

By: Longoria

H.B. No. 3389

A BILL TO BE ENTITLED

AN ACT

relating to a refund of motor vehicle sales taxes paid on certain bad debt.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.049 to read as follows:

Sec. 152.049. REFUND FOR TAX PAID ON BAD DEBT. (a) In this section:

(1) "Bad debt" means the total principal amount of a debt remaining unpaid from a retail installment transaction that was charged off for federal income tax purposes.

(2) "Lender" means a person:

(A) that holds or previously held a retail account purchased directly from a seller required by this chapter to collect the sales tax imposed by Section 152.021 who remitted the tax to the tax assessor-collector; and

(B) that:

(i) is an authorized lender under Chapter 341, Finance Code; or

(ii) holds a motor vehicle sales finance license under Subchapter F, Chapter 348, Finance Code.

(3) "Passenger car" means a motor vehicle, including a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator.

1 (4) "Retail installment transaction" has the meaning
2 assigned by Section 348.001, Finance Code.

3 (b) A seller who is required by this chapter to collect the
4 sales tax imposed by Section 152.021 may file a claim with and is
5 entitled to receive from the comptroller a refund of sales taxes
6 paid on the seller's bad debt in the amount computed under
7 Subsection (c) if:

8 (1) the tax was remitted to the tax assessor-collector
9 on a passenger car sold in a retail installment transaction;

10 (2) the seller determines that the account associated
11 with the debt is uncollectible and worthless; and

12 (3) the account associated with the debt is written
13 off as a bad debt on the accounting books and deductible on the
14 federal income tax return of the seller.

15 (c) The amount of the refund is equal to the amount computed
16 by:

17 (1) allocating the remaining unpaid principal balance
18 of the account associated with the bad debt between sales tax,
19 taxable charges, and nontaxable charges in a manner that is
20 proportional to the allocation of the original unpaid balance of
21 the account between sales tax, taxable charges, and nontaxable
22 charges; and

23 (2) multiplying the amount of the unpaid principal
24 balance of the account allocated to taxable charges as determined
25 under Subdivision (1) by the tax rate prescribed by Section
26 152.021.

27 (d) If the seller assigns the retail installment contract to

1 a lender in a retail installment transaction, the lender may file a
2 claim with and is entitled to receive from the comptroller the
3 refund under Subsection (b), provided that:

4 (1) the requirements of Subsection (b) are satisfied
5 by the seller or the lender; and

6 (2) the seller has not received a refund for sales
7 taxes paid on the bad debt that is the subject of the lender's
8 claim.

9 (e) If after receiving a refund under this section a seller
10 or lender collects all or part of the principal amount of the bad
11 debt for which the seller or lender claimed the refund, the seller
12 or lender shall deduct from the next claim for a refund the seller
13 or lender files under this section an amount equal to the amount
14 computed by:

15 (1) allocating the amount collected by the seller or
16 lender between sales tax, taxable charges, and nontaxable charges
17 in a manner that is proportional to the allocation of the original
18 unpaid balance of the account between sales tax, taxable charges,
19 and nontaxable charges; and

20 (2) multiplying the amount collected by the seller or
21 lender allocated to taxable charges as determined under Subdivision
22 (1) by the tax rate prescribed by Section [152.021](#).

23 (f) This section does not apply to a seller-financed sale.

24 SECTION 2. The change in law made by this Act does not
25 affect tax liability accruing before the effective date of this
26 Act. That liability continues in effect as if this Act had not been
27 enacted, and the former law is continued in effect for the

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1 collection of taxes due and for civil and criminal enforcement of
2 the liability for those taxes.

3 SECTION 3. This Act takes effect September 1, 2023.