THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2394 Session of 2024

INTRODUCED BY SCOTT, SAMUELSON, PIELLI, MADDEN, VENKAT, FREEMAN, McANDREW, KHAN, POWELL, SANCHEZ, KINSEY, CEPEDA-FREYTIZ, HILL-EVANS, GREEN AND KENYATTA, JUNE 10, 2024

REFERRED TO COMMITTEE ON FINANCE, JUNE 10, 2024

AN ACT

1 2 3 4	Amending Title 72 (Taxation and Fiscal Affairs) of the Pennsylvania Consolidated Statutes, providing for interchange fee tax exclusion and for penalties; and making editorial changes.
5	The General Assembly of the Commonwealth of Pennsylvania
6	hereby enacts as follows:
7	Section 1. Title 72 of the Pennsylvania Consolidated
8	Statutes is amended by adding parts to read:
9	<u>PART I</u>
10	PRELIMINARY PROVISIONS
11	(Reserved)
12	<u>PART II</u>
13	<u>TAXATION</u>
14	<u>Chapter</u>
15	17. (Reserved)
16	19. Interchange Fee Tax Exclusion
17	CHAPTER 17
18	(Reserved)

1 <u>CHAPTER 19</u>

2 INTERCHANGE FEE TAX EXCLUSION

- 3 Sec.
- 4 1901. Definitions.
- 5 1902. Exclusion of tax from interchange fees.
- 6 1903. Penalties.
- 7 § 1901. Definitions.
- 8 The following words and phrases when used in this chapter
- 9 shall have the meanings given to them in this section unless the
- 10 context clearly indicates otherwise:
- "Credit card." A card, plate, coupon book or other credit
- 12 <u>device existing for the purpose of obtaining money, property,</u>
- 13 <u>labor or services on credit.</u>
- 14 "Debit card." A card or other payment code or device issued
- 15 or approved for use through a payment card network to debit an
- 16 <u>asset account</u>, notwithstanding the purpose for which the account
- 17 is established and whether authorization is based on signature,
- 18 personal identification number or other means. The term shall
- 19 include a general-use prepaid card, as defined in 15 U.S.C. §
- 20 16931-1 (relating to general-use prepaid cards, gift
- 21 certificates, and store gift cards). The term does not include a
- 22 paper check.
- 23 <u>"Electronic payment transaction." A transaction in which a</u>
- 24 person uses a debit card, credit card or other payment code or
- 25 <u>device</u>, issued or approved through a payment card network to
- 26 debit a deposit account or use a line of credit, whether
- 27 <u>authorization is based on a signature, personal identification</u>
- 28 number or other means.
- 29 "Interchange fee." A fee established, charged or received by
- 30 a payment card network for the purpose of compensating the

- 1 issuer for its involvement in an electronic payment transaction.
- 2 "Issuer." A person issuing a debit card or credit card or
- 3 the issuer's agent.
- 4 "Payment card network." An entity that meets all of the
- 5 following:
- 6 (1) Directly, or through licensed members, processors or
- 7 agents, provides the proprietary services, infrastructure and
- 8 <u>software that routes information and data to conduct debit</u>
- 9 <u>card or credit card transaction authorization, clearance and</u>
- 10 settlement.
- 11 (2) A merchant or seller uses in order to accept as a
- form of payment a brand of debit card, credit card or other
- device that may be used to carry out debit or credit
- 14 <u>transactions</u>.
- 15 <u>"Settlement." The transfer of funds from a customer's</u>
- 16 <u>account to a seller or merchant upon electronic submission of</u>
- 17 finalized sales transactions to the payment card network.
- 18 "Tax." A tax levied on the sale at retail of goods and
- 19 services under Article II of the act of March 4, 1971 (P.L.6,
- 20 No.2), known as the Tax Reform Code of 1971.
- 21 § 1902. Exclusion of tax from interchange fees.
- 22 (a) Exclusion. -- The amount of tax calculated as a percentage
- 23 of an electronic payment transaction amount and listed
- 24 separately on the payment invoice or other demand for payment
- 25 shall be excluded from the amount on which an interchange fee is
- 26 charged for the electronic payment transaction.
- 27 (b) Duties of payment card network. -- A payment card network
- 28 shall:
- 29 (1) Either:
- 30 (i) deduct the amount of any tax imposed from the

1	calculation of interchange fees specific to each form or
2	type of electronic payment transaction at the time of
3	settlement; or
4	(ii) rebate an amount of an interchange fee
5	proportionate to the amount attributable to the tax.
6	(2) If a merchant or seller is unable to capture and
7	transmit tax or fee amounts relevant to the sale at the time
8	of sale, accept proof of tax or fee amounts collected on
9	sales subject to an interchange fee upon the submission of
10	sales data by the merchant or seller and promptly credit the
11	merchant or seller's settlement account.
12	§ 1903. Penalties.
13	A payment card network that violates this chapter shall:
14	(1) be subject to a civil penalty of not more than
15	\$1,000 per violation, payable to the plaintiff; and
16	(2) refund, to each merchant or seller that utilizes the
17	payment card network, the portion of the interchange fee that
18	was collected in violation of this chapter.
19	Section 2. Title 72 is amended by adding a part heading
20	immediately preceding Chapter 31 to read:
21	PART III
22	<u>FISCAL AFFAIRS</u>
23	Section 3. This act shall take effect in 60 days.