

Updates

December 23, 2019

'Tis the Season for Gift Cards



It's hard to know what to give to everyone on your list this holiday season. For

the 13th year in a row, the National Retail Federation found gift cards are the most popular item on holiday wish lists, requested by 59% of those surveyed.[1] These sales are an important revenue stream for retailers. However, failing to comply with federal and state gift card laws can be costly.

The federal Credit Card Accountability Responsibility and Disclosure Act of 2009 (Card Act) established restrictions on issuing and redeeming gift cards. These restrictions include limits on expiration dates and dormancy/inactivity fees. States have also enacted laws offering consumers greater protection. As a result, a patchwork of federal and state laws regulate issuance and redemption of gift cards, including fees, expiration dates, disclosures, and redemption rights.

While some states' gift card laws allow government officials to bring enforcement actions, consumer class actions pose the greatest potential risk to companies offering gift cards. In 2019, a national retailer agreed to pay over \$9 million to settle a class action suit claiming gift card expiration restrictions were violated.[2]

As unwitting errors can result in costly litigation and settlements, companies operating nationwide must adopt either state-by-state policies or a nationwide policy that complies with the most restrictive requirements. In either case, the terms and conditions associated with the gift card must be clearly and conspicuously disclosed with, and even on, the gift card. Some of the terms and conditions that must be considered are listed below.

Expiration Dates

The value on a gift card must typically be redeemable for at least five years from the date the value was added to the gift card. Not all states allow gift cards to expire though, and many states have specific rules on how expiration dates must be displayed.

Inactivity Fees

The Card Act allows dormancy or inactivity fees to be charged, with some limitations, if a consumer has not used the card for at least one year. However, not all states allow such fees to be charged after a year (or ever).

Cash Redemption

Some states require businesses to provide consumers, upon their request, with cash back once value of the gift card falls below a certain value. Companies may typically comply by providing redeemed gift card funds to customers by check or electronic funds transfer.

Most gift cards issued in amounts in excess of the redemption value, will be redeemable under the following circumstances:

State	Typical Cash Redemption Right	Triggering Value
California	Gift cards with a cash value less than \$10.00 are redeemable for their cash value at the holder's request.	?\$9.99
Colorado	Gift cards with a cash value of \$5.00 or less are redeemable for their cash value at the holder's request.	?\$5.00
Connecticut	After a transaction, gift cards with a cash value of less than \$3.00 are redeemable for their cash value at the holder's request.	?\$2.99[3]
Maine	Gift cards with a cash value \$5.00 or less are redeemable for their cash value at the holder's request.	?\$5.00
Massachusetts	Non-reloadable gift cards which have been redeemed for at least 90% of its face value are redeemable for their cash value at the holder's request, and reloadable gift cards with a cash value of less than \$5.00 are redeemable for their cash value at the holder's request.	Non-reloadable: 10% of original value Reloadable: ?\$4.99
Montana	Gift cards with a cash value less than \$5.00 are redeemable for their cash value at the holder's request.	?\$4.99[4]
New Jersey	Gift cards with a cash value of \$5.00 or less are redeemable for their cash value at the holder's request.	?\$5.00
Oregon	One is prohibited from selling gift cards that are not redeemable for their cash value at the holder's request when the gift card has a cash value less than \$5.00 and the card has been used for at least one purchase.	?\$4.99

State	Typical Cash Redemption Right	Triggering Value
Rhode Island	After a transaction, gift cards with a cash value less than \$1.00 are redeemable for their cash value at the holder's request.	?\$0.99
Texas	After an in-person transaction, gift cards with a cash value less than \$2.50 are redeemable for their cash value at the holder's request.	?\$2.49[5]
Vermont	Gift cards with a cash value less than \$1.00 are redeemable for their cash value at the holder's request.	?\$0.99
Washington	After a transaction, gift cards with a cash value less than \$5.00 are redeemable for their cash value at the holder's request.	?\$4.99

Endnotes

[1] <https://nrf.com/media-center/press-releases/holiday-shoppers-plan-spend-4-percent-more-year>

[2] <https://www.clubindustry.com/news/soulcycle-agrees-settle-gift-card-lawsuit-92-million>

[3] Right does not apply if retailer does not have an establishment in the state.

[4] Right does not apply if gift card was originally issued for \$5.00 or less.

[5] Right does not apply to online transaction.

© 2019 Perkins Coie LLP

Authors

Explore more in

[Technology Transactions & Privacy Law](#) [Retail & Consumer Products](#)

Related insights

Update

[California Court of Appeal Casts Doubt on Legality of Municipality's Voter ID Law](#)

Update

February Tip of the Month: Federal Court Issues Nationwide Injunction Against Trump Executive Orders on DEI Initiatives