

HOUSE BILL No. 5097

August 8, 2007, Introduced by Rep. Bieda and referred to the Committee on Tax Policy.

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4i (MCL 205.54i), as amended by 2004 PA 173.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4i. (1) As used in this section: ~~—"bad~~

2 **(A) "BAD** debt" means any portion of a debt that is related to
3 a sale at retail taxable under this act for which gross proceeds
4 are not otherwise deductible or excludable and that is eligible to
5 be claimed, or could be eligible to be claimed if the taxpayer kept
6 accounts on an accrual basis, as a deduction pursuant to section
7 166 of the internal revenue code, 26 USC 166. A bad debt shall not
8 include any finance charge, interest, or sales tax on the purchase
9 price, uncollectible amounts on property that remains in the
10 possession of the taxpayer until the full purchase price is paid,
11 expenses incurred in attempting to collect any account receivable

1 or any portion of the debt recovered, any accounts receivable that
2 have been sold to and remain in the possession of a third party for
3 collection, and repossessed property.

4 (B) "TAXPAYER" MEANS A PERSON THAT HAS REMITTED SALES TAX
5 DIRECTLY TO THE DEPARTMENT ON THE SPECIFIC SALES AT RETAIL
6 TRANSACTION FOR WHICH THE BAD DEBT IS RECOGNIZED FOR FEDERAL INCOME
7 TAX PURPOSES.

8 (2) In computing the amount of tax levied under this act for
9 any month, a taxpayer may deduct the amount of bad debts from his
10 or her gross proceeds used for the computation of the tax. The
11 amount of gross proceeds deducted must be charged off as
12 uncollectible on the books and records of the taxpayer at the time
13 the debt becomes worthless and deducted on the return for the
14 period during which the bad debt is written off as uncollectible in
15 the claimant's books and records and must be eligible to be
16 deducted for federal income tax purposes. For purposes of this
17 section, a claimant who is not required to file a federal income
18 tax return may deduct a bad debt on a return filed for the period
19 in which the bad debt becomes worthless and is written off as
20 uncollectible in the claimant's books and records and would be
21 eligible for a bad debt deduction for federal income tax purposes
22 if the claimant was required to file a federal income tax return.
23 If a consumer or other person pays all or part of a bad debt with
24 respect to which a taxpayer claimed a deduction under this section,
25 the taxpayer is liable for the amount of taxes deducted in
26 connection with that portion of the debt for which payment is
27 received and shall remit these taxes in his or her next payment to

1 the department. Any payments made on a bad debt shall be applied
2 proportionally first to the taxable price of the property and the
3 tax on the property and second to any interest, service, or other
4 charge.

5 (3) Any claim for a bad debt deduction under this section
6 shall be supported by that evidence required by the department. The
7 department shall review any change in the rate of taxation
8 applicable to any taxable sales by a taxpayer claiming a deduction
9 pursuant to this section and shall ensure that the deduction on any
10 bad debt does not result in the taxpayer claiming the deduction
11 recovering any more or less than the taxes imposed on the sale that
12 constitutes the bad debt.

13 (4) If a certified service provider assumed filing
14 responsibility under the streamlined sales and use tax
15 administration act, **2004 PA 174, MCL 205.801 TO 205.833**, the
16 certified service provider may claim, on behalf of the taxpayer,
17 any bad debt allowable to the taxpayer and shall credit or refund
18 that amount of bad debt allowed or refunded to the taxpayer.

19 (5) If the books and records of a taxpayer under the
20 streamlined sales and use tax agreement **UNDER THE STREAMLINED SALES**
21 **AND USE TAX ADMINISTRATION ACT, 2004 PA 174, MCL 205.801 TO**
22 **205.833**, that claims a bad debt allowance support an allocation of
23 the bad debts among member states of that agreement, the taxpayer
24 may allocate the bad debts.

25 Enacting section 1. This amendatory act is curative and shall
26 be retroactively applied, expressing the original intent of the
27 legislature that a deduction for a bad debt for a taxpayer under

1 the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is
2 available exclusively to those persons with the legal liability to
3 remit the tax on the specific sale at retail for which the bad debt
4 deduction is recognized for federal income tax purposes, and
5 correcting any misinterpretation of the meaning of the term
6 "taxpayer" that may have been caused by the Michigan court of
7 appeals decision in Daimler Chrysler Services North America LLC v
8 Department of Treasury, No. 264323.