



## State of New Jersey

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### TREASURY ANNOUNCEMENT FY 2011-03

#### Guidance on Implementation and Notice of Exemption from Certain Provisions of L.2010, c.25

##### Background

The provisions of L.2010, c.25, effective July 1, 2010, (hereinafter referred to as the "amended Statute") require *inter alia* that issuers of "stored value cards," including but not limited to "gift cards," report unredeemed balances from cards where there has been no activity or contact for at least a two-year period, to the Office of the Administrator of Unclaimed Property of the New Jersey Department of the Treasury.

Section 5(c) of L.2010, c.25 requires a stored value card issuer to obtain and maintain the name and address of the purchaser or owner of each stored value card issued or sold and at a minimum to maintain a record of the Zip Code. Sections 5(a) and (h) provide that for a stored value card for which there has been no activity for two years, the remaining balance on the card is presumed abandoned.

Section 5(f) of L.2010, c.25 authorizes the State Treasurer to grant an exemption from such provisions concerning stored value cards, on such terms and conditions as the State Treasurer may require, for a business or class of businesses that demonstrate good cause to the satisfaction of the State Treasurer. In exercising his discretion pursuant to this section, the State Treasurer may consider relevant factors including, but not limited to, the amount of stored value card transactions processed, the technology in place, whether or not stored value cards issued contain a microprocessor chip, magnetic strip, or other means designed to trace and capture information about place and date of purchase, and such other factors as the State Treasurer shall deem relevant.

On August 26, 2010, the State Treasurer issued Treasury Announcement FY 2011-02 exempting stored value card issuers from the requirements of section 5(c) until October 1, 2010, pending a review of current processes, technologies, and reporting practices and the subsequent development of specific industry guidance.

The State Treasurer has undertaken an initial review of current processes, technologies, and reporting practices and specific industry guidance and has considered information submitted by businesses impacted by the amended Statute. Further, the Treasurer has considered the concerns expressed by the telecommunications industry as to whether the amended Statute applies to prepaid phone cards.

##### Findings and Determinations

1. While the language of the amended Statute does not exempt prepaid phone cards, the Treasurer has determined that further study and review of the use and issuance of prepaid phone cards

within the telecommunications industry is required. Therefore, the Treasurer finds good cause under section 5(f) to exempt prepaid phone cards from the requirements of the amended Statute as described below until further notice.

2. The Treasurer has considered various concerns expressed by merchants and other issuers that the amended Statute imposes a new address record keeping requirement that would pose an undue administrative burden on businesses that do not obtain and maintain names and addresses of purchasers in the ordinary course of business. In consideration of the increased burden that recording the names and addresses might impose on these businesses, the Treasurer finds that good cause exists to exempt issuers and holders who do not otherwise obtain names and addresses of purchasers in their ordinary course of business from the requirement to obtain the name and address, provided that the issuer obtains and maintains the Zip code of the purchaser.
3. The Treasurer has determined that it is necessary to issue guidance on implementation of the reporting requirements of the amended Statute to reduce confusion that may exist as to the reporting requirements for issuers domiciled in New Jersey and those domiciled in other states.

In the interests of sound administration of Title 46 of the Revised Statutes of the State of New Jersey and pursuant to the discretion granted under section 5 (f) referenced above, the State Treasurer hereby terminates the exemption described in Treasury Announcement FY 2011-02 (effective October 1, 2010) and grants the exemption from the provisions of section 5(f) of L.2010, c.25 hereinafter described upon the terms and conditions set forth herein.

#### Guidance

For purposes of this Announcement, the following definitions shall apply in addition to the definitions that are set forth in the amended Statute:

The term "prepaid phone card" or "prepaid calling card" is defined as a card or a record that is issued by the telecom operators, resellers or vendors solely for the purpose of providing local, long distance, or international telephone call services which is pre-funded and may or may not be reloadable, and the value of which is reduced upon each use. The term "prepaid phone card" does not include those cards issued by the telecommunications industry that are used for prepaid services and are redeemable for cash or merchandise.

The term "vendor" is defined as a company which sells stored value cards on behalf of an issuer.

Pursuant to the Treasurer's FY 2011-02 announcement, an exemption from the requirements of section 5(c) provided under the Treasurer's FY2011-01 announcement was continued through October 1, 2010. In the interests of sound administration of Title 46 of the Revised Statutes of the State of New Jersey, and pursuant to the discretion granted under section 5(f) referenced above, the Treasurer is continuing the exemption from the requirements of section 5(c) through October 31, 2010, at which time the exemption shall be terminated and the following provisions shall apply.

Effective November 1, 2010, the following is required of issuers of stored value cards

- Prepaid phone cards redeemable for minutes are exempted from the reporting requirements of L. 2010 c. 25 pending further study in this evolving environment. However, stored value cards issued by the telecommunications industry that are used for prepaid services and are

redeemable for cash or merchandise are subject to the provisions of L.2010, c.25 and should be reported as outlined in this announcement, including the requirements to obtain name and address or zip code as set forth below.

- If, in the normal course of its business, the issuer obtains the name and address of the purchaser or owner of any stored value card issued or sold in New Jersey, then the issuer shall continue to maintain that information.
- If the issuer of a stored value card requires the registration of the card by the purchaser or owner before initial use, the name and address must be obtained at that time and maintained by the issuer.
- Except as provided above, the Treasurer is exempting issuers and holders from the requirement that the name and street address of the purchaser be maintained so long as the purchaser's zip code is obtained. It is mandatory that all businesses obtain and maintain the zip code of the purchaser's address. Maintenance of the zip code information shall be sufficient to satisfy the address requirement of the amended Statute.
- If the issuer is domiciled in New Jersey, any unredeemed balances of stored value cards issued prior to the date of this announcement where the names and addresses or zip code of the purchasers or owners were not recorded must be reported to New Jersey.
- If the issuer is not domiciled in New Jersey, any unredeemed balances of stored value cards issued prior to the date of this announcement where the names and addresses or zip code of the purchasers or owners were not recorded should be reported to the state in which the issuer is domiciled in accordance with that state's unclaimed property laws.
- If the issuer is not domiciled in New Jersey and the issuer's state of domicile exempts this type of property from its unclaimed property statute, any unredeemed balances of stored value cards issued prior to the date of this announcement where the names and addresses or zip code of the purchasers or owners were not recorded must be reported to New Jersey if the cards were issued or sold in New Jersey. In these instances, the issuer must maintain the address of the business where the stored value card was purchased or issued.
- No dormancy charge or fee, abandoned property charge or fee, escheat charge or fee, inactivity charge or fee, or any similar charge, fee or penalty for inactivity with respect to the property is permitted. This is regardless of the terms on the stored value card.

The amended Statute does not affect the contractual obligation of the issuer to honor a stored value card. Issuers may honor stored value cards where the unredeemed value has been reported to the State Treasurer and thereafter seek reimbursement from the State.

Stored value cards exempted from the unclaimed property provisions will be subject to the consumer protections provided under L.2002, c.14 (C.56:8-110 et.seq.).

The amended Statute applies to stored value cards with outstanding balances on or after July 1, 2010 including, but not limited to, those stored value cards issued before July 1, 2010.

Issuers of stored value cards who fail to comply with the provisions of L.2010, c.25 may be subject to the provisions of N.J.S.A. 46:30B-103, 104 and 105.

For further information, please contact the Office of the Administrator of Unclaimed Property at 609-292-9200.

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Andrew P. Sidamon-Eristoff  
State Treasurer

September 23, 2010