

GIFT CARDS IN THE U. S.

Are you offering prepaid gift cards¹? Great idea! Gift cards can be easy to use. They can reduce the handling of cash, speed lines at sales counters, reduce theft, increase customer traffic and sales, be readily re-loadable, permit easy checking of balances, and make it easier for customers to increase spending. They can be used by all types of retail and online establishments. But beware! Their popularity has been noticed by consumer protection advocates, state attorneys general, and legislators. There is now a myriad of changing and inconsistent laws and regulations.

1. Expiration Dates.

In 2004, *RCW 19.240* on Gift Certificates took effect in the state of Washington.

Washington joined several other states to prohibit expiration dates on gift certificates in most situations except for promotional programs or for charitable services. Other states allow expiration dates but require them to be clearly disclosed and/or that the certificate be valid for a certain minimum number of years. We recommend there be no expiration date except for promotional cards.

2. Fees.

States also vary on charging fees for inactivity or dormancy, replacement, activation or reactivation, service, and the like. Washington does not permit these fees except in certain situations such as cards with a low value and a minimum length of dormancy of 24 months. Other states permit some fees with full disclosures. We recommend no dormancy fees.

3. Abandoned Cards.

What if the cardholder never redeems the gift card? Most states have laws calling abandoned property to be the property of the state (called escheat laws). While Washington exempts most gift certificates, other states aggressively seek revenue from abandoned gift certificates and have both extensive reporting requirements to the state and notice requirements to the holder of the card. We recommend the card not be redeemable for cash, that lost or stolen cards be canceled, and that resale not be permitted.

Why did we say beware? Compliance with the constantly expanding and inconsistent laws is problematic. When you establish (or review) your gift card program, you should consider a safeguard as to maximum or minimum amount, whether it is re-loadable, whether there are customer registration and notification privacy law concerns, whether one may replace lost or stolen cards, whether you charge fees, and whether you have an expiration date for different states.

For questions, please contact Kevin J. Collette.

¹ This article is restricted to comments about prepaid gift cards that are purchased from and used exclusively within a single retail system (closed system prepaid cards).