

Client Alert

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A Gift for New Jersey Gift Card Issuers and Retailers: Consumer Data Collection Requirements Eliminated by S.B. 2235

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Retailers and issuers of gift cards in New Jersey recently received welcome news: they no longer have to worry about looming consumer data collection requirements. Under existing law, beginning in July 2016, gift card (also known as “stored value card” or SVC) retailers and issuers operating in New Jersey would have been obligated to collect the names and addresses, and maintain at least the ZIP codes, of all SVC purchasers and owners. On February 5, 2015, Governor Chris Christie signed into law amendments to the state’s unclaimed property law that eliminate the consumer information collection requirements.¹ SVC issuers and retailers should review S.B. 2235 and, if necessary, amend card terms and conditions and update internal consumer data collection policies to avoid exposure to increased unclaimed property obligations.

In 2010, New Jersey passed a law requiring that unredeemed SVC balances escheat to the state after two years of inactivity.² To tie SVCs to the state, this legislation also required that all SVC retailers and issuers collect the names and addresses and, at a minimum, maintain a record of the ZIP codes, of all SVC purchasers.³ The legislation was controversial from the beginning. It was challenged by retailers and merchant associations that doubted the intended revenue-generating impact on New Jersey and decried the administrative burdens of compliance for businesses operating in the state.

In June 2012, following successful legal challenges by New Jersey retailers and business organizations,⁴ New Jersey enacted S.B. 1928. That legislation, among other things, delayed the effective date of the consumer data collection requirement to July 1, 2016.⁵

The enactment of S.B. 2235 deals a final blow to the consumer data collection requirements for SVC retailers and issuers operating in the state. As a result, SVC retailers and issuers that have already implemented, or are

¹ See S.B. 2235 (S.2235/A.3480) (2015).

² See P.L. 2010, c. 25.

³ *Id.*

⁴ See *Am. Express Travel Related Servs. Co., Inc. v. Sidamon-Eristoff*, 755 F. Supp. 2d 556 (D.N.J. 2010), *aff’d by N.J. Retail Merchants Assoc. v. Sidamon-Eristoff*, 669 F.3d 374 (3d Cir. 2012) (challenging the so-called “place-of-purchase” presumption in P.L. 2010).

⁵ S.B. 1928 also (i) increased the dormancy period from two to five years for SVCs issued after July 1, 2010; and (ii) reduced the escheatable amount of each SVC to 60 percent of the unredeemed balance.

Client Alert

intending to implement, data collection policies or amended SVC terms and conditions consistent with S.B. 1928 should reconsider those policies and terms to avoid exposure to increased unclaimed property obligations in New Jersey.

S.B. 2235 also avoids potential confusion regarding how retailers would balance competing consumer data collection laws. New Jersey law generally prohibits retailers from collecting and recording customers' "personal identification information"—including addresses—as a condition of completing credit card transactions.⁶ This law, and its associated penalty provision, appeared to be squarely at odds with SVC retailers' affirmative consumer data collection obligations under S.B. 1928. S.B. 2235 provides much needed clarity.

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⁶ N.J. Stat. § 56:11-17.