

**2003 DRAFTING REQUEST**

**Senate Amendment (SA-SB44)**

Received: **05/14/2003**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB: **03-2133/1**

For: **Legislative Fiscal Bureau**

By/Representing: **Russell**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax - cigs/tobacco prod**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

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**Pre Topic:**

LFB:.....Russell -

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**Topic:**

Bad debt deductions against cigarettes and tobacco products taxes

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**Instructions:**

See Attached

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**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 05/14/2003	jdyer 05/14/2003					
/1			pgreensl 05/14/2003		lemery 05/14/2003		

FE Sent For:

**<END>**

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1?	jkreye	1 5/14 jld	5/14 PS	<del>5/14</del> PS/epk			

FE Sent For:

<END>

Senator Darling  
Senator Welch

## GENERAL FUND TAXES

### Bad Debt Deductions Against Cigarette and Tobacco Products Taxes

**Motion:**

Move to provide that a person who sells cigarettes or tobacco products ("tobacco products" includes all tobacco products except cigarettes) at wholesale may claim as a deduction against the cigarette and tobacco products taxes imposed an amount equal to such taxes that are attributable to bad debt that the person writes off as uncollectible.

Define "bad debt" to mean an amount equal to the purchase price of cigarettes or tobacco products, if the amount may be claimed as a deduction under section 166 of the Internal Revenue Code (governing the deductibility of worthless and partially worthless debts). "Bad debt" would not include financing charges, interest on the wholesale price of the products, uncollectible amounts on property that remains in the seller's possession until the full purchase price is paid, expenses incurred in attempting to collect any debt, debts sold or assigned to third parties for collection, and repossessed property.

Require a person who claims a deduction under these provisions to submit the claim on a form and in a manner prescribed by the Department of Revenue (DOR) and to submit with the form all of the following:

- (a) A copy of the original invoice for the sale of the cigarette or tobacco products that represent bad debt;
- (b) Evidence that the products described in the invoice under (a) were delivered to the person who ordered them;
- (c) Evidence that the person who ordered and received the products did not pay the person who claims the deduction for the products; and
- (d) Evidence that the person claiming the deduction used reasonable collection practices in attempting to collect the amount owed.

Provide that, if a person subsequently collects, in whole or in part, any bad debt for which a deduction is claimed under this provision, the person would have to submit to the Department the portion of the deduction related to the amount collected, in the manner prescribed by the Department and for the period in which the amount is collected. Specify that these provisions would take effect on the first day of the second month beginning after publication of the budget bill.

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Note:

Under current law, the excise taxes on cigarettes and tobacco products are paid by wholesalers and subsequently included in the retail prices of the products. Wholesalers are required to report the products sold at wholesale and associated excise taxes to the Department of Revenue. There are no provisions allowing wholesalers to claim deductions against cigarette and tobacco products taxes for amounts equal to the taxes attributable to bad debts.

The motion would allow deductions of cigarette and tobacco products taxes attributable to taxes on bad debts, and would require such deductions to be claimed on reports to DOR in a manner prescribed by DOR. It is estimated that the effect on general fund tax collections would be minimal.

2003

Date (time) needed 5:00 PM

LRB b 0185, 1

**LFB BUDGET AMENDMENT  
[ONLY FOR LFB]**

JK : JLD :  
Woj

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT  
TO 2003 SENATE BILL 44**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page 831, line 23: after that line insert: INSERT A ✓

#. Page 832, line 9: after that line insert: INSERT B ✓

#. Page 1134, line 17: after that line insert: INSERT C ✓

(end)

~~#. Page . . . . ., line . . . . .  
#. Page . . . . ., line . . . . .  
#. Page . . . . ., line . . . . .~~

# 2003 BILL

1 **AN ACT to create** 139.362 and 139.801 of the statutes; **relating to:** claiming bad  
 2 debt deductions related to the sale of cigarettes and tobacco products.

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*Analysis by the Legislative Reference Bureau*

This bill allows a person who sells cigarettes or tobacco products at wholesale to claim a deduction against the cigarette or tobacco products taxes imposed on such cigarettes or tobacco products in an amount equal to the taxes that are attributable to bad debt. Under the bill, "bad debt" means an amount that is equal to the purchase price of cigarettes or tobacco products, if such amount may be claimed as a bad debt deduction for federal income tax purposes.

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

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

3 "SECTION 139.362 of the statutes is created to read:

4 <sup>2057m</sup> **139.362 Bad debt deductions.** (1) In this section, "bad debt" means an  
 5 amount that is equal to the purchase price of cigarettes, if such amount may be  
 6 claimed as a deduction under section 166 of the Internal Revenue Code. "Bad debt"

INSERT  
A



**BILL****SECTION 1**


1 does not include financing charges, interest on the wholesale price of cigarettes,  
2 uncollectible amounts on property that remains in the seller's possession until the  
3 full purchase price is paid, expenses incurred in attempting to collect any debt, debts  
4 sold or assigned to 3rd parties for collection, and repossessed property.

5 (2) A person who pays the taxes imposed under this subchapter may claim as  
6 a deduction on a return under s. 139.38, and against the purchase of stamps under  
7 s. 139.32, the amount of any such taxes that are attributable to bad debt that the  
8 person writes off as uncollectible in the person's books and records and that is eligible  
9 to be deducted as bad debt for federal income tax purposes, regardless of whether the  
10 person is required to file a federal income tax return. A person who claims a  
11 deduction under this section shall claim the deduction on the return under s. 139.38  
12 that is submitted for the period in which the person writes off the amount of the bad  
13 debt as uncollectible in the person's books and records and in which such amount is  
14 eligible to be deducted as bad debt for federal income tax purposes. If the person  
15 subsequently collects in whole or in part any bad debt for which a deduction is  
16 claimed under this section, the person shall submit to the department the portion of  
17 the deduction related to the amount collected, in the manner prescribed by the  
18 department and for the period in which the amount is collected.

19 (3) A person who claims a deduction under this section shall submit the claim  
20 on a form prescribed by the department and shall submit with the form all of the  
21 following:

22 (a) A copy of the original invoice for the sale of cigarettes that represents bad  
23 debt.

24 (b) Evidence that the cigarettes described in the invoice under par. (a) were  
25 delivered to the person who ordered them.





**BILL**

A

1 (c) Evidence that the person who ordered and received the cigarettes did not  
2 pay the person who claims a deduction under this section for the cigarettes.

3 (d) Evidence that the person who claims a deduction under this section used  
4 reasonable collection practices in attempting to collect the amount owed under par.

5 (c). *END OF INSERT A*

6 **SECTION 139.801** of the statutes is created to read:

7 **2058f 139.801 Bad debt deductions.** (1) In this section, "bad debt" means an  
8 amount that is equal to the purchase price of tobacco products, if such amount may  
9 be claimed as a deduction under section 166 of the Internal Revenue Code. "Bad  
10 debt" does not include financing charges, interest on the wholesale price of tobacco  
11 products, uncollectible amounts on property that remains in the seller's possession  
12 until the full purchase price is paid, expenses incurred in attempting to collect any  
13 debt, debts sold or assigned to 3rd parties for collection, and repossessed property.

14 (2) A distributor who pays the taxes imposed under s. 139.76 may claim as a  
15 deduction on a return under s. 139.77 the amount of any such taxes that are  
16 attributable to bad debt that the distributor writes off as uncollectible in the  
17 distributor's books and records and that is eligible to be deducted as bad debt for  
18 federal income tax purposes, regardless of whether the distributor is required to file  
19 a federal income tax return. A distributor who claims a deduction under this section  
20 shall claim the deduction on the return under s. 139.77 that is submitted for the  
21 period in which the distributor writes off the amount of the deduction as uncollectible  
22 in the distributor's books and records and in which such amount is eligible to be  
23 deducted as bad debt for federal income tax purposes. If the distributor subsequently  
24 collects in whole or in part any bad debt for which a deduction is claimed under this

*INSERT B*

**BILL**

**SECTION 2**

1 section, the distributor shall include the amount collected in the return filed for the  
2 period in which the amount is collected and shall pay the tax with the return.

3 (3) A distributor who claims a deduction under this section shall submit with  
4 the return under sub. (2) all of the following:

5 (a) A copy of the original invoice for the sale of tobacco products that represents  
6 bad debt.

7 (b) Evidence that the tobacco products described in the invoice under par. (a)  
8 were delivered to the person who ordered them.

9 (c) Evidence that the person who ordered and received the cigarettes did not  
10 pay the distributor for the tobacco products.

11 (d) Evidence that the distributor used reasonable collection practices in  
12 attempting to collect the amount owed under par. (c). = ✓

END OF INSERT B

~~Section 3. Effective date.~~

14 (1) <sup>1b</sup> ~~This act~~ takes effect on the first day of the 2nd month beginning after  
15 publication. =

VANDA

(NO \$) BAD DEBT DEDUCTIONS. ← (CS)  
The treatment of sections 139.362 and 139.801 of

the statutes

INSERT C



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBb0185/1  
JK:jld&wlj:pg

LFB:.....Russell – Bad debt deductions against cigarettes and tobacco products taxes

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,**

**TO 2003 SENATE BILL 44**

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

2 **1.** Page 831, line 23: after that line insert:

3 **“SECTION 2057m.** 139.362 of the statutes is created to read:

4 **139.362 Bad debt deductions.** (1) In this section, “bad debt” means an  
5 amount that is equal to the purchase price of cigarettes, if such amount may be  
6 claimed as a deduction under section 166 of the Internal Revenue Code. “Bad debt”  
7 does not include financing charges, interest on the wholesale price of cigarettes,  
8 uncollectible amounts on property that remains in the seller’s possession until the  
9 full purchase price is paid, expenses incurred in attempting to collect any debt, debts  
10 sold or assigned to 3rd parties for collection, and repossessed property.

1           (2) A person who pays the taxes imposed under this subchapter may claim as  
2 a deduction on a return under s. 139.38, and against the purchase of stamps under  
3 s. 139.32, the amount of any such taxes that are attributable to bad debt that the  
4 person writes off as uncollectible in the person's books and records and that is eligible  
5 to be deducted as bad debt for federal income tax purposes, regardless of whether the  
6 person is required to file a federal income tax return. A person who claims a  
7 deduction under this section shall claim the deduction on the return under s. 139.38  
8 that is submitted for the period in which the person writes off the amount of the bad  
9 debt as uncollectible in the person's books and records and in which such amount is  
10 eligible to be deducted as bad debt for federal income tax purposes. If the person  
11 subsequently collects in whole or in part any bad debt for which a deduction is  
12 claimed under this section, the person shall submit to the department the portion of  
13 the deduction related to the amount collected, in the manner prescribed by the  
14 department and for the period in which the amount is collected.

15           (3) A person who claims a deduction under this section shall submit the claim  
16 on a form prescribed by the department and shall submit with the form all of the  
17 following:

18           (a) A copy of the original invoice for the sale of cigarettes that represents bad  
19 debt.

20           (b) Evidence that the cigarettes described in the invoice under par. (a) were  
21 delivered to the person who ordered them.

22           (c) Evidence that the person who ordered and received the cigarettes did not  
23 pay the person who claims a deduction under this section for the cigarettes.

1 (d) Evidence that the person who claims a deduction under this section used  
2 reasonable collection practices in attempting to collect the amount owed under par.  
3 (c).”.

4 **2.** Page 832, line 9: after that line insert:

5 “SECTION 2058f. 139.801 of the statutes is created to read:

6 **139.801 Bad debt deductions.** (1) In this section, “bad debt” means an  
7 amount that is equal to the purchase price of tobacco products, if such amount may  
8 be claimed as a deduction under section 166 of the Internal Revenue Code. “Bad  
9 debt” does not include financing charges, interest on the wholesale price of tobacco  
10 products, uncollectible amounts on property that remains in the seller’s possession  
11 until the full purchase price is paid, expenses incurred in attempting to collect any  
12 debt, debts sold or assigned to 3rd parties for collection, and repossessed property.

13 (2) A distributor who pays the taxes imposed under s. 139.76 may claim as a  
14 deduction on a return under s. 139.77 the amount of any such taxes that are  
15 attributable to bad debt that the distributor writes off as uncollectible in the  
16 distributor’s books and records and that is eligible to be deducted as bad debt for  
17 federal income tax purposes, regardless of whether the distributor is required to file  
18 a federal income tax return. A distributor who claims a deduction under this section  
19 shall claim the deduction on the return under s. 139.77 that is submitted for the  
20 period in which the distributor writes off the amount of the deduction as uncollectible  
21 in the distributor’s books and records and in which such amount is eligible to be  
22 deducted as bad debt for federal income tax purposes. If the distributor subsequently  
23 collects in whole or in part any bad debt for which a deduction is claimed under this

1 section, the distributor shall include the amount collected in the return filed for the  
2 period in which the amount is collected and shall pay the tax with the return.

3 (3) A distributor who claims a deduction under this section shall submit with  
4 the return under sub. (2) all of the following:

5 (a) A copy of the original invoice for the sale of tobacco products that represents  
6 bad debt.

7 (b) Evidence that the tobacco products described in the invoice under par. (a)  
8 were delivered to the person who ordered them.

9 (c) Evidence that the person who ordered and received the cigarettes did not  
10 pay the distributor for the tobacco products.

11 (d) Evidence that the distributor used reasonable collection practices in  
12 attempting to collect the amount owed under par. (c).”.

13 **3.** Page 1134, line 17: after that line insert:

14 “(1b) BAD DEBT DEDUCTIONS. The treatment of sections 139.362 and 139.801 of  
15 the statutes takes effect on the first day of the 2nd month beginning after  
16 publication.”.

17 (END)