



Getting the Most Out of Gift Cards

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Background

*Gift cards retain their spot at the top of the list among gift recipients. According to a survey by the National Retail Federation, 55.2% of adults would like to receive a gift card this holiday season. This makes them more popular than books, clothing, DVDs or electronics.*¹

New York State Comptroller Thomas P. DiNapoli would like to alert consumers to new trends regarding this popular holiday gift. This year many retailers have responded to consumer demands by increasing the gift card choices available and improving gift card terms and conditions. However, buyers still need to be diligent when purchasing gift cards, so they fully understand what they are getting.

Gift card sellers recognize the popularity of gift cards and have increased the kinds of cards and the places and ways they can be bought. For example, cards can be purchased for use in a single store or chain of stores, or for use in any store in a shopping mall. They can be purchased with credit card logos, or be used as debit cards. These prepaid debit cards and some cards issued by major credit card companies are not only being given as gifts, they are also being used by the purchasers.

This season more retailers are using gift cards as incentives to bring customers into stores. One way they are doing this is by offering consumers gift cards when they make purchases over a specific dollar amount. For example, popular retailer L.L. Bean is giving customers a \$10 gift card for every purchase of \$50 or more, online or in person, made during the holidays. Retailers use these promotions to try to get customers in their stores not just once, but at least twice.

Another emerging trend is that plastic cards are being issued to customers who return merchandise for credit, or claim rebates. These cards can be used much in the same way as gift cards and credit cards.

Gift card sellers have also partnered with online sites to provide even more value for consumers during the holiday season. Websites providing discounted prices for goods, free shipping, rebates and other benefits abound, including Promotionalcodes.com, Retailmenot.com, Couponwinner.com, Ebates.com, Freeshipping.org and FreeShippingOn.com. Some of these websites even issue rebates using gift cards for the stores featured on their sites!

Because gift cards are so popular, gift card sellers work especially hard to make sure they have enough cards available during this time of year. "If you go into our warehouses now, you'd probably find six pallets of these cards," said Costco Chief Financial Officer Richard Galanti. "The program has really evolved."²

¹ Economy to Impact Two-Thirds of Families this Holiday Season, According to NRF Survey
http://www.nrf.com/modules.php?name=News&op=viewlive&sp_id=806

² Retailers Turn to Gift-Card Promotions to Lure Reluctant Buyers, Boost Spending
<http://online.wsj.com/article/SB10001424052748703790404574467233298063934.html>

While consumers loved the convenience of gift cards, they disliked the fees and expiration dates that often came with them. In response to their concerns, New York passed laws with provisions to protect consumers who buy gift cards, including requiring that the terms and conditions applying to the cards be disclosed and prohibiting the imposition of inactivity fees for 12 months. However many popular cards, particularly those sold with credit card logos, were not subject to New York State's laws.

Because of strong consumer concerns about the terms and conditions of these popular cards, the federal government decided to include them in the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009, which passed on May 22, 2009. Provisions included in the Act are similar to the provisions in New York's own laws and will protect consumers on a federal level. The Act, discussed below, becomes effective in August 2010 and will not apply during the 2009 holiday season.

Retailers have also been responding to consumer groups, and pending legislation, by voluntarily changing gift card terms and conditions. For example, many retailers have eliminated fees and expiration dates on their cards.

However, not all charges have disappeared and some new ones have appeared. Some of these cards now have a purchasing fee, meaning that a consumer is charged when he or she buys the card but the card does not expire or lose value. For example, Simon Property Group, the largest mall owner in the country, recently partnered with American Express to offer the Simon American Express gift card. This card costs \$2.95 to purchase, but does not expire and has no associated fees. According to Mikael Thygesen, Simon's chief marketing officer, "You can put it in your drawer . . . and get it out five years later, and all the money is still there."³

Considering the increasing number and types of gift cards on the market, and the many voluntary and legislated changes affecting them, it is still important for consumers to be aware of any terms and conditions applying to the cards they purchase.

Consumer Protection

In recent years, the work of the Retail Federation and consumer groups has been evident. Cards are becoming easier for consumers to use and understand, and more retailers are beginning to eliminate fees and expiration dates. Terms and conditions are becoming more favorable to consumers than they were in the past.

Charts listing several popular gift card sellers and comparing their gift card terms and conditions can be found here <http://www.creditcards.com/credit-card-news/gift-card-comparison-table-09-1271.php> and here <http://www.bankrate.com/finance/credit-cards/2009-gift-card-study-results.aspx>. The charts list examples by industry. In general, store specific cards remain more consumer friendly than general purpose cards associated with major credit cards. Best Buy, Home Depot, Staples, Barnes & Noble and iTunes are just a few examples of stores that do not currently charge dormancy fees, expire their cards, or charge consumers fees for online balance inquiries. In a

³ Playing the holiday gift cards right,
<http://www.indystar.com/article/20091108/BUSINESS/911080319/Playing+the+holiday+gift+cards+right>

general comparison to last year, retailers made their card terms and conditions more consumer friendly.

Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009

On August 22, 2010, federal legislation regarding credit cards and gift cards will go into effect. In relation to gift cards, the bill:

- Defines several terms used when discussing cards
- Prohibits dormancy fees in the first 12 months of inactivity
- Requires the disclosure of terms and conditions including the reason for, and amount and frequency of fees
- Limits the frequency of fees to once per month
- Prohibits expiration dates before 5 years

Cards given as a loyalty or promotional program, when money has not been received by the gift card seller in exchange for the card, paper gift certificates, reloadable cards not marketed as gift cards (such as Visa or MasterCard prepaid cards), and telephone cards are exempt from the restrictions.

Different Card Types

Nearly \$4 billion, and a growing percentage of gift card consumers, purchase general purchase gift cards that can be used at most stores, but which usually cost \$4 to \$7 to purchase and sometimes are subject to monthly fees as high as \$4.95 as early as six months after purchase.⁴

Not all plastic cards can be categorized as credit cards or gift cards. It is becoming more popular to issue cards with dollar values representing many different types of balances. Some of these are covered by the same laws and regulations as gift cards, while others are not. Additionally, the cards may be re-loadable or associated with a major credit card brand. Always check the terms and conditions on every card in order to retain the most value. Examples of other types of cards include:

- Prepaid debit cards
- General use cards with major credit card logos
- Consumer credit balances - refunds
- Rebates

Frequently Imposed Terms and Conditions

Several credit cards continue the practice of charging fees and imposing other terms and conditions on their gift cards. Consumers should be aware of these to be able to use cards to obtain the best value for their money. Some common terms and conditions that apply to gift cards include the following:

- A service fee may be charged when buying a card.

⁴Survey Shows Consumers Misunderstand Gift Cards
<http://www.consumerfed.org/elements/www.consumerfed.org/file/gift%20card%20pr%2010-26-09.pdf>

- A “dormancy” fee may be deducted from the balance of the card if it is not used within a specified period of time.
- A fee may be charged to obtain the balance remaining on a card.
- A fee may be charged to replace a lost or stolen card.
- The card may expire or have no value after a specified period of time.
- Restrictions may prevent a consumer from getting even small amounts of cash back on partially used cards after making a purchase, requiring the consumer to make another purchase to use the full value of the card.
- A minimum purchase requirement or other purchase restriction may apply to the card that limits the goods or services that can be purchased.

New York State’s Requirements Regarding Gift Cards

Consumers should be aware of the terms and conditions that apply to the gift cards they purchase and the requirements placed on gift card providers by New York State Law. New York State law requires the following:

- Gift card sellers must inform consumers of the terms and conditions that apply to gift cards being purchased. This requirement applies whether the gift card is purchased in a store, through the mail, or over the Internet. This does not apply, however, to cards given as incentives to employees or through certain discount programs.
- The terms and conditions must either be conspicuously printed either on the gift card or on the envelope or packaging that contains the gift card, or a toll free telephone number must be printed on the gift certificate for the consumer to obtain information on the terms and conditions by phone.
- The terms and conditions of a gift card must be clearly and conspicuously stated on the card and include:
 - If the card has an expiration date and what that date is;
 - If any fees will be charged against the balance of the gift card;
 - If a fee will be charged to replace a gift card that is lost, stolen, or destroyed;
 - If additional terms and conditions apply to the card including, but not limited to, policies related to refunds, warranties, and changes to terms and conditions.
- Gift card sellers cannot assess retroactive fees on gift cards.
- Gift card sellers cannot assess monthly service fees on gift cards until the thirteenth month after its purchase.

Unused Gift Cards

Unused portions of gift cards remain close to 10% according to a study by the Consumer Federation of America (CFA) and the National Association of Consumer Agency Administrators (NACAA).⁵

⁵ Survey Shows Consumers Misunderstand Gift Cards

<http://www.consumerfed.org/elements/www.consumerfed.org/file/gift%20card%20pr%2010-26-09.pdf>

Under New York State Abandoned Property Law, New York-based companies or companies with an address in New York State must report any balance remaining on a card at the end of five years to New York State's Office of Unclaimed Funds. The unused balances are reportable even if the card has expired. If a business has complied with the law and has reported unused balances to the Office of the State Comptroller, the owner can claim the balance from the State at any time, free of charge. Many, but not all, states have similar abandoned property programs that provide for the return of gift card property to rightful owners.

Gift card sellers are very aware of the unclaimed funds laws and some have taken steps to avoid turning unused balances over to New York. These practices include:

- Reducing the value remaining on a card by deducting a monthly fee from the unused balance, until no balance remains. This leaves no value to report to the State.
- Establishing a separate non-New York corporation to issue their gift cards in a state that excludes gift cards from reporting requirements.
- Failing to collect information identifying the owner of a card, making it nearly impossible to locate the owner and return unused balances. Note: New York State law requires companies to try to locate the owners of all unclaimed funds before these funds are turned over to the State.

Tips for Consumers Using Gift Cards

- Know the terms and conditions for each card, including any fees that can be charged, expiration dates, and limits on how it can be used.
- When giving the card as a gift, inform the recipient of any terms or conditions which might apply to the card.
- Spend your card - do not save it.
- Be aware of whether a store will let payments for a purchase be "split" between the card and another method of payment, such as cash or credit card. Some stores do not allow "split payments" for purchases. This means you may end up with a balance on your card which you can not spend.
- Before buying a gift card online, check to see what security measures are offered. Some websites sell gift cards at a deep discount, and in many cases that discount is possible because the gift card was acquired through fraud or theft. To make sure the card you purchase contains the full value of the card, visit a reputable website or store to purchase the card.
- Keep your receipt – it might be needed if the card is lost or stolen.
- Bring expired cards or cards whose balances have been reduced by fees to the retailer's customer service desk and ask them to restore the balance or give you a cash refund. Many companies recognize that good customer service is very important and will honor this request.
- Buy from a reputable retailer and think twice about buying a card that can only be used at a financially troubled company.

- If a company is in financial trouble, use the card right away. But, do not throw away a card even if the company is bankrupt. Check with the store itself to see what rights or options are available to card holders.

Scams and Frauds

When purchasing gift cards from a display rack in a grocery, department store, or other establishment, make sure the packaging containing the card has not been tampered with. Tampered packaging may indicate that the PIN number has been stolen. Once the card is activated by the consumer, the possessor of a stolen PIN could make unauthorized online purchases using that card.

Consumers who buy gift cards online should also beware. If the cards are deeply discounted, consumers may be purchasing stolen gift cards, or gift cards purchased with stolen credit cards. If so, the gift cards may be deactivated by the time the recipients try to use them. The cards may have had their balances used before they were shipped, leaving the consumer with a worthless piece of plastic. Some websites selling cards from multiple retailers have implemented security measures, including ratings systems and securing sales with the seller's credit to help prevent fraud.

Bankrupt Stores

Given today's economic climate, bankruptcy continues to be a concern. When stores declare bankruptcy, gift card sales may be suspended. Depending on requirements established by the bankruptcy court for that individual business, the store may redeem outstanding gift cards at full value, at a discounted value, or not at all. Consumers who have a gift card from a store that has filed for bankruptcy should check with the store to see what its policy is concerning outstanding gift cards.

A list of recent retailer bankruptcies and the status of their gift cards can be found at <http://www.defendyourdollars.org/pdf/Bankruptcy-Watch.pdf>.

Consumers who may have purchased gift cards from a gift card vendor and not from the business directly should contact that vendor. In some cases, gift card vendors will allow consumers to use gift cards for a bankrupt or closed store at another business. Similarly, consumers who have purchased their gift cards with a credit card should contact the credit card company to see if they are eligible for a refund.

Frequently Asked Questions

What Terms and Conditions might apply to the card I want to buy?

- You might be charged a service fee when buying a card
- You might be charged a "dormancy" fee if you do not use the card within a certain period of time
- You might be charged if you call to check on the balance remaining on your card.
- If you lose your card and want to replace it, you may have to provide the seller with certain information, and you may have to pay a replacement fee.
- The card might expire and no longer be accepted after a certain period of time.

- If you have a balance left on a card after making a purchase, you may have to use that balance towards another purchase, rather than get cash back.
- The card might not be able to be used as partial payment, in combination with another payment method.
- You might not be able to purchase certain things at the retailer with your card, or you may have to spend a minimum amount in order to use the card.

While these are among the most common terms and conditions, there may be others.

What is dormancy?

A card that has not been used for a period of time is said to be “dormant”. If a card is dormant for an extended time period and still holds value, you may be charged a fee every month the card is not used, until there is no more value left on the card.

In New York State, you cannot be charged a dormancy fee for at least one year, regardless of whether you have used the card or not. Also, in New York fees cannot be charged retroactively. Federal law restricting fees on cards for 12 months after the last use of a card issued by credit cards and other federally regulated card issuers will be effective starting in August 2010.

My card has an expiration date – what does this mean?

If a card “expires,” it can no longer be used and the purchasing power remaining on the card disappears. While some cards do not expire, others may expire from 1-5 years after they are purchased. It is a good idea to know if a card has an expiration date, and to use it before that date. When the federal Credit CARD Act of 2009 goes into effect in August 2010, cards covered by it will not be allowed to expire before 5 years. Additionally, there is a growing trend among national retailers to eliminate expiration dates.

What can I do with an expired gift card?

Contact customer services of the company/store that issued the card and ask them to restore the balance or give you a cash refund. Many companies recognize that good customer service is imperative to continuing business operations, and will honor this request.

My card has a “valid through” date – what does that mean?

Check to see if your card has a “valid through” date. This is not an expiration date, but you may have to contact the issuing company to trade your card in for a new card before you can use it. The reason for this is that the magnetic strip on the original card may no longer be readable.

What other terms and conditions should I know about?

Some gift cards may be used to make online purchases, but cannot be used in a store. If this type of exception exists, make sure you think about the recipient, and how comfortable he or she is with making purchases online.

Do all gift cards have expirations and fees?

No. Consumer awareness prompted a number of retailers to eliminate expiration dates and fees. Charts listing several popular retailers and comparing their gift card terms and conditions can be found here <http://www.creditcards.com/credit-card-news/gift-card-comparison-table-09-1271.php> and here <http://www.bankrate.com/finance/credit-cards/2009-gift-card-study-results.aspx>.

What should I keep in mind if I want to buy a gift card for a friend or relative?

For many of us who run out of ideas for gifts, or would like to help a friend purchase a big-ticket item, gift cards are a great solution. Gift givers usually know the stores that recipients enjoy, based on the products the person uses including personal care products, clothing, sport or entertainment accessories and household goods.

Why is it a good idea to buy a gift card directly from a store or from its online site?

If the person likes to shop at a specific store, it's a good idea to buy the gift card directly from the store, either in person or online, rather than from an online auction site that offers discounts on these cards. Why? Because there have been scams involving gift cards auctioned on public auction sites, and the cards for sale may be stolen or counterfeit. Some online gift card sale websites have implemented security measures. These measures add layers of protection for consumers, who should check for them before initiating a transaction.

What precautions should I take if I buy a gift card at a store?

When purchasing from a display rack in a grocery or department store, make sure the packaging containing the card has not been tampered with. A tampered package may indicate that someone stole the PIN number and bar code, which can be used to purchase goods online after checking to see if the card is activated.

Are there any other tips about buying a gift card from a store?

Fraud and scams aside, a gift card giver should try to gauge if the card will be used within a year. Try to buy cards from a retailer that the recipient goes to often enough to use the card within the first year, before fees begin to affect the card's value.

Are there any suggestions on choosing a gift card for an acquaintance?

Some of us are lucky enough to know exactly what stores are frequented by the recipients of our gift cards. But some times it is hard to know where the recipient might like to shop. If you are choosing a gift card for that distant relative, the mailman or a work colleague, there are some things to consider.

Gift cards with a credit card logo can be widely used, and may offer the recipient a greater choice of where he or she uses it. But beware: such cards often charge both purchasing fees and monthly fees. Since these cards are subject to federal law, not New York State law, monthly fees can be charged even during the first 12 months after

purchase until August 2010 when the enactment of the Credit CARD Act of 2009 starts prohibiting inactivity fees within the first 12 months of inactivity.

Is there anything else I should be aware of if I buy a gift card from a credit card company?

A warning to recipients: beware of using gift cards from major credit card companies at gas stations or anywhere else that might put a hold on the credit. This might freeze the entire amount of the card for a time, depending on the balance.

What can I do to give the recipient more choices and fewer fees?

A number of shopping malls now offer a general card that can be used almost anywhere in the mall. However, it is possible that the card will not be honored by some restaurants in the mall.

Can I purchase gift cards online?

Yes. Several retailers offer gift cards or store credit for sale on their web pages. Again, check the terms and conditions of the cards, since some can only be used either in the store or online. Purchasing cards directly from the retailer is the safest route.

What about those online sites which offer gift cards at a discount?

Websites specializing in gift card sales often sell cards at a discount value. They are able to do this in a variety of ways. Commonly, the website might buy gift cards in bulk, which allows them to earn a discount. Other sites allow registered users on the site to sell their own cards.

While many sites take precautions to protect the consumer, there are still risks. For example, consumers risk purchasing stolen cards and the cards may be de-activated by the time the recipients use them. The cards may also have the balance used before shipping, leaving the consumer with a worthless piece of plastic.

To protect yourself from scams online, check to see if the site allows users to rate the listed gift card vendors and search out the vendors with better ratings. Some sites require gift card vendors to guarantee gift card balances using their own credit cards. Both measures provide added protection to the consumer.

Can I use gift cards online? How?

A number of retailers allow consumers to use gift cards to pay for online purchases. This is usually done at the end of an online shopping session, during the checkout process. At that point, the consumer is asked to enter specific information from the card, such as a PIN or identification number on the back, near the bar code, often time.

Consumers should always make sure the package containing any gift card is intact at the time of purchase. If the packaging has been tampered with, it may mean that the PIN numbers and bar codes have been stolen and the cards may be worthless.

Can gift cards be returned?

You will need to ask at purchase. Each retailer can establish its own policy.

How do I return something I purchased with a gift card?

If you wish to make a return of goods purchased with a card, you will need the receipt and the gift card used for purchase. Each store has its own policy regarding returns, and these are separate from the terms and conditions of the gift card. Ask about the return policy when purchasing the item if you are not sure about keeping your purchase. Limitations to the return policy must be posted at the store. Remember that any balance returned to a gift card may take a few business days before it can be used.

My gift card is from a store that is now bankrupt or has gone out of business. What can I do?

When stores declare bankruptcy, gift card sales are usually suspended. Depending on various factors, the store either may be able to redeem gift cards “dollar for dollar,” at a discounted value, or may not be able to redeem them at all. If you have a gift card from a store which has filed for bankruptcy, check with them to see what their policy is concerning their outstanding gift cards.

If you bought these gift cards from a gift card vendor you should contact that vendor. In some cases, gift card vendors will allow consumers to use gift cards for a bankrupt or closed store at another store or stores.

If you purchased your gift cards with a credit card, contact the credit card company to see if you can get a refund.

Where can I find the New York State laws pertaining to gift cards?

Currently, the New York State laws governing gift cards are the General Business Law section 396-I Chapter 170 and the Abandoned Property Law sections 103 and 1315. These can be found on <http://public.leginfo.state.ny.us/menuf.cgi> in the “Laws of New York” link under GBS (General Business) and ABP (Abandoned Property)

Whom can I complain to about unfair gift card terms?

If you have a complaint about gift card policies, first contact the customer service department of the retailer.

If you cannot resolve the complaint there, some authorities that may be able to help are:

For cards issued by retailers:

- New York State Attorney General – Consumer Helpline: (800) 771-7755. Consumers can access a wide range of consumer tips by visiting the website at: www.oag.state.ny.us. Other states’ Attorney Generals can be reached via www.naag.org.
- New York State Consumer Protection Board – www.consumer.state.ny.us
- Federal Trade Commission – www.ftc.gov or (877) FTC-HELP

- Better Business Bureau – www.newyork.bbb.org. Other states' Better Business Bureaus can be reached via www.bbb.org.
- New York City Department of Consumer Affairs – The DCA urges New Yorkers to file complaints by calling 311 (or 212-NEW-YORK), the City's 24-hour hotline, or online at www.NYC.gov/consumers.

For cards issued by national banks:

- Comptroller of the Currency (OCC) – Customer Assistance Group (800) 613-6743 or customer.assistance@occ.treas.gov. The OCC charters, regulates, and supervises national banks, some of which issue gift cards.

Regulation and Advocacy

Currently, New York State laws governing gift cards are the General Business Law section 396-I Chapter 170 and the Abandoned Property Law sections 103 and 1315. These can be found on <http://public.leginfo.state.ny.us/menuf.cgi> in the “Laws of New York” link under GBS (General Business) and ABP (Abandoned Property). Federal law governing gift cards can be found in the Credit CARD Act of 2009.