

Indirect Tax Implications of the Pandemic

CHICAGO TAX CLUB

AUGUST 27, 2020

David Blum
Akerman LLP

Jim Tauber
Andersen LLC

Diane Yetter
YETTER



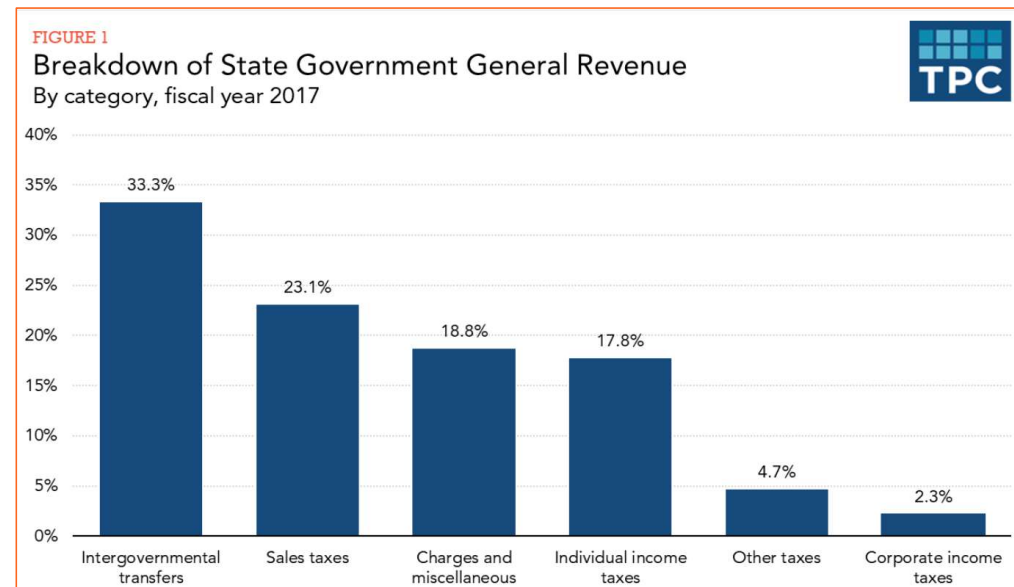
Introductions

The Impact of COVID-19 on State Budgets

Sales tax relief efforts and delayed deadlines has resulted in a budget crisis

States are expected to run a \$105 billion deficit for the 2020 fiscal year, collectively

- Center on Budget and Policy Priorities



[Tax Policy Center](#)

The Impact of COVID-19 on State Budgets

As of June 24, the National Conference of State Legislatures reported that 30 states and the District of Columbia had revised their revenue outlooks downward for 2020, 2021, or both years.

Multistate Associates reported that in May 2020, every state with available data reported a decline in sales tax revenue compared to the prior year.

The Impact of COVID-19 on State Budgets

Florida – Revenues dropped \$1.9 Billion for fiscal year 2019-2020

Illinois – Revenues dropped \$1.1 Billion for fiscal year 2019-2020

Michigan - June 2020 sales tax collections were down 7.2% from previous year

Pennsylvania – As of June 2020, YTD sales and use tax collections are \$636.6 million (5.6%), below estimate.

Texas – June 2020 sales tax collections were down 7.7% from June 2019. (economic and marketplace nexus effective 10/1/19)

Chicago – estimated \$1Billion loss in revenue due to lack of tourism

State's Response to Budget Reductions

States will prioritize efforts to recoup losses

- Increased sales & use tax audits
- Crackdown on economic nexus laws
- Taxing digital goods & services
- Rate increases

Taxpayer Options

- Voluntary Disclosure
- Amnesty (Nevada in 2021 and Ohio likely)

Nexus and Special Exemptions

Nexus Considerations

Physical Nexus Considerations

Temporary or Permanent location of people or property generally creates nexus for indirect tax

Employees working in home offices in states where otherwise you didn't have physical presence could create nexus

Tracking employees working in alternative locations could create nexus

Establishing physical presence could require changes to your sales/use registration and also tax calculation for rates and type of tax

Need to track movement of employees could add significant effort and challenge

Relaxing Nexus Provisions

New Jersey and Pennsylvania will not count temporary remote employees toward nexus thresholds.

Philadelphia issued guidance stating that nonresidents working from home will not be subject to its wage tax.

D.C. will not impose corporation franchise tax or unincorporated business franchise tax nexus based on employees/property used to work from home

Indiana and North Dakota stated that if telecommuting is attributable to a COVID-19 response and intended to be temporary, they will not assert income tax nexus on that basis alone.

Relaxing Nexus Provisions

Mississippi announced that it will not change withholding requirements for businesses based on an employee's temporary telework location.

Rhode Island stated that for the duration of the state's coronavirus state of emergency, the DOT will not seek to establish nexus for sales and use or corporate income tax purposes solely because an employee is temporarily working from home and/or is using property to allow the employee to temporarily work from home.

Relaxing Nexus Provisions

New York proposed S.B. 8386 would allow a business with remote workers to designate the remote work as having been performed at the location the work was performed prior to the emergency declaration for all state & local tax purposes, including but not limited to apportionment.

- Bill was referred to the Budget and Revenue Committee on 5/21/20.

Relaxing Nexus Considerations

If state only addresses income tax can you assume it also applies to indirect tax?

How do you determine when state's coronavirus state of emergency is effective? And which state do you use – where employee is remotely working or where the normal work location is?

Economic Nexus Considerations

Most states use current or prior year for measurement of economic nexus

Don't assume you won't continue to have economic nexus based on current reduction in sales

Certain businesses might have significant growth in their business to new states (online sales) and should monitor their activities especially if shift from marketplace to direct sales

Many states require registration on next sale

Details at <https://www.salestaxinstitute.com/resources/economic-nexus-state-guide>

Streamlined Sales Tax (SST)

Effort by state and local governments to simplify sales tax compliance

Qualified businesses may be eligible to have the 24 SST-member states cover the cost of their sales tax technology when using a Certified Service Provider (CSP)

Businesses must qualify as a “volunteer seller” to use SST:

- No fixed place of business for more than 30 days in the state
- Less than \$50,000 of property and payroll in the state
- Less than 25% of total property or payroll in state

Remote temporary workers could eliminate SST volunteer seller status – especially if you start withholding income taxes

COVID-19 Tax Relief Measures

State-Specific COVID-19 Efforts

Arizona

- Taxpayers unable to file or pay Transaction Privilege Tax, county excise taxes or municipal privilege taxes for tax periods beginning 2/1/20 can request an abatement from late filing/late payment penalties.
- Relief isn't guaranteed. The DOR will work with businesses on a case-by-case basis.

California

- Beginning 4/2, businesses with less than \$5 million in taxable annual sales can defer up to \$50,000 of sales and use tax liability
 - Due in 12 equal monthly installments application required
- Small businesses filing a return for less than \$1 million in tax automatically had until 7/31 to file and pay sales and use tax for Q1 2020

State-Specific COVID-19 Efforts

Louisiana

- The DOR is required to waive certain late filing and late payment penalties and interest for taxes with an original due date between 3/11/20 and 7/15/20 provided that tax is paid and returns are filed by 11/15/20.
- The relief only applies to taxpayers or tax preparers whose health was impacted by COVID-19. Taxpayers must apply for relief.

Massachusetts

- For businesses with cumulative liability for sales and use tax under \$150,000 in the 12-month period ending 2/29/20, returns and payments of sales and use tax and meals taxes due 3/20 – 7/31 are suspended.
- All such returns and payments, including local option amounts, are due on 9/20/20. Penalties and interest will be waived.

State-Specific COVID-19 Efforts

Mississippi

- The DOR is delaying the imposition of interest and penalty on any unpaid tax balance for the period covered by the presidentially declared national emergency which was issued Mar 13, 2020.

New Mexico

- Enacted legislation provides a temporary waiver of penalties and interest on certain tax liabilities due in 2020
 - Gross receipts tax, local option gross receipts tax or compensating tax liabilities that became due 3/25/20 – 7/25/20. Payment must be made in full by 4/25/21.
 - Tax liabilities pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act that became due 4/15/20 – 7/15/20. Payment must be made in full by 4/15/21.
 - Tax liabilities pursuant to the Withholding Tax Act that became due 3/25/20 – 7/25/20. Payment must be made in full by 4/15/21.
 - Tax liabilities assessed between 3/3/19 and 3/3/20 as the result of a managed audit, provided that payment is made on or before 12/31/20.
- Additionally, no interest shall accrue and no penalty shall be assessed for unpaid property taxes that became due 4/10/20, if certain requirements are met.

State-Specific COVID-19 Efforts

Chicago

- The city has extended tax payment due dates for the periods July 2019 through September 2020 for the following taxes:
 - Amusement tax
 - Bottled water tax
 - Checkout bag tax
 - Ground transportation tax
 - Hotel accommodations tax
 - Parking tax
 - Restaurant Tax
- Additionally, the filing deadline for 2020 annual tax returns has been extended from August 17, 2020 to October 15, 2020.

Personal Protective Equipment (PPE) and Other Exemptions

Michigan - PPE or safety equipment purchased by a person eligible for the industrial processing exemption is exempt if used or consumed in an exempt industrial processing activity (*Revenue Administrative Bulletin 2020-9*).

Puerto Rico exempted certain COVID-19 related products (disinfectant wipes and gloves, hand sanitizers, isopropyl alcohol, toilet tissue) from sales and use tax through 6/30 (extended from 5/31).

- Puerto Rico also exempted prepared food and carbonated soft drinks through 5/25 (extended from 4/19)

Indiana waiving use tax on donated COVID-19 supplies

Personal Protective Equipment (PPE) and Other Exemptions

California – Gov Newsom issued Executive Order N-46-20 to exempt purchases of PPC (masks, gloves, eye protection, gowns and other critical materials that protect public health and other critical materials) by the state of California temporarily. Exemption applies to all invoices dated April 7, 2020 or later.

Tennessee enacted a one-time sales tax holiday from August 7-9, 2020. During this period, the retail sale of food and drink by restaurants and limited service restaurants was exempt from sales tax.

Personal Protective Equipment (PPE) and Other Exemptions

Clothing Exemptions – some of the states that exempt clothing may also exempt select PPE items (gowns, masks, gloves)

Safety Exemptions – some states that exempt safety equipment may exempt PPE. Watch for limitation on nature of industry

Health Care Exemptions – some states that exempt medical supplies may exempt certain items (hand sanitizer as antiseptic)

Personal Protective Equipment (PPE) and Other Exemptions

New York proposed S.B. 8394 would exempt certain PPE clothing & equipment

- Bill was referred to the Budget and Revenue Committee on 5/21/20.

New York proposed S.B. 8568 would establish a tax credit of up to \$5,000 for the purchase of PPE by employers who employ less than 500 people.

- Introduced on 6/16/20
- 

Keep Up-to-Date

Sales Tax Institute's coronavirus tax filing relief resources

- <https://www.salestaxinstitute.com/resources/coronavirus-tax-filing-relief-resources>

Tax Savings Opportunities

Cash Versus Accrual

Most taxpayers are accrual basis for sales tax

Typical Timeline

- Invoice customers sales tax in June
- File returns and pay sales tax in July
- Typically collect the sales tax in 30-45 days (Pre-COVID)

As a result of COVID, AR collections are stretching out 60-90 days or longer, resulting in a significant impact on cash flow

Approximately 20 states allow taxpayers to utilize a cash method for reporting sales tax.

- Some allow with exceptions
- Some require advance state approval to switch

Cash Versus Accrual

State	Cash Method Allowed	Reference
AR	Yes with prior approval	Ark. Code Ann. § 26-52-502
AZ	Yes	R15-5-2211
CO	Yes	Regulation 26-111
GA	Yes	https://www.pbpatl.org/wp-content/uploads/2016/06/UPDATED-PAYING-SALES-AND-USE-TAX-IN-GEORGIA.pdf
IA	Yes	https://www.legis.iowa.gov/docs/iac/agency/03-15-2017.701.pdf
IL	Yes	https://www2.illinois.gov/rev/research/legalinformation/letterulings/st/Documents/2010/st-10-0073.pdf
KS	Yes	https://www.ksrevenue.org/pdf/pub1510.pdf
KY	Yes	Ky. Rev. Stat. Ann. §139.025
MI	Yes	http://crcmich.org/wp-content/uploads/Tax_Outline_2018.pdf
MN	Yes	Minn. R. 8130.1800
MO	Yes	https://www.sos.mo.gov/cmsimages/adrules/csr/current/12csr/12c10-103.pdf
NC	Yes with exception	https://files.nc.gov/ncdor/documents/files/SUTB-2019-FINAL-01032020.pdf
NE	Yes	Neb. Admin. R. & Regs. 1-009
NM	Yes	N.M. Admin. Code 3.2.2.12
SC	Yes	S.C. Code Ann. § 12-36-2560
SD	Yes	S.D. Codified Laws § 10-45-30.1
TX	Yes	Tex. Admin. Code 3.302
WI	Yes with prior approval	Wis. Stat. § 77.58
WV	Yes	West Virginia Administrative Decision, No. 88-475 B, 01/01/1988
WY	Yes with prior approval	DKT No. 99-101, 12-17-99

Bad Debt

Most states that impose a sales tax offer some form of relief when sales are uncollectable...

- **California**

- Taxpayers are relieved from liability for sales/use tax when the origination of the sales tax is an account found worthless and charged off for income tax purposes.
- If the taxpayer is not required to file a federal return, the account must be charged off under generally accepted accounting principles

- **Florida**

- Bad debt sales tax refunds are restricted to the following scenarios:
 - (a) within 12 months following the month in which the bad debt has been charged off for federal income tax purposes, or
 - (b) if the dealer is not required to file federal income tax returns, within 12 months following the month in which the bad debt has been charged off in accordance with generally accepted accounting principles.

Bad Debt

Most states that impose a sales tax offer some form of relief when sales are uncollectable...

- **Illinois**
 - Illinois provides three requirements for the recoupment of sales tax paid on bad debts.
 1. 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.
 2. The accounts must have been charged off as bad debt on the retailer's books and records in accordance with generally accepted accounting principles.
 3. The bad debts must have been claimed as a deduction pursuant to section 166 of the IRC on the income tax return filed by the retailer.
- **New York**
 - Bad debts from a variety of sales (e.g., receipts, amusement charges or hotel rents, etc.) which have been deemed to be uncollectible, can be taken as credit or a refund.
 - Taxpayers must apply with the Department of Taxation and Finance within three years from the date on which the tax was payable.

Bad Debt

Most states that impose a sales tax offer some form of relief when sales are uncollectable...

- **Texas**
 - Texas has three requirements for the recovery of sales taxes paid on bad debts. Specifically, a seller may withhold the payment of the tax on a portion of the sales price of a taxable item that remains unpaid by the purchaser if:
 1. during the reporting period in which the item was sold, leased, or rented the seller determines that the unpaid portion will remain unpaid;
 2. the seller enters the unpaid portion of the sales price in the seller's books as a bad debt; and
 3. the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.
 - Texas also limits deductions and refunds due to bad debts to four years from the date the account is entered in the retailer's books as a bad debt.

Bad Debt

What debts are “bad” for purposes of sales tax?

- General accounting principles apply; when an underlying debt is deducted from taxable income for income tax purposes, the transactional taxes remitted on behalf of those transactions are typically available for refund or credit.

What isn't available for sales tax adjustment or refund?

- Only taxes remitted can be claimed back.
- States also exclude additional fees, interest or collection expenses from the scope of transactional tax refunds or adjustments.

See appendix for more details on bad debt deductions

Bad Debt

What is the proper format to claim the taxes back?

- The states generally provide one or more of the following three methods:
 1. A credit against taxes due.
 2. A deduction from taxable sales in the period when a debt is declared uncollectible.
 3. A refund claim submitted separately from regular monthly reporting forms.

Who can claim a credit, deduction or refund of transactional taxes paid on bad debt?

- In all cases, a vendor who paid and reported the taxes paid can advance a claim through any method available.
- In some states, firms who provide 3rd party financing for retailers or who purchase debt that becomes uncollectible may make a claim.

Bad Debt

What does it take to get this done?

- States require extensive documentation and support whenever a claim or adjustment is made. Be prepared to make available the following:
 - name of the purchaser;
 - date of the sale;
 - price of the property or services;
 - amount of sales tax charged;
 - amount of interest, finance and service charges;
 - whether the property was retained by the vendor or seller or repossessed;
 - the dates and amounts of any payments made on the debt;
 - records of the portions of the debt which represents charges not subjected to the tax in the original transaction; and
 - records of collection activities and the determination of un-collectability.

Refund Reviews

In the current environment, Cash is King. Taxpayers can help their Companies conserve cash by reviewing sales & use tax payments on procurement.

Areas of over payments

- ***Manufacturing Procurement***
 - Ingredients / component parts of a product or service sold
 - Equipment, replacement parts and supplies used in the manufacturing process
 - Pollution control equipment
 - Packaging supplies; Wrapping and packaging equipment
 - Safely equipment and protective clothing
- ***Other Business Procurement***
 - Safely equipment and protective clothing (Separate from Manufacturing)
 - Promotional items and advertising
 - Service components of a transaction
 - Software licenses & Multiple Point of use
 - Maintenance fees and warranties
 - Discounts, credits & bad debts
 - Over accrual & Duplicate Payments

Property Tax – Cook County

The Cook County Assessor's Office (CCAO) plans to proactively reduce Cook County assessed property tax values due to the impact of the COVID-19 pandemic!

Normally, the CCAO reassesses approximately one-third of the real property in Cook County each year. In 2020, the scheduled reassessment of all properties in the South and West suburbs, and of specific properties in the North suburbs and Chicago with divisions, permits, or other special applications.

Typically, property owners must file appeals to receive reductions in a property's assessed value. The CCAO has concerns relying on the appeal system to correct for COVID-19's effects could create an inequitable tax burden borne by property owners who do not have the resources or access to file an appeal, particularly during a health-related pandemic.

Therefore, to account for the pandemic's impact on real estate values throughout Cook County's neighborhoods and communities, the Cook County Assessor determined that it is appropriate to apply COVID-19 Adjustments to property values in 2020, where applicable. The extent of these adjustments will depend on each property's use, type, and location.

Property Tax – Cook County

Commercial and other Non-residential property value adjustments:

- Our research indicates that non-residential properties have experienced different impacts of COVID-19 that depend on their location, use, and investment class.
- Capitalization rates (cap rates) are one indicator of value used in commercial valuations. To account for market impacts, the Office is making a range of adjustments to cap rates that are often used as a factor in determining property values.
 - Basis point adjustments ranged from 0 (all grocery stores) to 200 (neighborhood restaurants).
 - These adjustments will apply to “baseline” cap rates that are set as of January 2020. Baseline cap rates can vary by location, use, and investment class.

Residential (Class 2) property value adjustments

- Historically, rising unemployment has correlated with falling home values. It is estimated that areas with the largest increases in unemployment will experience the largest declines in home values.
- Based on estimates of local unemployment, the office created two COVID-19 Adjustments for Class-2 Residences (e.g., excluding garages) with the following estimated value reductions:
 - 8.0% to 12.2% (median: 10.3%) for 943K single-family homes and condos
 - 10.0% to 15.2% (median: 13.1%) for 166K multi-family (2 - 6 unit) apartment buildings
- These reductions in estimated residential property values will be applied to Class-2 residences (excluding garages) during Tax Year 2020.

Other Tax Considerations: Personal Property

Approximately 42 states impose a tax on the use of personal property located in the state/jurisdiction on a given lien date (e.g., 1/1/xx) typically at the local level (e.g. County, Municipality, district)

Potential issues

Not properly excluding disposition of assets

Not accounting for transfer of assets

Not taking advantage of Freeport exemptions

Obsolescence

Not considering impact on value when acquiring assets outside the normal course of doing business (e.g., M&A)

Opportunities

Analyze data and determine qualification for freeport exemption

Consider changes to reportable cost post acquisition

Assessment/bill review and appeals

Limited potential for refund opportunities

Base Broadening Initiatives

Broadening of Tax Base

As states and cities look to generate revenue, they are now looking beyond traditional: retail, TPP, tourism-type taxes (hotel, restaurant, rental cars), parking, and even sin taxes.

New trend of base broadening initiatives, often led by cities and municipalities.

In some cases: new laws, regulations and rulings promulgated

In other cases, existing laws are simply 'redefined'

- new or expanded definitions

Broadening of Tax Base Initiatives

City of Chicago - cloud, streaming and amusement taxes

City of Evanston – amusement tax on streaming services

- Hopes to raise \$115,000 to offset \$430,000 of lost in-person amusement tax revenue

NY State – proposed ‘Digital Ad Tax Act’ (DATA)

- Tax on revenues from digital advertising services using personal information

DC is considering an ‘Advertising Services’ sales tax

- Including digital advertising and sale of personal information

Seattle variable rate ‘Payroll Expense Tax’

- based on compensation paid to employees

Broadening of Tax Base Initiatives

Pied-À-Terre Tax

- New York City – tax on second home worth > \$5M
- NY Assembly Speaker: *“If we don’t get the money from Washington, we’re going to have to look to our own tax base.”*


Vacancy Taxes – (i.e., tax on empty home/lot)

- Vancouver, DC, Oakland; LA, SF, SD proposals

Expansion of False Claims Act legislation

- California

‘COVID-19’ Surcharge

- South Carolina
 - New Jersey
- 

Broadening of Tax base

SC COVID surcharges subject to tax:


South Carolina issued guidance stating that any COVID-19 surcharge or fee, a handling fee, a takeout charge, or a similar fee charged by a retailer as part of the sale of tangible personal property is includable in gross proceeds of sales and subject to South Carolina sales and use tax, unless otherwise exempt.

In South Carolina, gross proceeds of sales subject to tax include all value that comes from or is a direct result of the sale of tangible personal property. Accordingly, the fees and charges discussed above are subject to tax. For items that are exempt from tax, the surcharge follows the exempt status of the sale. (Information Letter 20-23, South Carolina Department of Revenue, August 5, 2020)

Broadening of Tax base

New Jersey:

This week, NJ Governor proposed more than a \$1 billion in new taxes:

- Making permanent 2.5% corporate business surtax
 - Higher fee for health-maintenance organizations
 - Surcharge for those with qualified business income greater than \$1 million
 - Higher rates on limousine services, yacht and boat sales, firearm and ammunition taxes
- 

Audit and Appeals During a Pandemic

Navigating State Audit and Appeals during COVID

State Audits:

- Increasingly handled remotely with electronic document submission
- E-mail or data room?
- If data room, whose:
 - State/City, Taxpayer, Taxpayer's representative?
- Consideration of COVID-19 impact on taxpayer (including for penalty abatement)

Navigating State Audit and Appeals during COVID

Closing out Audits

- Due to revenue impacts of payment deferrals, states may be more willing to negotiate to close audits and generate payments now to book the revenue.
- If payment plans are required, this may be the time to negotiate them particularly in states that have offered payment plans for regular compliance remittance.

Navigating State Audit and Appeals during COVID

State and Local Administrative Appeals:

- Many states and cities have delayed proceedings
- Some are operating 100% remotely (i.e., Zoom)
- City of Chicago ALJ is in-person
- IL Tax Tribunal and Cook County ALJ are remote
- NYC is a hybrid

States and Cities are updating procedures and rules to allow electronic signatures, submission of filings, service, etc. Must know the most current rules of each jurisdiction.

Takeaway: Expect increase in state and city tax audits, and more aggressive appeals as jurisdictions struggle to cope with budget shortfalls caused by COVID-19.

Questions/Comments

David Blum	Jim Tauber	Diane Yetter
Akerman LLP	Andersen LLC	YETTER Tax & Sales Tax Institute
71 S. Wacker Drive 47 th Floor Chicago, IL 60606	71 S. Wacker Drive Suite 2600 Chicago, IL 60606	910 W. Van Buren St. Suite 100-321 Chicago, IL 60607
David.blum@akerman.com	jim.j.tauber@andersen.com	diane@yettertax.com
312-870-8018	312-357-3936	312-701-1800 x2

CPE and CLE

CPE will be issued by Sales Tax Institute. To claim credit, complete evaluation form and include 3 secret words mentioned during webinar. <https://www.surveymonkey.com/r/August27chicagotaxclub>

CLE will be issued by Akerman. To claim the credit, complete the CLE form included with your materials and return to:

- Barbara Maniscalco
- Akerman CLE Administrator
- barbara.maniscalco@akerman.com

Upcoming Webinars

September 23, 2020 - Unclaimed Property Case Update

October 20, 2020 - Outrageous Cases

Appendix

Bad Debt

State	Bad Debts	Authority
AL	Alabama allows bad debt deduction from tax base. Alabama does not require that the tax-paid account found to be worthless be charged off for federal tax purposes, or if the taxpayer is not required to file a federal return, be charged off according to generally accepted accounting principles.	Ala. Admin. Code § 810-6-4-.01
AR	Arkansas allows bad debt deduction from tax base. To be deductible, the worthless account must be written off as uncollectible on the taxpayer's books and records, and must be eligible for deduction as a bad debt on the taxpayer's federal tax return, or would be eligible for a bad debt deduction for federal income tax purposes if the taxpayer were required to file a federal income tax return.	Ark. Code Ann. § 26-52-309 Ark. Code Ann. § 26-53-111 Ark. Regs. § GR-18(J)(2)
AZ	Arizona allows bad debt deduction from tax base. Deduction does not depend on debt being charged off for federal income tax purposes or on taxpayer filing a federal return with the debt charged off according to generally accepted accounting principles.	Ariz. Admin. Code § R15-5-2011(A)
CA	California allows a bad debt deduction from tax base. California allows a retailer to claim a deduction for tax-paid accounts found to be worthless provided the account has been charged off for income tax purposes or, if the retailer is not required to file income tax returns, charged off according to generally accepted accounting principles.	Cal. Rev. & Tax. Cd. § 6055(a) Cal. Rev. & Tax. Cd. § 6203.5(a)
CO	Colorado allows bad debt deduction from tax base. Retailers on the accrual basis can take a bad debt deduction on the taxable portion of worthless credit sales; nondeductible for cash basis taxpayers. Taxes paid on gross sales on accounts found to be worthless and actually charged off for income tax purposes can be credited on a later tax payment; however, tax must be paid on worthless accounts subsequently collected.	Colo. Rev. Stat. § 39-26-102(5) Colo. Code Regs. § 39-26-102.5(a)(4); Colo. Code Regs. § 39-26-102.5(b); Colo. Code Regs. § 26-111
CT	Connecticut allows a refund or credit for bad debt against future remittances. A retailer using the cash method of accounting for federal income tax purposes can use these credits in appropriate circumstances. To qualify, the retailer's records must substantiate the amount of the uncollectible debt and the associated tax remittances. If the retailer uses the accrual method of accounting, it must have written the account off as uncollectible for federal income tax purposes and have records to that effect.	Conn. Gen. Stat. § 12-408(2)(B) Conn. Agencies Regs. § 12-408-1(d)
DC	District of Columbia allows a bad debt deduction from tax base. A deduction is allowed from the gross receipts for any portion of any accounts that are or may prove to be uncollectible. There is no requirement that the tax-paid account found to be worthless must be charged off for federal tax purposes.	D.C. Mun. Regs. 9 § 410.4
FL	Florida allows a bad debt deduction from tax base. The bad debt must be charged off for federal income tax purposes or if the dealer does not file federal returns, within 12 months following the month in which the bad debt has been charged off in accordance with generally accepted accounting principles.	Fla. Stat. § 212.17(3)
GA	Georgia allows a bad debt deduction from tax base. The bad debt may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. Any such deduction for such bad debt must be reported as a separate line item on the claimant's sales and use tax return. If such deduction is not reported as a line item, it shall be disallowed. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and the claimant would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.	Ga. Code Ann. § 48-8-45(c) Ga. Code Ann. § 48-8-45(d)
HI	Hawaii allows a bad debt deduction from tax base. Debts ascertained to be worthless and charged off on the books of the taxpayer within the income year may be deducted, or, in the discretion of the Department of Taxation, may be treated as a reasonable addition to a reserve for bad debts, provided that, when satisfied, that a debt is recoverable only in part, the Department may allow the debt to be charged off in part.	Haw. Rev. Stat. § 237-3(b) Haw. Rev. Stat. § 241-4(b)(3)

Bad Debt

State	Bad Debts	Authority
IA	Iowa allows a bad debt deduction from tax base. The bad debt must be written off as "uncollectible" in the seller's books and records and must be eligible to be deducted for federal income tax purposes.	Iowa Code § 423.21
ID	Idaho allows a bad debt deduction from tax base. The adjustment or refund is claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer.	Idaho Admin. Rules § 35.01.02.063(02)
IL	Illinois allows a bad debt deduction from tax base. 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, have been charged off as bad debt on the retailer's books and records in accordance with generally accepted accounting principles, and have been claimed as a deduction pursuant to IRC § 166 on the income tax return filed by the retailer.	Ill. Admin. Code 86 § 130.1960(d) ILCS Chapter 35 § 120/6d(a)
IN	Indiana allows a bad debt deduction from tax base. A taxpayer must have previously reported the transaction and remitted sales and use tax to the Department of Revenue, not collected the tax from the customer, and written off the receivable for federal income tax purposes.	Ind. Code § 6-2.5-6-9
KS	Kansas allows a bad debt deduction from tax base. Retailers required to file federal income tax returns must claim bad debt allowances as deductions from the taxable gross receipts reported on returns filed for the reporting period in which the bad debt is charged off as uncollectible. Retailers are not required to file federal income tax returns (churches, nonprofits) must claim bad debt allowances as deductions from taxable gross receipts during the reporting period the bad debt is written off in the retailer's books and records or on the date the retailer files a refund claim with the Department if claimed as a refund because not taken as a deduction.	Kan. Stat. Ann. § 79-3674(a) Kan. Admin. Regs. § 92-19-3b(c) Kan. Admin. Regs. § 92-19-3b(d)(1)
KY	Kentucky allows a bad debt deduction from tax base. A retailer may deduct as a bad debt the amount found to be worthless and charged off for income tax purposes, provided the retailer is reporting and remitting the tax on the accrual basis and if the uncollected receipts previously reported for sales tax purposes are eligible to be charged off as bad debts for federal income tax purposes. "Charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectible or declaring as uncollectible the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.	Ky. Rev. Stat. Ann. § 139.350
LA	Louisiana does not allow a bad debt deduction from the tax base. Deductions for bad debt losses cannot be taken on sales tax returns; however, a tax refund is allowed. Before the Department of Revenue can issue a sales tax refund on a bad debt, the debt actually must have been deducted on a federal income tax return in accordance with IRC § 166. Since the issuance of such refunds is tied to charge-offs on the annual federal return, the Department processes one such refund per year per dealer.	La. Rev. Stat. Ann. § 47:315(B) La. Admin. Code § 61:1.4369(B)
MA	Massachusetts does not allow a bad debt deduction from tax base. Reimbursement claims are allowed. To be deemed worthless, the account must be written off as uncollectible for federal income tax purposes	Mass. Gen. L. Chapter 64H § 33 Massachusetts Technical Information Release No. 00-3, , 02/10/2000
MD	Maryland does not allow a bad debt deduction from tax base. Credit or refund claim for bad debt within four years of tax payment is allowed. Vendors that are required to file federal income tax returns can claim a credit or refund only for the amount of tax that is uncollected on accounts that have been written off for federal income tax purposes.	Md. Regs. Code § 03.06.03.07(A) Md. Regs. Code § 03.06.03.07(B)

Bad Debt

State	Bad Debts	Authority
ME	Maine does not allow a bad debt deduction from tax base. Maine allows a credit against the tax paid on sales, when the account is subsequently charged off as worthless, and when goods are repossessed.	Me. Rev. Stat. Ann. 36 § 1811-A
MI	Michigan allows a bad debt deduction from tax base. State requires that bad debt must be eligible to be claimed, or could be eligible to be claimed if the seller kept accounts on an accrual basis, as a deduction under IRC section 166. The amount of gross proceeds deducted must be charged off as uncollectible on taxpayer's books and records. A claimant who is not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the bad debt becomes worthless and is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.	Mich. Comp. Laws Ann. § 205.54i(1) Mich. Comp. Laws Ann. § 205.54i(2) Mich. Comp. Laws Ann. § 205.99a(1) Mich. Comp. Laws Ann. § 205.99a(6)(a) Michigan Revenue Administrative Bulletin No. 2015-27,, 12/02/2015
MN	Minnesota allows a bad debt deduction from tax base. Uncollectible debts will be recognized as a deduction for sales tax purposes only when given recognition by a direct charge-off for federal income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles.	Minn. Stat. § 297A.81, Subd. 2 Minn. Stat. § 289A.40, Subd. 2 Minn. R. § 8130.7400, Subpart 1
MO	Missouri does not allow a bad debt deduction from the tax base. A refund or credit is allowed for bad debt within 10 years from the due date of the return or the date the tax is paid, whichever is later. If the bad debt amount that was refunded or credited is later collected, the amount must be reported on the next return as a taxable sale.	Mo. Rev. Stat. § 144.190 Mo. Rev. Stat. § 144.696 Mo. Code Regs. 12 § 10-102.100
MS	Mississippi does not allow a bad debt deduction from tax base. Credit on subsequent returns or reports for bad debt actually charged off is allowed.	Miss. Code Ann. § 27-65-33(9) Miss. Administrative Code § 35.IV.2.04(201)
NC	North Carolina allows a bad debt deduction from tax base. The bad debt must actually be charged off for income tax purposes. In order for a worthless account to be charged off for income tax purposes, the account must be written off as uncollectible on the claimant's books and records. A taxpayer is required to make the deduction for sales and use tax purposes within three years of charging off an account for income tax purposes.	N.C. Gen. Stat. § 105-164.13(15) N.C. Directive No. SD-03-2, 10/11/2010
ND	North Dakota allows a bad debt deduction from tax base. Bad debts may be deducted from gross receipts when the tangible personal property is sold on credit and the following facts are fully shown that: (1) the account has not been paid and has been found to be worthless; (2) the amount was previously included in the gross receipts and sales tax collected and remitted by the retailer; and (3) the bad debt is written off as uncollectable in the retailer's books. There is no requirement under North Dakota law that the account found to be worthless must be charged off for federal tax purposes to claim the deduction.	N.D. Cent. Code § 57-39.2-05
NE	Nebraska allows a bad debt deduction from the tax base. Bad debts may be deducted on the return for the period during which the bad debt is written off as un-collectable in the taxpayer's books and records and is eligible to be deducted for federal income tax purposes.	Neb. Rev. Stat. § 77-2708(2)(j)
NJ	New Jersey allows a bad debt deduction from tax base. A bad-debt deduction is permitted from taxable sales that is also eligible as a federal income tax deduction. The bad-debt is deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records. Any claimant who is not required to file federal income tax returns is eligible to deduct the bad debt as noted, if the claimant was eligible for a federal bad-debt deduction had the claimant been required to file a federal income tax return	N.J. Rev. Stat. § 54:32B-12.1

Bad Debt

State	Bad Debts	Authority
NM	New Mexico allows a bad debt deduction from tax base. New Mexico uses federal adjusted gross income as the starting point for determining New Mexico taxable income. However, if the debt is subsequently collected then it must be included.	NMSA 1978 § 7-9-67
NV	Nevada allows a bad debt deduction from tax base. Must be charged off for federal tax purposes.	Nev. Rev. Stat. § 372.368(1) Nev. Rev. Stat. § 372.368(4)
NY	New York does not allow a bad debt deduction from the tax base. A refund or credit is allowed.	N.Y. Tax Law § 1132(e) NYCRR 20 § 534.7(a)
OH	Ohio allows a bad debt deduction from tax base. Timing and other limits apply. Bad debt is charged off according to generally accepted accounting principles.	Ohio Rev. Code Ann. § 5739.01(l) Ohio Rev. Code Ann. § 5739.121
OK	Oklahoma allows a bad debt deduction from tax base. Deficiencies or tax-paid accounts found to be worthless are charged off according to generally accepted accounting procedures.	Okla. Stat. 68 § 1366(A)
PA	Pennsylvania does not allow a bad debt deduction from tax base. Bad debts are not deductible for purposes of Pennsylvania sales tax, however, taxpayers who have written off all or a portion of the purchase price of goods as uncollectible or bad debt on their federal return may receive a refund of sales tax paid.	Pa. Stat. Ann. 72 § 7201(g) Pa. Code 61 § 33.2(a)(7) Pa. Stat. Ann. 72 § 7247.1(a)
RI	Rhode Island allows a bad debt deduction from tax base. Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.	R.I. Reg. 280-RICR-20-70-22 R.I. Gen. Laws § 44-18.1-21
SC	South Carolina allows a bad debt deduction from tax base. Must be charged off for federal tax purposes; or if the taxpayer is not required to file a federal return, must meet the requirements for a bad debt for South Carolina income tax purposes.	S.C. Code Ann. § 12-36-90(2)(h) S.C. Code Ann. § 12-36-130
SD	South Dakota allows a bad debt deduction from tax base. The tax-paid account found to be worthless must be charged off for federal tax purposes. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.	S.D. Codified Laws § 10-45-30
TN	Tennessee allows a bad debt deduction from tax base. Deductible in the year that the deduction is allowed or would have been allowed for federal tax purposes	Tenn. Code Ann. § 67-6-507(d)

Bad Debt

State	Bad Debts	Authority
TX	Texas allows a bad debt deduction from tax base. A retailer is not required to report tax on any amount that has been entered in the retailer's books as a bad debt during the reporting period in which the sale was made, and that will be taken as a deduction on the federal income tax return during the same or subsequent reporting period.	Tex. Tax Code Ann. § 151.426(a) Tex. Admin. Code § 3.302(d)(1)(A)
UT	Utah allows a bad debt deduction from tax base. Bad debt may be deducted on a return for the time period in which the bad debt is written off as uncollectible in the seller's books and would be eligible for a bad debt deduction for federal income tax purposes and if the seller were required to file a federal income tax return.	Utah Code Ann. § 59-12-107(10)(e)
VA	Virginia allows a bad debt deduction from tax base. A dealer may credit, against the tax shown to be due on the tax return, the amount of sales or use tax previously paid on accounts which are owed to the dealer and which have been found to be worthless within the period covered by the return.	Va. Code Ann. § 58.1-621
VT	Vermont allows a bad debt deduction from tax base. Must be charged off for federal tax purposes; if not required to file federal return, must still be written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes	Vt. Stat. Ann. 32 § 9780 ; Code of Vt. Rules § 1.9780(C)
WA	Washington does not allow a bad debt deduction from tax base. Credits or refunds may be allowed	Wash. Rev. Code § 82.08.037
WI	Wisconsin allows a bad debt deduction from tax base. The seller must claim the deduction on the sales and use tax return that is submitted for the period in which the seller writes off the amount of the deduction as uncollectible in the seller's books and records and in which such amount is eligible to be deducted as bad debt for federal income tax purposes. Seller must be able to claim the amount as a deduction under IRC § 166	Wis. Stat. § 77.585(1)(b)
WV	West Virginia allows a bad debt deduction from tax base. A claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.	W. Va. Code § 11-15B-27(c)
WY	Wyoming allows a bad debt deduction from tax base.	Wyo. Stat. § 39-15-107(a)(x)