

## Sales/Use/Indirect:

### Louisiana Appellate Court Says Store Can't Claim Bad-Debt Refunds on Sales from Store-Branded Credit Cards

*Docket No. 2023 CA 0186*, La. Ct. App. (11/3/23). In a case involving a department store that entered into a credit card program agreement with a bank that provided retail store-branded credit cards allowing store customers to purchase goods on credit with the bank serving as exclusive owner of the credit card accounts, entitled to receive all payments made by cardholders and which funded all cardholder indebtedness on the accounts, a Louisiana Court of Appeals (Court) held that the department store (specifically, the store's retail subsidiaries) failed to meet the requirements for bad debt refunds under Louisiana sales and use tax statutes and regulations given the underlying facts. The Court explained that for a dealer to claim a sales tax refund on bad debt resulting from a lending institution's financed sale under Louisiana law, the dealer must prove:

**URL:** <https://www.la-fcca.org/opiniongrid/opinionpdf/2023%20CA%200184%20Decision%20Appeal.pdf>

- There was a purchase of tangible personal property;
- The sale was financed by a lending institution;
- There is an unpaid account balance;
- The unpaid account balance is due to the dealer;
- The unpaid balance constitutes "bad debt" as defined by federal law;
- The dealer has previously paid the tax on the sale that became bad debt;
- The bad debt has been charged off for federal income tax purposes; and
- The lending institution has full recourse against the dealer/seller for any unpaid amounts.

In this case, the underlying unpaid account balances were due to the bank rather than the stores. Furthermore, the Court explained that the bank, as the lending institution who financed the sales resulting in the unpaid debts, did not have full recourse against the store for any unpaid amounts generated by the subject bad debt. Under the facts, the bank bore all credit losses without recourse against the department store, subject to one limited and indirect exception; that is, when the bank wrote off unpaid credit card debt, the store's share of certain revenues generated by the credit card program was reduced. Please contact us with any questions.

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