

SURCHARGING RULES

The Rules

Visa Core Rules and Visa Product and Service Rules Section 5.6 offer clear and strict guidelines on surcharging by merchants based in the U.S. The following conditions have to be met:

1. Merchant cannot impose a surcharge if other card brands do not allow it. (American Express does not allow surcharging, a stance that was upheld in September 2016 in a landmark decision by a federal appellate court.)
2. Merchant has to inform the acquirer and Visa in writing at least 30 calendar days before implementation of surcharge.
3. Surcharge is not allowed on debit (check) cards or on PIN-based debit and prepaid cards; a gift card is a prepaid card.
4. Merchant has to post conspicuous signage at the point of entry and at the point of sale stating that a surcharge is being assessed by the merchant and is only applicable to credit transactions. The disclosure has to state the exact amount or percentage of the surcharge. The dollar amount of the surcharge must appear on the transaction receipt.
5. The signage must make it clear to the cardholder that surcharges are not permitted on debit transactions regardless of whether a cardholder selects the credit or debit button.
6. The point-of-sale disclosure must read that the U.S. credit card surcharge amount is not greater than the applicable merchant discount rate at the merchant location. In no event can the surcharge be greater than 4%. The merchant discount rate is the same as the effective rate, and it does not include monthly equipment fees due to equipment lease or rental.
7. For electronic commerce (Web), mail order/telephone order (MOTO), and an unattended transaction (e.g. at a kiosk), the cardholder must be provided the opportunity to cancel the transaction subsequent to the surcharge disclosure.
8. Surcharging is allowed only in the U.S. and U.S. territories. The following 10 states do not allow surcharging: California, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas.
9. Surcharging is prohibited outside of the U.S. except if a local law or variance allows merchants to engage in the practice.

MasterCard Operating Manual Rule 5.9.2 offers similar guidelines on adding a surcharge to transactions, except that it does not mention a cap of 4%. Merchants can provide a discount for cash transactions, a practice exercised by many petroleum stations in the U.S.

The only exceptions to the above are government, rental real estate, utilities, and schools.

Drawbacks

Surcharges may appear to save merchants processing costs by passing these costs on to cardholders. But the majority of consumers frown on it. No consumer wants to pay more. Marketers should offer discounted prices to increase sales, not increase the price.

On the accounting side, the added surcharge is reported to the Internal Revenue Service by processors as taxable income. So, the gain is diluted by the tax.

Most important, it is virtually impossible to set up surcharging because no device or software program can distinguish between credit, debit, branded gift cards, and American Express. All cards are surcharged during a transaction.