
OLR Bill Analysis

sHB 5489

AN ACT CONCERNING INTERCHANGE FEES ON ELECTRONIC PAYMENT TRANSACTIONS.

SUMMARY

This bill requires payment card networks, when processing electronic payment transactions, to exclude sales tax from the transaction's interchange fee calculation. It sets different methods for doing so, based on whether or not the retailer can capture and transmit the tax amount at the time of the sale when finalizing the transaction.

Under the bill, an "interchange fee" is the fee charged to retailers to compensate the financial institution or other entity that issued the payment card for its involvement in the transaction (see BACKGROUND). "Payment card networks" are entities that:

1. directly or through licensed members, processors, or agents, provide the proprietary services, infrastructure, and software that routes information and data to conduct payment card transaction authorizations, clearance, and settlements, and
2. retailers use to accept a brand of payment card as a form of payment for electronic payment transactions.

The bill also authorizes the attorney general to bring an action in the Hartford Superior Court against any payment card network that violates the bill's requirements seeking a (1) civil penalty of up to \$1,000 per violation and (2) refund to retailers for the interchange fees imposed in violation of the bill.

EFFECTIVE DATE: October 1, 2024, and applicable to sales occurring on or after that date.

METHOD FOR EXCLUDING SALES TAX FROM INTERCHANGE FEE

Under the bill, each payment card network must either:

1. deduct the sales tax amount from the interchange fee calculation for each electronic payment transaction at the time of settlement (i.e., when the payment card network receives an electronic submission of a completed transaction and transfers funds from a purchaser's account to a retailer) or
2. rebate the portion of the fee attributable to the tax.

If a retailer can capture and transmit the relevant tax amount at the time the transaction is completed, the payment card network must deduct the tax or rebate the fee at the time of settlement.

If a retailer cannot do so, it may submit to the payment card network sales data showing the amount of sales tax collected on sales subject to an interchange fee. The payment card network must accept this sales data as proof and promptly credit the retailer's settlement account.

ELECTRONIC PAYMENT TRANSACTION

Under the bill, an "electronic payment transaction" is a transaction where a purchaser uses a payment card (e.g., credit or debit card) or other payment code or device issued or approved through a payment card network to debit an asset account or use a line of credit. The transaction's authorization may be based on a signature, personal identification number, or other means.

A "credit card" is any instrument or device issued to a cardholder to use in getting money, goods, services, or anything else of value on credit. A "debit card" is generally any card, code, or other means (1) issued to a cardholder or authorized for use to debit an asset account held by a financial institution (directly or indirectly) and (2) that the cardholder may use to get money, goods, services, or anything else of value. It generally includes general-use prepaid cards.

BACKGROUND

Interchange Fees

The interchange fee is one of the fees typically paid as part of a credit

and debit card transaction. It is intended to compensate the consumer's card-issuing bank for facilitating the transaction and assuming the risk for any bad debt associated with the payment. It varies based on the type of card used and whether the card is swiped, keyed in, or processed remotely, but it is typically set as a percentage of the transaction plus a fixed amount (Congressional Research Service, *Merchant Discount, Interchange, and Other Transaction Fees in the Retail Electronic Payment System*, August 6, 2021).

Federal regulations require debit interchange fees for large card issuers to be based on the cost of providing the services and caps them at \$0.21 plus 0.05% of the transaction's value (plus an additional \$0.01 for fraud protection costs for certain issuers) (12 C.F.R. § 235.1 et seq.). Credit card interchange fees are not covered by this regulation.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 35 Nay 16 (04/02/2024)