FMI THE FOOD INDUSTRY ASSOCIATION

SWIPE FEES ON SALES TAX

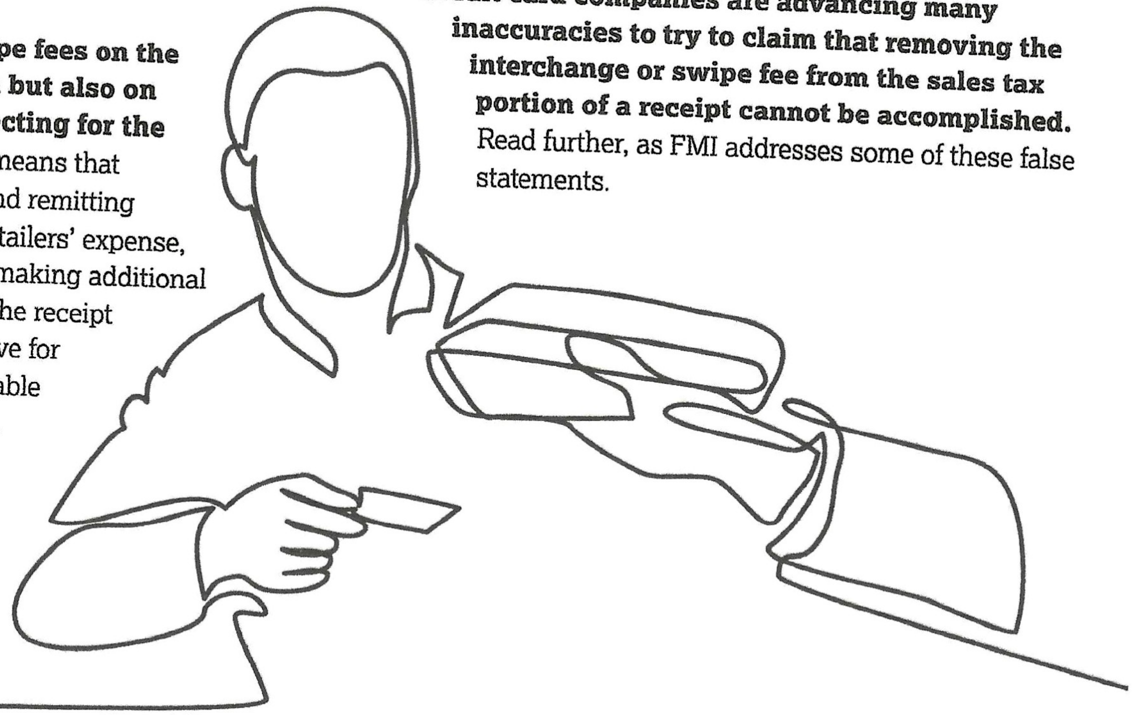
Retailers partner with the government on many issues. One way is how we act as the government's agent in the collection and submission of state and local sales and excise taxes. Retailers accept many forms of payment, including credit cards. Because of COVID, retailers in 2020 saw a seismic shift in card spending as consumers quickly changed their shopping habits in response to the pandemic.

As credit and debit card usage has increased, so have interchange fees charged to retailers by the credit card companies, also known as swipe fees. Retailers generally pay between 2% to 4% in swipe fees on a credit card transaction - fees that exceed the industry profit margin. In 2019, U.S. retailers paid over $116.4 billion in these processing fees, a 7.7% increase from the prior year. In April 2021, in the middle of a pandemic when many businesses were already struggling, Visa and Mastercard had planned to implement rate increases that would have cost US merchants an additional $1 billion in swipe fees, which would have been on top of the $119 billion merchants already paid in 2020 in swipe fees. U.S. Senator Dick Durbin (D-IL) and U.S. Representative Peter Welch (D-VT) sent a **letter** to these two companies requesting they stop their plans to increase interchange fees in April. FMI issued a **statement** applauding the letter. Just a month before the increases were set to take effect, Visa and Mastercard said they would forego the increases for one year – until 2022.

Retailers not only pay swipe fees on the base price of a transaction but also on the sales tax they are collecting for the state and/or locality. This means that while retailers are collecting and remitting sales tax for the state, at the retailers' expense, the credit card companies are making additional profits from the tax portion of the receipt – making it even more expensive for merchants to provide this valuable government service – and even more lucrative for Visa and Mastercard. This actually creates an environment where credit card companies can make more money on a retail transaction than the retailer.

States have the authority to prohibit credit card companies from charging swipe fees on state sales tax. Prohibiting swipe fees on sales tax will keep dollars in the state, stimulating economic activity, versus sending them to networks and banks in other states and countries. This would stimulate economic activity and help lift a costly burden on business at absolutely no cost to the state. In the recent past, when Congress acted to reform the banking industry, American consumers and merchants earned a hard-fought victory over escalating, uncontrollable fees with the inclusion of the debit reform measures in the Dodd-Frank Wall Street Reform and Consumer Protection Act. As a result, significant savings were passed on to consumers. The savings were proven in a study by prominent economist Dr. Robert Shapiro who found that consumers have saved nearly $30 billion since the reforms have been in place and merchants have saved more than $10 billion. (Read more **here**.)

Credit card companies are advancing many inaccuracies to try to claim that removing the interchange or swipe fee from the sales tax portion of a receipt cannot be accomplished. Read further, as FMI addresses some of these false statements.



THE TRUTH ABOUT SWIPE FEES, SALES TAX AND RETAILERS

Credit card companies continue to make false claims in the hopes of confusing lawmakers regarding how easily swipe fees can be removed from the sales and excise tax grocers and other businesses collect for the government. What is frustrating is that during the COVID pandemic as businesses were and still are struggling to survive, banks and card networks are trying to increase their already large profits on a system that was meant to collect badly needed sales tax revenue for the state. Main Street merchants and the hospitality industry need support now more than ever.

False Claim

"The fee retailers pay to electronically transmit money is a cost of doing business. It is voluntary. They do not have to accept cards."

The Truth Having electricity is voluntary too, but customers expect the lights to be on when they walk into our stores—just like they expect us to accept credit cards. Further, the pandemic has demonstrated the necessity of electronic forms of payment. According to Digital Commerce, consumers increased their online spending by a whopping 44% or $861.12 billion, in the U.S. in 2020, and online merchants, including those brick and mortar retailers with an online component, may pay even higher credit card interchange fees than those operating only brick and mortar stores.

False Claim

"The real cost of handling cash ranges from 4.7 to 15 percent."

The Truth The costs merchants pay to handle cash is well below 1% and for some merchants it is below 0.2%. Merchants are efficient at cash handling. A 15% cost sounds like someone who needs a lesson from our members in efficiency.

False Claim

"Merchants pay less for accepting cards than for accepting checks."

The Truth Federal law mandates that paper checks settle "at par" or face value; meaning it has an acceptance cost of zero. While there are some costs for handling cash and checks, these costs are well below levels of accepting credit cards.

False Claim

"The benefits of credit cards far outweigh the fee. They include guaranteed payment, fraud protection, cash flow and increased sale opportunities."

The Truth There is no guaranteed payment for electronic transactions. For up to 90 days after a transaction is approved, the bank can reverse that approval and "chargeback" the funds from the merchant. In those instances, the merchant is out the funds from the bank plus the merchandise that the customer collected at the time of purchase. The cost of chargebacks is passed on to merchants and is on top of the $119 billion merchants pay every year in swipe fees for the "benefit" of accepting these cards.

False Claim

"The penalties in some state bills on this issue are absurd and could easily amount to millions a week from a single merchant."

The Truth A review of Section 12 of Visa's Core Rules show that they can charge fines of $50,000 to $200,000 per violation to merchants. Those fines are much higher than the ones included in any previous or pending state bill. More importantly, penalties will be zero for those that comply with the law.

False Claim

"Systems don't support it."

The Truth Yes, they already do. To support business to business (B2B) cards, banks require that merchants pass Level 2 data in the transaction which already has sales tax separated from the purchase amount. Visa and Mastercard mandate system updates twice per year, so any system changes can be implemented during these updates. This can also be implemented via a rebate at the end of the month requiring zero impact to point of sale (POS) systems.

False Claim

"New systems are costly to business."

The Truth Merchants already pay to purchase or rent their PIN pads; what is really costly to business are the billions of dollars in swipe fees that merchants are paying every year.

False Claim

"Fraud/credit risks remain."

The Truth Visa, Mastercard and the banks actually pass fraud costs back to merchants every year in the form of chargebacks. Banks charge cardholders interest to offset credit risk.

False Claim

"These types of bills are costly to small retailers."

The Truth Small retailers will not need specialized equipment to implement. Consider how restaurants today can enter a sales amount followed by a separate tip amount into their PIN pads. Small merchants could enter a pre-tax purchase amount followed by a sales tax amount into the PIN pads. What really hurts small retailers are the billions of dollars in swipe fees that they pay each year.

False Claim

"Consumers lose convenience."

The Truth This claim doesn't make sense. There is no need for two transactions. Do customers pay in two transactions when they leave a tip at restaurants? No, they don't. What consumers are losing is money because they have to pay higher retail prices to cover the billions of dollars in swipe fees that merchants pay each year.

INSPIRE

Arby's BR DUNKIN' JJ SONIC

OUR IMPACT STATE-BY-STATE

In **Maryland**, there are more than 490 restaurants in Inspire's family of brands, including **Arby's, Baskin-Robbins, Buffalo Wild Wings, Dunkin', Jimmy John's,** and **SONIC Drive-In.**

Over 96% of these restaurants are franchised, meaning they are owned and operated by local business owners, of which many are family-owned and operated businesses. In **District 29C**, there are two restaurants in Inspire's family of brands.

Maryland

2023

Hirer. Bankers opposed in IL.

9,787 Jobs	**97** Franchisees	**490** Restaurants
13 New Restaurants Built	**$217M** Economic Impact	**$326K** Funds Donated to Philanthropy

which created

234

New Jobs

Interchange fees in 2023 on sales tax $15M in MD to banks

Arby's BASKIN•ROBBINS BUFFALO WILD WINGS DUNKIN' JIMMY JOHN'S SANDWICHES SONIC

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