AMERICANS for TAX REFORM

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Chair James Murphy,
Special Commission on the Future of Payments
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In recent years, several states have attempted to pass legislation to limit interchange fees, often called swipe fees, on the tax and gratuity portions of card payments, limiting the amount of revenue card issuers and networks can receive from card payments. The purported goal is to help reduce costs for small businesses and pass the savings on to consumers. However, the goal does not align with the reality of the outcomes created by swipe fee regulations. Consumers do not see any savings, payments become more complicated, and the implementation of such legislation risks federal preemption.

Swipe fees help fund zero-liability fraud protections for cardholders, as well as cybersecurity, chargeback dispute resolutions, and other valuable services. Capping interchange fee revenue could result in a loss of these benefits, in addition to higher annual fees and interest rates for consumers to simply maintain the network.

Price controls on interchange fees have no discernible benefits for consumers. Interchange fees compensate issuers and networks for facilitating and processing card transactions for consumers and merchants alike. Just as consumers benefit from quick, secure, and convenient payments at the point of sale, merchants too enjoy the speed, convenience, and security that card payments enable.

Research has shown that interchange fee restrictions do not translate into lower consumer prices. After the Durbin Amendment capped debit card interchange fees, the Federal Reserve Bank of Richmond found that about 98% of merchants either kept their prices the same or raised them, and only about 1% lowered prices. Federal Reserve researchers also found that the minimum account balance required to avoid monthly fees by roughly 50% and monthly maintenance fees by about 20%.

In 2024, Illinois passed the Illinois Fee Prohibition Act into law, prohibiting banks, card networks, and processors from charging interchange fees on the tax and gratuity portions of a sale. The issue is that payment systems cannot easily separate those portions from the rest of the purchase. The only workarounds are to run the tax and gratuity as a second, separate charge, or to require the

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customer to pay in cash, making a routine purchase slower and more confusing. The law has been preempted by the Office of the Comptroller of the Currency. The OCC said that the law "would create a complex, potentially unworkable, and destabilizing standard for national banks, Federal savings associations, and the nation's payment card systems. Further, such effects could be exacerbated to the extent other states impose similarly unworkable or conflicting standards."

In June, Colorado governor Jared Polis vetoed a similar piece of legislation that would have also prohibited swipe fees on tax and gratuity. In his veto letter, he pointed to the legal doubts and delays in Illinois, serious questions about the law's operational feasibility, and the impact of payment disruptions on the state's tourism industry.

Any legislation that threatens to raise costs, make payments unnecessarily complicated, and invites legal scrutiny from the federal government should be rejected. For these reasons, Massachusetts legislators should avoid upending electronic payments via regulation of interchange fees.

Sincerely,
Americans for Tax Reform