

Gift Card State Laws- Gift Cards/Certificates

IMPORTANT NOTE: This information was compiled using general web searches online.

This is a summary of some state laws, but not all state gift card laws. This summary is compiled using [Consumers Union](#) and National Retail Federation data. This is not legal advice. Gift Card laws are rapidly changing. For the most up to date information please contact your states Attorney Generals Office. The supplier of this information urges you to consult with the relevant state enforcement agency, your legal counsel, and/or your local human resources expert before acting on an important matter related to gift certificates. The information below is provided with the understanding that the supplier of this information is not engaged in rendering legal or professional services.

Every state has its own regulations, reporting structure, penalties and definitions as to your responsibilities regarding each kind of reportable property. In fact, including special jurisdictions, today there are **54 different unclaimed property laws in the United States.**

The usual definition of **unclaimed property** is intangible property that has been held, issued and owed to another, in the ordinary course of the holder's business, beyond a specified time and without the owner's exercise of any right of ownership. Typically, such property involved dormant bank accounts, unrefunded security deposits, uncashed dividend checks, untendered stock shares and outstanding insurance drafts; nowadays, gift certificates, payroll checks, electronic gift cards and customer credits also are included.

The time that must pass for property to be deemed abandoned is called the **dormancy period**, which varies with the state that has **jurisdiction over the property**. The period begins from when the property's owner last exercised control or expressed an interest in the property. The shortest dormancy periods usually involve uncashed vendor and payroll checks; the longest periods, traveler's checks and money orders.

Lookback period. Few state unclaimed property laws provide for a **statute of limitations**. Therefore, states are not limited to how far they can go back in auditing companies for unclaimed property.

UNCLAIMED PROPERTY REPORTING

When audited, many companies are surprised to find they have unclaimed property reporting and payment obligations to the states. Rather than "reversing" the transactions and returning the amounts of the property to their own accounts (as many have done), those companies find they must turn this property over to state unclaimed property divisions.

Further complicating the situation is the requirement that a corporation file returns not only in the state of incorporation but also in jurisdictions in which its creditors reside--even if the corporation does not conduct any business in those other jurisdictions.

To limit this multiple-filing requirement, some states have reciprocity programs allowing a holder to report on a single return the unclaimed property owed to a number of states.

Financial statement ramifications. What might have been simply a tax issue becomes a financial statement issue as well. If for a number of years, a company has reversed these transactions and returned the amounts to the original accounts on its books, those accounts may be severely overstated, making the company's financial position suspect.

Amnesty programs. Many states have amnesty programs to increase the awareness of unclaimed property reporting requirements, to help businesses comply with these laws and to return unclaimed property to its rightful owners. If companies pay over to the states unclaimed property due from prior years, any penalties and interest that may apply can be waived.

For a discussion of unclaimed property audits, see the State & Local Taxes column, edited by Karen Boucher, Noel Hall and Matthew Chenoweth, in the September 1999 issue of The Tax Adviser.

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States that <u>generally exclude</u> gift certificates as part of escheat laws:			
Alabama		Ohio	(unsettled)
Arizona		Oregon	
Colorado	(food)	Pennsylvania	(unsettled)
Delaware	(less than \$5)	Tennessee	(no expiration date or dormancy fees)
Florida		Texas	(food)
Idaho	(with expiration date)	Utah	(under \$25)
Illinois	(without expiration)	Vermont	(unsettled)
Kansas		Virginia	(unsettled)
Kentucky	(unsettled)	Wyoming	(under \$100)
Maryland			
Massachusetts			
Minnesota	(unsettled)		
Mississippi	(unsettled)		
Missouri	(unsettled)		
Nebraska	(unsettled)		
New Hampshire	(under \$101)		
New Jersey			
New York	(unsettled)		
North Dakota			

States that <u>do specifically include</u> gift certificates as part of escheat laws:			
Alaska		Nevada	
Arkansas		New Mexico	
California		North Carolina	
Connecticut		Oklahoma	
District of Columbia		Rhode Island	
Georgia		South Carolina	
Hawaii		South Dakota	
Indiana		Washington	
Iowa	(unsettled)	West Virginia	
Louisiana		Wisconsin	
Maine			
Michigan			
Montana			

California:

- No expiration dates and no fees, with one exception.
- Permits a \$1 per month fee only when the card has a balance of \$5 or less, the card has been unused for 24 months, and the card is re-loadable.
- Covers Gift Cards usable at a single store or chain. Multiple-use Gift Cards are not covered.

Connecticut:

- No expiration dates.
- No inactivity fees.

Hawaii:

- No expiration within the first 24 months.
- No fees.
- Effective July 1, 2005

Illinois:

- Before January 1, 2005 cards, which do not have an expiration fee do not escheat to the state.
- Starting January 1, 2005, cards must also have no service fees in order to avoid escheat.

Iowa:

- No fees unless there is a written contract between the card issuer and the holder of the Gift Card.

Louisiana:

- No expiration dates shorter than 5 years
- No service fees, except for a one-time handling fee of \$1
- Covers cards issued, to be redeemed in goods or services provided by the card seller.

Maine:

- No expiration dates.
- No fees unless printed on the card, allowed by written contract with the card owner, and not unconscionable

Massachusetts:

- No expiration for the first 7 years.
- Attorney General has stated that inactivity fees violate the state's rule against expiration within the first 7 years.

Maryland:

- No expiration for the first 4 years.
- No fees for the first 4 years.
- Fees that do apply after the first 4 years must be disclosed on the certificate or card, attached sticker or envelope, and may not be changed except to benefit the consumer.
- Does not apply to cards processed through a national debit or credit card service that are usable at multiple unaffiliated sellers of goods or services.
- Effective July 1, 2005

New Hampshire:

- For Gift Cards over \$100, no expiration earlier than the date the funds escheat to the state.
- For Gift Cards of \$100 or less, no expiration dates.
- No fees on cards of any amount.

New Jersey:

- Cards are "valid until presented."
- All other restrictions must be conspicuously printed on the card.
- Covers cards issued by retail merchandise establishments

New York:

- No monthly service fees before the 13th month of dormancy

Nevada:

- No fees for the first 12 months
- After 12 months, fees may not exceed \$1 per month.
- Covers Gift Cards usable at a single store or chain. Multiple use cards are not covered.

Rhode Island:

- No expiration dates.
- No monthly, annual service or maintenance fees.

South Carolina:

- No expiration within the first 12 months
- Fees permitted but must be disclosed on certificate, envelope, covering, or receipt.

Tennessee:

- Card issuer is exempt from turning unused funds over to the state if the card has no expiration date and no dormancy fees.

Vermont:

- No expiration within the first 3 years.
- No fees, except a licensed money transmitter, financial institution or credit union may charge a one time issuance fee the smaller of \$10 or 10%
- Effective: July 1, 2005

Washington:

- Prohibits expiration dates and all fees, with one exception.
- Permits a \$1 per month fee only when the card has a balance of \$5 or less, the card has been unused for 24 months, the card is re-loadable, and the fee is disclosed on the card.
- Does not apply to Gift Cards issued by a financial institution or its operating subsidiary if usable at multiple unaffiliated sellers of goods or services.

Note: if you do not see your states laws regarding gift certificates/gift cards please visit this link and go directly to your local state's website.

<http://www.ilsdc.org/sourcebook/state-leg.htm>
