



This Week in State Tax (TWIST)

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WASHINGTON



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Washington: Taxpayer Not Entitled to Sales Tax Bad Debt Deduction

The Washington Board of Tax Appeals (Board) recently addressed whether a retailer taxpayer was eligible to claim the bad debt sales tax credit and B&O tax deduction on uncollectible amounts charged to the store's branded private label credit card. In its agreement with the card issuer, the taxpayer accepted the card for store purchases, including any sales tax owed. The agreement stipulated that the bank alone was the owner of all the branded credit card accounts, account documentation, and any other related interests. However, important to the dispute at hand, the taxpayer received monthly compensation for performing certain credit account services. The compensation was essentially adjusted to account for uncollectible amounts.

The appeal came before the Board on remand after the Washington Supreme Court decision in *Lowe's Home Centers, LLC v. Dept. of Revenue* (2020). In that case, the court held that a retailer qualified for the bad debt credit and deduction in part because the retailer had contracted with the banks to act as a guarantor for its customers that defaulted on credit payments. The Board applied the following requirements for claiming an uncollectible debt credit or deduction from *Lowe's*: "(1) an eligible taxpayer must be a seller (2) making sales at retail (3) which are entitled to a refund for sales taxes previously paid on bad debts (4) that are federally deductible." This last criterion was important as the federal deduction is available to the guarantor of the debt.

The taxpayer argued it was indirectly compensating the bank and was in essence guaranteeing the debts (as was the case in *Lowe's*) because the payments it received for credit servicing activities were reduced to account for uncollectible debts. The Board, however, disagreed, concluding that simply because the taxpayer's payments for performance of account services were reduced for uncollectible amounts did not give rise to a guarantor's obligation. Per the agreement with the bank, the taxpayer had no interest or obligation associated with the accounts. The taxpayer did not have an enforceable legal duty to make any related payments to the bank, nor did the taxpayer have any intention of making a claim against its customers for any payments made in discharge of the debt. As such, the Board concluded that because the taxpayer was not the guarantor of the uncollectible debts, it was ineligible to qualify for either the sales tax credit or B&O tax deduction. Please contact [Michele Baisler](#) with questions on *Kohl's Department Stores, Inc. v. Washington Department of Revenue*.



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