



House of Representatives

General Assembly

File No. 541

February Session, 2024

Substitute House Bill No. 5489

House of Representatives, April 17, 2024

The Committee on Finance, Revenue and Bonding reported through REP. HORN of the 64th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING INTERCHANGE FEES ON ELECTRONIC PAYMENT TRANSACTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024, and applicable to sales*
2 *occurring on or after October 1, 2024*) (a) As used in this section:

3 (1) "Credit card" has the same meaning as provided in section 53a-
4 128a of the general statutes;

5 (2) "Debit card" means any card, code, device or other means of
6 access, or any combination thereof, that is issued or authorized for use
7 to debit an asset account held directly or indirectly by a financial
8 institution and that may be used by the cardholder to obtain money,
9 goods, services or anything else of value, regardless of whether the card,
10 code, device or other means of access, or any combination thereof, is
11 known as a debit card. "Debit card" includes a general-use prepaid card,
12 as defined in 15 USC 1693l-1, as amended from time to time;

13 (3) "Electronic payment transaction" means a transaction in which a
14 purchaser uses a payment card or other payment code or device issued
15 or approved through a payment card network to debit an asset account
16 or use a line of credit, whether authorization is based on a signature,
17 personal identification number or other means;

18 (4) "Interchange fee" means a fee charged to a retailer, as defined in
19 section 12-407 of the general statutes, for the purpose of compensating
20 the financial institution or other entity that issued the payment card for
21 such institution's or entity's involvement in the electronic payment
22 transaction;

23 (5) "Payment card" means a credit card, debit card or other card, code,
24 device or other means of access that is issued to an authorized user to
25 obtain money, goods, services or anything else of value;

26 (6) "Payment card network" means an entity that (A) directly or
27 through licensed members, processors or agents provides the
28 proprietary services, infrastructure and software that routes
29 information and data to conduct payment card transaction
30 authorizations, clearance and settlements, and (B) is used by a retailer
31 to accept as a form of payment a brand of payment card that may be
32 used to carry out electronic payment transactions; and

33 (7) "Settlement" means the transfer of funds from a purchaser's
34 account to a retailer upon electronic submission of finalized sales
35 transactions to the payment card network.

36 (b) (1) Each payment card network shall exclude from the amount on
37 which an interchange fee is charged the amount of tax imposed under
38 chapter 219 of the general statutes on a transaction that is an electronic
39 payment transaction.

40 (2) Each payment card network shall (A) deduct the amount of such
41 tax from the calculation of interchange fees specific to each electronic
42 payment transaction at the time of settlement, or (B) rebate an amount
43 of interchange fee proportionate to the amount attributable to such tax.

44 If the retailer is able to capture and transmit the amount of tax relevant
 45 to the sale at the time of sale as part of the transaction finalization, such
 46 deduction or rebate shall occur at the time of settlement. If the retailer is
 47 unable to capture and transmit such information at the time of sale, the
 48 retailer may submit to the payment card network, and the payment card
 49 network shall accept as proof, sales data showing the amount of such
 50 tax collected on sales subject to an interchange fee, and the payment card
 51 network shall promptly credit the retailer's settlement account.

52 (c) If a payment card network violates any provision of this section,
 53 the Attorney General may bring an action against such payment card
 54 network in the superior court for the judicial district of Hartford,
 55 seeking (1) imposition and recovery of a civil penalty of not more than
 56 one thousand dollars for each violation, and (2) a refund to retailers of
 57 the amount of any interchange fees imposed in violation of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024, and applicable to sales occurring on or after October 1, 2024</i>	New section

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill has no fiscal impact by requiring payment card networks to exclude sales tax from the transaction's interchange fee calculation when processing electronic payment transactions. This provision does not alter the tax amount due to the state in any transaction and therefore has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

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)