct method approved by the department.

15 (d) A seller or lender who claims a deduction or refund as provided under this
16 subsection and who subsequently collects, in whole or in part, any amount for which
17 the deduction or refund was claimed, shall include the taxable percentage of the
18 amount collected and pay the tax on the return filed for the period corresponding to
19 the date when the amount is collected.

20 (e) 1. A seller's or lender's deduction for tax paid on bad debt may be claimed
21 by an entity related to the seller or lender if the entity is related by a direct or indirect
22 common ownership of 50 percent or more.

23 2. A seller may claim a deduction or refund under this subsection in the manner
24 provided under sub. (1).

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3. An entity that is eligible to claim a deduction or a refund under this subsection and that is not otherwise required to file a return under s. 77.58, may claim the deduction or the refund on the entity's income or franchise tax return no later than 4 years after the due date of the income or franchise tax return that corresponds to when the bad debt was charged off on the entity's books and records.

(END)

*Sec # 1A.
(1) ^{act} ^{applies} this act first applies to taxable years beginning ^{on} January 1, 2014.*



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3490/1
JK:sac&kjf:rs

2
staysRMR

2013 BILL

in 11-13
Today
Resen

1 AN ACT to create 77.585 (11) of the statutes; relating to: sales tax bad debt
2 return adjustments for private label credit card bad debt.

Analysis by the Legislative Reference Bureau

Under current law, for sales tax purposes, a seller may claim on a sales tax return a deduction for the amount of any bad debt that the seller writes off as uncollectible in the seller's books and records, if the amount may be deducted as bad debt for federal income tax purposes, regardless of whether the seller must file a federal income tax return.

Under this bill, a lender who extends credit through a private label credit card, dual purpose credit card, or dealer credit program, may enter into an agreement with a seller so that the seller, the lender, or the lender's affiliate may claim a deduction or a refund for bad debt. A private label credit card is any credit card that identifies a seller's name or logo on the card and that may be used only for purchases from that seller or from any of the seller's affiliates or franchisees. A dual purpose credit card is a credit card that may be used as a private label credit card or to make purchases from persons other than the seller whose name or logo appears on the card. A dealer credit program is an arrangement for extending credit for a specific purchase from a seller.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

1 **SECTION 1.** 77.585 (11) of the statutes is created to read:

2 77.585 (11) (a) In this subsection:

3 1. “Dealer credit program” means an arrangement for extending credit for a
4 specific purchase from a seller, not including the purchase of an aircraft, a motor
5 vehicle, a vessel, a motor home, or any other item for which a title is required.

6 2. “Dual purpose credit card” means a credit card that may be used as a private
7 label credit card or to make purchases from persons other than the seller whose name
8 or logo appears on the card or the seller’s affiliates or franchisees, if the credit card
9 issuer is able to determine the sales receipts of the seller and the seller’s affiliates
10 or franchisees apart from any sales receipts of unrelated persons.

11 3. a. “Lender” means any person who owns a private label credit card account,
12 a dual purpose credit card account, or a dealer credit program account, or an interest
13 in a receivable from any such account, if the person purchased the account or interest
14 directly from a seller who remitted the sales or use tax or from the seller’s affiliate,
15 the person received the account or interest from a third party, or the person
16 originated the account or interest pursuant to the person’s contract with the seller
17 who remitted the sales or use tax or with the seller’s affiliate.

18 b. “Lender” includes any person who is a member of the same affiliated group,
19 as defined under section 1504 of the Internal Revenue Code, as a lender described
20 under subd. 3. a. or is an assignee or other transferee of a lender described under
21 subd. 3. a.

22 4. “Private label credit card” means any charge card or credit card that
23 identifies a seller’s name or logo on the card and that may be used only for purchases
24 from that seller or from any of the seller’s affiliates or franchisees.

BILL

1 5. “Seller’s affiliate” means any entity that is a member of the same affiliated
2 group, as defined under section 1504 of the Internal Revenue Code, as the seller that
3 may file a single consolidated return for federal income tax purposes.

4 (b) A lender who extends credit through a private label credit card, dual
5 purpose credit card, or dealer credit program, may enter into an agreement with a
6 seller so that the seller, the lender, or an affiliate of the lender may claim a deduction
7 or a refund for bad debt under sub. (1) if all of the following apply:

8 1. The seller previously reported and paid the tax due related to the bad debt.

9 2. No deduction or refund was previously claimed by, or allowed to, either the
10 seller or the lender on the bad debt.

11 3. The amount for which the seller or lender claims a deduction or refund under
12 sub. (1) is limited to credit sale transactions included in the account or receivable that
13 is charged off on the lender’s books and records after December 31, 2012, regardless
14 of the date on which the credit sale transaction occurred.

15 4. The seller and lender designate which party is entitled to claim the deduction
16 or refund, specify that designation in the written agreement between the seller and
17 the lender, and make the agreement available for review by the department. The
18 written agreement shall also provide that if the party that is entitled to claim the
19 deduction or refund is no longer in business, the other party may claim the deduction
20 or refund.

21 (c) A seller or lender who claims a deduction or a refund as provided under this
22 subsection shall maintain adequate books, records, or other documents to support
23 the deduction or refund. A seller or lender shall use one of the following methods for
24 determining the amount of the deduction or refund:

Barman, Mike

From: Evenson, Andrew
Sent: Thursday, January 02, 2014 3:13 PM
To: LRB.Legal
Subject: Draft Review: LRB -3490/2 Topic: Bad debt return adjustments for private-label credit card bad debt

Please Jacket LRB -3490/2 for the SENATE.