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Gift card legislation

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Gift cards have become wildly popular in Canada. Their main appeal is that they make easy gifts: they're compact, lightweight, and flexible. They're available in a wide range of retail outlets, and they take the guesswork out of gift giving. This has resulted in gift cards becoming a multi-billion dollar industry in Canada.



However, with all of these sales comes a problem for retailers: how do you encourage recipients to use their cards within a reasonable amount of time? The answer for many retailers has been to impose expiry dates or to reduce the value of unused cards over time. That solution is effective, but unpopular with consumers.

As a result, many provincial governments (including Alberta, B.C., Saskatchewan, Manitoba, Ontario, Nova Scotia and New Brunswick) have passed legislation to deal with this and related gift card issues.

Expiry dates

Most gift card legislation prohibits expiry dates. Violating this rule is considered to be an unfair practice in many jurisdictions that can lead to penalties and other remedies. In addition, retailers that are subject to gift card legislation are required to redeem the gift cards regardless of any expiry date on the cards.

There are some exceptions to this rule. For example, B.C., New Brunswick and Ontario laws permit expiry dates on cards that are sold for a specific good or service. And B.C. and New Brunswick laws permit expiry dates on cards that are issued for charitable or marketing purposes in certain circumstances.

Saskatchewan's legislation contains an interesting twist. It allows expiry dates on gift cards, but states that the expiry date only applies to the plastic card; it doesn't apply to the balance remaining on the card. It also requires issuers to replace an expired card at no cost to the consumer.

Fees

Most gift card legislation prohibits suppliers from charging any fees to gift card customers. There are some exceptions, however.

For example, Alberta law permits a one-time fee for activating the card at the time of purchase, or for customizing a card or replacing a lost or stolen card. B.C. and Ontario law also allow a fee for customizing or replacing a card.

Some jurisdictions (such as B.C., New Brunswick and Ontario) allow suppliers to charge a monthly fee on unused balances if: (a) the card can be used to purchase goods or services from multiple unaffiliated retailers, (b) the fees don't exceed a certain amount (for example, \$2.50 per month), and (c) the fees aren't charged until a certain amount of time has passed (for example, 15 to 18 months in B.C., depending on the circumstances).

Some jurisdictions (such as Ontario and B.C.) require specific notices on the back of the card setting out the above fees.

Disclosure

Gift cards are typically subject to various terms and conditions. Popular terms include the following: (a) the cards cannot be exchanged for cash or used to pay a credit account, (b) the issuer is not responsible for lost or stolen cards, and (c) if the purchases are returned, the refund will be placed back on the card. Gift card legislation requires that all terms and conditions must be clearly and comprehensibly disclosed to purchasers at the time of sale.

Contact info

Most gift card legislation requires suppliers to provide contact information for purchasers should they need to obtain more details regarding the card and the balance remaining on the card.

Practice Tips

The simplest way comply with most gift card legislation in Canada is to observe the following rules:

- Don't include an expiry date on gift cards.
- Don't charge a fee to consumers in excess of the value of the cards.
- Include short, plain language terms on the back of the gift card, and make sure these terms are clearly visible at the time of purchase.
- Include the retailer's contact information on the cards.
- Ensure the retailer's contracts with gift card distributors comply with the above requirements.

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