

# STATE OF NEW YORK

4017

2025-2026 Regular Sessions

## IN ASSEMBLY

January 30, 2025

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the calculation of interchange fees charged by credit card networks

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new article  
2 42-A to read as follows:

3 ARTICLE 42-A  
4 INTERCHANGE FEES

5 Section 1120. Definitions.

6 1121. Calculation of interchange fees.

7 1122. Rebate of fees on tax amount.

8 1123. Penalties.

9 § 1120. Definitions. For purposes of this article:

10 1. "Credit card" means a card, plate, coupon book, or other credit  
11 device existing for the purpose of obtaining money, property, labor, or  
12 services on credit.

13 2. "Debit card":

14 (a) means a card, or other payment code or device, issued or approved  
15 for use through a payment card network to debit an asset account,  
16 regardless of the purpose for which the account is established, whether  
17 authorization is based on signature, personal identification number, or  
18 other means; and

19 (b) includes a general-use prepaid card, as defined in 15 U.S.C. §  
20 16931-1; and

21 (c) does not include paper checks.

22 3. "Electronic payment transaction" means a transaction in which a  
23 consumer uses a debit card, credit card, or other payment code or  
24 device, issued or approved through a payment card network to debit a

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 deposit account or use a line of credit, whether authorization is based  
2 on a signature, personal identification number, or other means.

3 4. "Interchange fee" means a fee established, charged, or received by  
4 a payment card network for the purpose of compensating the issuer for  
5 its involvement in an electronic payment transaction.

6 5. "Issuer" means a person issuing a debit card or credit card, or the  
7 issuer's agent.

8 6. "Payment card network" means an entity that:

9 (a) directly, or through licensed members, processors, or agents  
10 provides the proprietary services, infrastructure, and software that  
11 routes information and data to conduct debit card or credit card trans-  
12 action authorization, clearance, and settlement; and

13 (b) a merchant or seller uses in order to accept as a form of payment  
14 a brand of debit card, credit card, or other device that may be used to  
15 carry out debit or credit transactions.

16 7. "Settlement" means the transfer of funds from a customer's account  
17 to a seller or merchant upon electronic submission of finalized sales  
18 transactions to the payment card network.

19 § 1121. Calculation of interchange fees. The amount of a state or  
20 local tax or fee that is calculated as a percentage of an electronic  
21 payment transaction amount and listed separately on the payment invoice  
22 or other demand for payment must be excluded from the amount on which an  
23 interchange fee is charged for that electronic payment transaction. Such  
24 taxes and fees include, but are not limited to:

25 1. sales and compensating use taxes under article twenty-eight of the  
26 tax law;

27 2. hotel and motel and occupancy taxes under article twenty-nine of  
28 the tax law;

29 3. taxes on alcoholic beverages under article eighteen of the tax law;

30 4. tax on gasoline and motor fuel under article twelve-A of the tax  
31 law;

32 5. tax on petroleum businesses under article thirteen-A of the tax  
33 law;

34 6. tax on fuel use under article twenty-one-A of the tax law;

35 7. rental vehicle taxes under article twenty-eight-A of the tax law;  
36 and

37 8. gratuities.

38 § 1122. Rebate of fees on tax amount. 1. A payment card network shall  
39 either:

40 (a) deduct the amount of any tax or gratuities imposed from the calcu-  
41 lation of interchange fees specific to each form or type of electronic  
42 payment transaction at the time of settlement; or

43 (b) rebate an amount of interchange fee proportionate to the amount  
44 attributable to the tax or fee and/or gratuities.

45 2. A deduction or rebate must occur at the time of settlement when the  
46 merchant or seller is able to capture and transmit tax or fee and/or  
47 gratuity amounts relevant to the sale at the time of sale as part of the  
48 transaction finalization.

49 3. If a merchant or seller is unable to capture and transmit tax or  
50 fee and/or gratuity amounts relevant to the sale at the time of sale,  
51 then the payment card network shall accept proof of tax or fee amounts  
52 collected on sales subject to an interchange fee upon the submission of  
53 sales data by the merchant or seller and promptly credit the merchant or  
54 seller's settlement account.

55 § 1123. Penalties. A payment card network that violates this article  
56 is subject to a civil penalty of not more than one thousand dollars per

1 violation and shall also refund the surcharge to each merchant or seller  
2 from whom such fees were collected.

3 § 2. This act shall take effect on the first of July next succeeding  
4 the date on which it shall have become a law.