

Abandoned & Unclaimed Property Alert

Tracking the dramatic changes in the way states enforce abandoned and unclaimed property laws

July 10, 2012

New Jersey stored value card update

Janet Gagliano, Partner and National Practice Leader

In brief

New Jersey has enacted Senate Bill No. 1928 ([S.1928](#)), which makes significant revisions to the controversial stored value card (SVC) law and also provides for additional consumer protection laws associated with SVCs. In 2010, New Jersey enacted changes to the treatment of SVCs under the unclaimed property laws. A.B. 3002, Laws 2010 (Chapter 25). These changes have continuously been the focus of significant resistance on the business and consumer fronts. S.1928 repeals, amends and adds new provisions to Chapter 25 as it related to SVCs. For more detail on New Jersey's SVC history and developments, please see our [May 22, 2012 Alert](#).

In detail

The following summarizes these changes that S.1928 makes to Chapter 25. Unless otherwise stated, the changes take effect immediately.

Dormancy period

For any stored value cards (SVC) issued on or after July 1, 2010 the dormancy period is increased from two to five years.

Escheatable value of certain SVCs decreased

The value of a "general purpose reloadable card" that is presumed abandoned is the value of the card, in money, on the date the general purpose reloadable card is



presumed abandoned. The value of all other SVCs shall be 60% of the value of the card, in money, on the date the SVC is presumed abandoned

A "general purpose reloadable card" is an SVC issued by a bank or other similarly regulated financial institution or by a licensed money transmitter that is:

- (1) usable and honored upon presentation at multiple merchants or service providers that are not under common ownership or control for goods or services or at automated teller machines,
- (2) issued in a requested prepaid amount which amount may be, at the option of the issuer, increased in value or reloaded if requested by the cardholder, and
- (3) not marketed or labeled as a gift card.

The term "reloadable card" includes a temporary non-reloadable card issued solely in connection with a reloadable card.

Data collection requirements deferred

While not repealed, S.1928 delays the data collection requirements on the sale of SVCs for four years. Under Chapter 25, issuers of SVCs are required to obtain the name and address of the purchaser of the SVC and, at a minimum, maintain a record of the zip code of the owner or purchaser.

Place of purchase presumption repealed

The so-called place of purchase presumption is completely repealed. The place of purchase presumption provided that, if the issuer did not have the name and address of the purchaser or owner of an SVC, then the address of the purchaser shall be presumed to be the location where the SVC was purchased or issued.

New and expanded SVC exemptions from escheatable property

S.1928 expands the promotional card exemption, by including "incentive" and "awards" programs within the exception and allowing for indirect (previously only direct) distribution of the SVC by the issuer. Previously, an owner could not have paid monetary or other consideration for the SVC. Under the new exception, the owner's preclusion is limited to "direct monetary consideration."

S.1928 provides for the following two additional escheatment exemptions for certain SVCs:

- (1) an SVC that is donated or sold below face value to a nonprofit or charitable organization or an educational organization, and
- (2) an SVC that is redeemable for admission to events or venues at a specific location and any goods or services provided in conjunction with the event or venue.

Cash back option on SVC balance

With some exceptions, beginning September 1, 2012, if an owner redeems an SVC with a balance of less than \$5 after redemption, then the owner may request the merchant refund the balance in cash. A merchant required to comply with this

provision and failing to do so shall be liable for a penalty of \$500 for each violation; however, if a merchant has 100 or more violations within a 12 month period, then this penalty shall be trebled.

Expiration dates for funds and SVCs

The funds associated with SVCs sold on or after December 1, 2012 may not be subject to an expiration date. However, SVCs may contain an expiration date, subject to the limitations set by federal law, but this expiration date will apply only to the physical card or other tangible means through which the funds may be accessed. The funds themselves will not be subject to an expiration date.

SVC fees

Certain SVCs, not including general purpose reloadable cards, sold on or after December 1, 2012 may not be subject to fees or charges except for the following:

- (1) an activation, issuance, purchase or similar fee related to the issuance and purchase of an SVC and for each occurrence for adding value to an existing SVC, and
- (2) a replacement card fee with respect to lost, stolen or damaged SVCs provided that these fees are disclosed in writing prior to the issuance or referenced on the SVC or the SVC packaging.

Note, however, that N.J. Stat. 46:30B-43.1 provides general restrictions on fees for certain escheatable property, including SVCs. Additionally, the State Treasurer is given authority to adopt regulations regarding these fees.

Gift Certificates and Gift Cards also amended

S.1928 also amended certain gift certificate provisions. The new law clarifies that the funds associated with gift certificates and gift cards (not just the physical certificates or cards) shall not expire within two years from the date of sale. Additionally, if an SVC is deemed to be a gift card or gift certificate then the SVC cash refund option and penalty provisions noted above shall apply.

Let's talk

If you have questions about New Jersey's value card issue, please contact:

Janet Gagliano
Partner, in Atlanta
(678) 419-1068
janet.c.gagliano@us.pwc.com

Loredana Pfannenbecker
Director, Stamford
(203) 539-5211
loredana.c.pfannenbecker@us.pwc.com

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