



# State of New Jersey

## Department of the Treasury

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### **A Note From the Treasury Press Office:** **The Real Story on Gift Cards**

**TRENTON** -- In light of recent media reports that have falsely portrayed the issue of gift cards in New Jersey and the decision by American Express to discontinue some gift card products in New Jersey, we feel the need to set the record straight and provide additional, factual background on the bipartisan, consumer-friendly initiative passed by the Legislature in 2010. That law created new protections for consumers of gift cards. Here are the facts:

The large card companies would have you believe that the State is “grabbing” or “taxing” gift cards. That is a total fabrication and nothing more than part of a misinformation campaign designed to protect giant card issuers’ anti-consumer business practices and unjustifiable profit-grabs from abandoned or forgotten gift cards.

The simple facts are these: In June 2010, New Jersey’s Legislature passed a bill that provided long-overdue protections to buyers of gift cards by preventing gift card issuers from depleting and then taking consumers’ unused balances. The law prevents sellers of gift cards from charging exorbitant “inactivity” or “dormancy” fees that deplete and ultimately eliminate the value of cards over time. Under the 2010 law, once card value is transferred to the state, consumers are protected if a business declares bankruptcy, and they can receive the unredeemed value of their gift cards.

The law also provides that unused balances be transferred to the State after two years of inactivity, rather than taken by the card issuer as windfall profits. But most critically: Unlike balances taken as extra “profit” by an issuer, *every* penny the State holds in unused gift cards can be reclaimed by consumers – *forever*. And the value of the card is available to the customer – with interest – *forever*.

After all, gift cards belong to consumers and unused balances are their money. They are not, and never should be, the property of the issuer. And if an unredeemed gift card balance is never claimed by a consumer, it is only appropriate that it be made available for the benefit of all New Jerseyans to prevent tax increases and service cutbacks.

For those interested in additional details on the issue we provide the following FAQs:

### **What is “escheatment” and why does the State “escheat” unclaimed property?**

Escheatment laws prevent banks or other companies from keeping property that rightfully belongs to citizens. The governing principle is that the State should step in and protect the rights of owners to unclaimed property such as estates of deceased relatives and the contents of long-dormant safe deposit boxes. Over the past few years, the State’s Unclaimed Property Administration has returned more than \$80 million *including interest* to consumers annually.

### **How much money on gift cards goes unused?**

U.S. merchants sell an estimated \$100 billion of stored value cards each year. Industry experts estimate that 6 percent, or \$6 billion, of gift card buyers’ hard-earned dollars go unspent each year – money that card issuers take from consumers. From 2005 to 2011, \$41 billion of gift card value went unspent, the TowerGroup estimates, with most of it being retained by the card issuer.

### **Who gets the unused gift card balances now?**

Except in pro-consumer states like New Jersey, gift card issuers take unused consumer balances as windfall profits after two years.

### **Whose money is it, anyway?**

It’s the consumer’s money! Under New Jersey law, the consumer is entitled to the full amount of the unredeemed balance – *forever*.

### **Does the 2010 law require businesses to do anything?**

Yes, the law permits the state to require that merchants collect address information from gift card buyers at the time of sale. In many cases, all that is required to be collected is a ZIP code.

### **Is the State imposing an unreasonable burden on business operations?**

No. Many gift card issuers and merchants collect ZIP codes -- and much more information -- at the point of sale. Most cards are validated at the time of purchase by a checkout clerk. Adding ZIP code information is not a big lift.

### **Are some businesses complying with the new law?**

Yes. Retailers and restaurants such as Justice, Modell’s, and Red Robin are already collecting ZIP codes from gift card purchasers.

### **Why is American Express announcing that it is stopping gift card sales in New Jersey?**

We wouldn’t presume to speculate as why a giant financial services company would consider it a fatal blow to their gift card business model when New Jersey passes a law that restores unredeemed gift balances to State consumers who paid for them.

### **Is the State “grabbing” consumers’ money?**

Absolutely not. Gift card issuers have been “grabbing” windfall profits from consumers for years, and the 2010 law ends the practice. New Jersey’s consumers can get their gift card money back at any time.

### **Is the State acting to protect consumers?**

Yes. Every penny the State holds from the transfer of unused gift cards to the Unclaimed Property Administration can be reclaimed by consumers – *forever*. And the value of the card is available to the customer – with interest – *forever*. There is no time limit for redemption from the State. And if the money is never claimed by a consumer it can be used for the benefit of all New Jerseyans to prevent tax

increases and service cutbacks. In stark contrast, companies and banks that sell gift cards routinely keep some or all the value of the cards as windfall profits.

**Do other states protect consumers' unused gift card balances?**

Yes, other states protect consumers' interest in unused gift card balances. There are many different specific rules, but New Jersey is a leader in protecting consumers' rights in unused gift card balances.

**Is any business exempt from the law?**

Yes. "Mom and Pop" small business are exempt from the law.