

# SB3397



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB3397

Introduced 2/14/2014, by Sen. Toi W. Hutchinson

#### SYNOPSIS AS INTRODUCED:

35 ILCS 120/6d new

Amends the Retailers' Occupation Tax Act. Provides that a retailer is relieved from liability for any tax that becomes due and payable if the tax is represented by amounts that are found to be worthless or uncollectible and have been charged off in accordance with generally accepted accounting principles on and after July 1, 2014. Provide for a deduction if the retailer had previously paid such a tax. Effective immediately.

LRB098 18944 HLH 54091 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Retailers' Occupation Tax Act is amended by  
5 adding Section 6d as follows:

6 (35 ILCS 120/6d new)

7 Sec. 6d. Deduction for uncollectible debt.

8 (a) A retailer is relieved from liability for any tax that  
9 becomes due and payable if the tax is represented by amounts  
10 that are found to be worthless or uncollectible and have been  
11 charged off in accordance with generally accepted accounting  
12 principles. A retailer that has previously paid such a tax may,  
13 under rules and regulations adopted by the Department, take as  
14 a deduction the amount charged off by the retailer. If these  
15 accounts are thereafter in whole or in part collected by the  
16 retailer, the amount collected shall be included in the first  
17 return filed after the collection, and the tax shall be paid  
18 with the return. For purposes of this Section, the term  
19 "retailer" includes a retailer's affiliate.

20 (b) With respect to the payment of taxes on purchases made  
21 through a private-label credit card:

22 (1) If consumer accounts or receivables are found to be  
23 worthless or uncollectible, the retailer may claim a

1 deduction on a return, or obtain a refund of, the tax  
2 remitted by the retailer on the unpaid balance due if:

3 (A) the accounts or receivables have been charged  
4 off as bad debt on the lender's books and records on or  
5 after July 1, 2014; and

6 (B) a deduction was not previously claimed and a  
7 refund was not previously allowed on that portion of  
8 the accounts or receivables.

9 (2) If the retailer or the lender subsequently  
10 collects, in whole or in part, the accounts or receivables  
11 for which a deduction or refund has been granted under  
12 paragraph (1), the retailer must include the taxable  
13 percentage of the amount collected in the first return  
14 filed after the collection and pay the tax on the portion  
15 of that amount for which a deduction or refund was granted.

16 (3) The deduction or refund allowed includes all credit  
17 sale transaction amounts that are outstanding with respect  
18 to the specific private-label credit card account or  
19 receivable at the time the account or receivable is charged  
20 off, regardless of the date the credit sale transaction  
21 actually occurred.

22 (4) A retailer may use one of the following methods to  
23 determine the amount of the deduction or refund:

24 (A) an apportionment method to substantiate the  
25 amount of tax imposed under this Act which is included  
26 in the bad debt to which the deduction or refund

1 applies; this method must use the retailer's Illinois  
2 and non-Illinois sales, the retailer's taxable and  
3 non-taxable sales, and the amount of tax the retailer  
4 remitted to this State; or

5 (B) A specified percentage of the accounts or  
6 receivables giving rise to the deduction or refund,  
7 which is derived from a sampling of the retailer's or  
8 lender's records.

9 (5) For purposes of computing the deduction or refund,  
10 payments on the accounts or receivables shall be allocated  
11 based on the terms and conditions of the contract between  
12 the retailer or lender and the consumer.

13 (c) For purposes of this Section:

14 "Lender" means a person who owns or has owned a  
15 private-label credit card account or an interest in a  
16 private-label credit card receivable that:

17 (1) the person purchased directly from a retailer  
18 who remitted the tax imposed under this Act or the  
19 retailer's affiliates, or transferred from a third  
20 party;

21 (2) the person originated pursuant to that  
22 person's contract with the retailer who remitted the  
23 tax imposed under this Act or the retailer's  
24 affiliates; or

25 (3) is a retailer's affiliate of a person described  
26 in paragraph (1) or paragraph (2), or an assignee or

1           other transferee of such person.

2           "Private-label credit card" means a charge card or  
3           credit card that carries, refers to, or is branded with the  
4           name or logo of a retailer. The deduction or refund  
5           provided in this section applies only to purchases from the  
6           retailer whose name or logo appears on the card and  
7           purchases from the retailer's affiliates or franchisees.

8           "Retailer's affiliates" means an entity affiliated  
9           with the retailer under 26 U.S.C. 1504, or an entity that  
10           would be an affiliate under that Section had the entity  
11           been a corporation.

12           Section 99. Effective date. This Act takes effect upon  
13           becoming law.