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Federal court upholds Illinois interchange fee ban on state and local tax and gratuities, enjoins data use restrictions

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In brief

What happened?

The US District Court for the Northern District of Illinois issued a memorandum opinion and order on February 10, 2026, partially granting cross-motions for summary judgment in litigation challenging the Illinois Interchange Fee Prohibition Act (IFPA).

The court upheld the IFPA provision prohibiting the charging of interchange fees on state and local tax and gratuity components of electronic transactions, finding that it is not preempted under the National Bank Act (NBA) and related federal statutes.

The court permanently enjoined enforcement of the statute's data usage limitation as applied to national banks, federal savings associations, federal credit unions, certain out-of-state state banks, and certain payment card networks and processors.

Illinois Bankers Association et al. v. Raoul, No. 24-7307 (N.D. Ill. Feb. 10, 2026)

The American Bankers Association has indicated it intends to appeal the ruling. The IFPA becomes effective on July 1, 2026.

Why is it relevant?

Illinois is the first state to prohibit interchange fees specifically on state and local tax and gratuity portions of an electronic payment transaction. While the court enjoined the data usage limitation for certain federally protected issuers, the interchange fee prohibition remains scheduled to take effect July 1, 2026.

This decision elevates the importance of merchants identifying and transmitting tax components within electronic payment data. The statute also includes a $1,000 per-transaction civil penalty for certain violations by an entity that has received the required information.

As a first-of-its-kind measure, the IFPA may influence legislative proposals in other jurisdictions, increasing the need for monitoring and scenario planning. Industry stakeholders have raised concerns about the ability to comply with the IFPA based on substantial changes to the existing data infrastructure used by merchants, issuers, and payment card networks. For merchants with large state and local tax remittances, the interchange fee provision may offset incremental costs resulting from the $1,000 cap instituted on the Illinois retailers' discount effective as of January 1, 2025.

Actions to consider

Merchants and other electronic payment ecosystem participants with Illinois activity should assess readiness for the July 1, 2026 effective date of the interchange fee prohibition while monitoring potential appellate developments.

Entities using the payment card network should consider:

- evaluating whether point-of-sale systems can isolate state and local tax and gratuity components at the transaction level in a manner consistent with Illinois requirements
- assessing ERP and tax engine configurations to transmit tax component data through the payment ecosystem
- reviewing reconciliation procedures to confirm tax amounts remain identifiable and supportable for audit and reporting purposes
- analyzing contractual arrangements with processors and acquirers regarding data transmission obligations
- preparing contingency planning scenarios while monitoring further judicial developments
- monitoring potential legislative activity in other states that could expand similar limitations.

In detail

Electronic payment transactions involve multiple parties including consumers, merchants, acquiring banks, issuing banks, and payment card networks. Interchange fees are established by card networks and generally consist of a fixed amount plus a percentage of the total transaction value, historically calculated on the full transaction amount, including taxes and gratuities.

In 2024, Illinois enacted the IFPA with two key provisions, which are the subject of this litigation:

- **Interchange fee provision**— prohibits issuers, payment card networks, acquirers, and transaction processors from receiving or charging interchange fees on the portion of a transaction attributable to state and local taxes and gratuities. To avoid being charged interchange fees on those components, the merchant must identify and transmit the relevant tax and gratuities data, potentially up to 180 days after the transaction. The issuer then has 30 days to credit the merchant for any excess interchange fee applied to the prohibited charges.
- **Data usage limitation provision**— restricts transaction participants (other than merchants) from distributing, exchanging, or using electronic payment transaction data except to facilitate or process the payment or as required by law.

Preliminary injunction requested

The Illinois Bankers Association (IBA) filed suit in the US District Court for the Northern District of Illinois. The IBA made numerous arguments in its request for injunction, asserting that the interchange fee provision would (1) impose significant compliance costs that could "drive financial institutions out of the market;" (2) interfere with a national bank's authority to charge non-interest fees, even though interchange fees are established and calculated by payment card networks; and (3) prevent or significantly interfere with federally authorized banking powers, including processing card transactions, receiving deposits, and extending credit through card programs.

The IBA further argued that the data usage limitation provision conflicts with national banks' broad federal authority to process and use transaction data in connection with banking activities including credit and debit card processing, fraud monitoring, and related financial decision-making.

Court's analysis and determination

In two separate earlier rulings, the court granted requests for preliminary injunction for national banks, federal savings associations, and out-of-state state banks protected under the Riegle-Neal Interstate Banking and Branching Efficiency Act. The court denied preliminary injunctive relief for federal credit unions, payment card networks and other affiliated actors, debit card transactions, and certain out-of-state state-chartered financial institutions.

The IBA sought permanent injunction from the court. Although there is much consternation about implementation and impacts, the court clarified in its decision that the question it must decide is whether federal law preempts the IFPA, to what entities, and to what extent. The request for permanent injunction was broadly granted as to the data usage provision but denied as to the interchange fee provision.

Interchange fee provision is not preempted

The court's primary rationale for denying preemption was that interchange fees are set by payment card networks (third-parties), not by issuing banks. In the court's view, the interchange fee provision limits the transaction base on which the network-calculated interchange is assessed, and the associated compliance costs and operational complexity did not rise to the level of "preventing or significantly interfering" with bank powers under the *Barnett Bank* standard. The Court also rejected additional arguments that the provision was preempted under the Federal Credit Union Act (FCUA) or Riegle-Neal framework.

Accordingly, the court denied permanent injunctive relief as to the interchange fee provision, which remains effective July 1, 2026.

Data usage limitation provision is preempted

In contrast, the court reached a different conclusion regarding the data usage limitation. The court determined that the restriction would significantly interfere and directly constrain federally authorized banking powers, including data processing, fraud monitoring, compliance analytics, and related financial services functions.

The court permanently enjoined enforcement of the data usage limitation for:

- National banks
- Federal savings associations
- Federal credit unions (under ordinary conflict preemption principles based on FCUA incidental powers)
- Out-of-state state banks (to the extent protected under Riegle-Neal).

With respect to the data usage limitation only, the permanent injunction extends to payment card networks and processors to "the extent necessary to provide complete relief to federally protected entities," but does not extend similar protection to Illinois-chartered institutions or certain other state-chartered entities.

Let's talk

To discuss the potential impact of this decision on your business, please contact:

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