

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2394 Session of 2024

INTRODUCED BY SCOTT, SAMUELSON, PIELLI, MADDEN, VENKAT, FREEMAN,  
McANDREW, KHAN, POWELL, SANCHEZ, KINSEY, CEPEDA-FREYTIZ,  
HILL-EVANS, GREEN AND KENYATTA, JUNE 10, 2024

REFERRED TO COMMITTEE ON FINANCE, JUNE 10, 2024

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the  
2 Pennsylvania Consolidated Statutes, providing for interchange  
3 fee tax exclusion and for penalties; and making editorial  
4 changes.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 72 of the Pennsylvania Consolidated  
8 Statutes is amended by adding parts to read:

9 PART I

10 PRELIMINARY PROVISIONS

11 (Reserved)

12 PART II

13 TAXATION

14 Chapter

15 17. (Reserved)

16 19. Interchange Fee Tax Exclusion

17 CHAPTER 17

18 (Reserved)

CHAPTER 19

INTERCHANGE FEE TAX EXCLUSION

Sec.

1901. Definitions.

1902. Exclusion of tax from interchange fees.

1903. Penalties.

§ 1901. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Credit card." A card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor or services on credit.

"Debit card." A card or other payment code or device issued or approved for use through a payment card network to debit an asset account, notwithstanding the purpose for which the account is established and whether authorization is based on signature, personal identification number or other means. The term shall include a general-use prepaid card, as defined in 15 U.S.C. § 16931-1 (relating to general-use prepaid cards, gift certificates, and store gift cards). The term does not include a paper check.

"Electronic payment transaction." A transaction in which a person uses a debit card, credit card or other payment code or device, issued or approved through a payment card network to debit a deposit account or use a line of credit, whether authorization is based on a signature, personal identification number or other means.

"Interchange fee." A fee established, charged or received by a payment card network for the purpose of compensating the

1 issuer for its involvement in an electronic payment transaction.

2 "Issuer." A person issuing a debit card or credit card or  
3 the issuer's agent.

4 "Payment card network." An entity that meets all of the  
5 following:

6 (1) Directly, or through licensed members, processors or  
7 agents, provides the proprietary services, infrastructure and  
8 software that routes information and data to conduct debit  
9 card or credit card transaction authorization, clearance and  
10 settlement.

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

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

18 "Tax." A tax levied on the sale at retail of goods and  
19 services under Article II of the act of March 4, 1971 (P.L.6,  
20 No.2), known as the Tax Reform Code of 1971.

21 § 1902. Exclusion of tax from interchange fees.

22 (a) Exclusion.--The amount of tax calculated as a percentage  
23 of an electronic payment transaction amount and listed  
24 separately on the payment invoice or other demand for payment  
25 shall be excluded from the amount on which an interchange fee is  
26 charged for the electronic payment transaction.

27 (b) Duties of payment card network.--A payment card network  
28 shall:

29 (1) Either:

30 (i) deduct the amount of any tax imposed from the

1 calculation of interchange fees specific to each form or  
2 type of electronic payment transaction at the time of  
3 settlement; or

4 (ii) rebate an amount of an interchange fee  
5 proportionate to the amount attributable to the tax.

6 (2) If a merchant or seller is unable to capture and  
7 transmit tax or fee amounts relevant to the sale at the time  
8 of sale, accept proof of tax or fee amounts collected on  
9 sales subject to an interchange fee upon the submission of  
10 sales data by the merchant or seller and promptly credit the  
11 merchant or seller's settlement account.

12 § 1903. Penalties.

13 A payment card network that violates this chapter shall:

14 (1) be subject to a civil penalty of not more than  
15 \$1,000 per violation, payable to the plaintiff; and

16 (2) refund, to each merchant or seller that utilizes the  
17 payment card network, the portion of the interchange fee that  
18 was collected in violation of this chapter.

19 Section 2. Title 72 is amended by adding a part heading  
20 immediately preceding Chapter 31 to read:

21 PART III

22 FISCAL AFFAIRS

23 Section 3. This act shall take effect in 60 days.