

## Merchant Surcharge Q and A

### What is a surcharge?

- A surcharge is a fee that a merchant adds to a consumer's bill for paying a merchant with a card that is not charged on other forms of payment accepted by a merchant

### Can I add a surcharge to card transactions?

- Merchants in most States in the U.S. and U.S. territories may add a surcharge to credit card transactions, subject to certain limitations (such as the card product presented, merchant outlet location etc). Merchants who choose to surcharge must follow all Visa's requirements such as consumer disclosures and product restrictions etc

### What should I consider when determining whether or not to assess a surcharge on card transactions?

- Before choosing to surcharge, U.S. merchants may want to consider a number of factors, including:
  - The potential impact on your customer's experience
  - What your competitors might be doing
  - What information must be disclosed to your customers, and how
  - Cost of credit cards and other forms of payment

### I am a merchant who intends to surcharge. What is the process I need to follow?

- U.S. merchants that intend to surcharge are required to:
  - Notify your acquirer at least 30 days prior to commencing surcharging
  - Include the surcharge amount within a dedicated data field (labelled Field 28) in the transaction message sent to Visa (your acquirer will enable the population of this field)
  - Limit surcharging to credit cards only (debit cards and prepaid cards cannot be surcharged)
  - Limit the amount to your merchant discount rate (MDR) for the applicable credit card or 3% whichever is lowest
  - Disclose the surcharge as a merchant fee and, for both in-store and online transactions, clearly alert consumers to the practice at the point of entry, the point of sale or transaction, and on every receipt
  - Merchants should also consider whether they comply with all applicable state and/or federal laws. Currently, several states have laws that prohibit surcharging. As of 15<sup>th</sup> April 2023, they are: Connecticut, Maine, Massachusetts, and Oklahoma. Note also that Merchants located in Colorado may not surcharge more than 2% as per State law
  - More information can be found at <https://usa.visa.com/support/small-business/regulations-fees.html#2>

### **As a merchant, how do I ensure I only surcharge credit cards and not debit or prepaid cards?**

- When you notify your acquirer about your intent to surcharge, they should implement product identification logic within your point-of-sale to ensure only credit cards are assessed a surcharge

### **Does Visa enforce its rules on surcharges to ensure they are applied correctly?**

- Yes, Visa is actively enforcing its surcharge policy per the *Visa Core Rules and Visa Product and Services Rules* and state laws where permitted. Visa receives numerous consumer complaints and have a yearly *mystery shopping* by outside auditors. The Acquirers of merchants who are caught violating Visa's rules, face potential fines. Moreover, from 15<sup>th</sup> April 2023, the acquirer of any merchant identified as surcharging improperly may be assessed an immediate US \$1,000 fine

### **What is the difference between a "cash discount" and a surcharge?**

- Visa's rules allow a merchant to offer a discount or incentive to a cardholder to pay with an alternative method other than their Visa card known as a "discount offer" or commonly a "Cash discount". However, in order to do so correctly, the merchant must display their prices in either of these ways:
  - Only the card price per item
  - Both the card and the cash price listed side-by-side per item

Moreover, when the cardholder is presented with their final bill for payment, the total price to be paid on a card be displayed in full based on the total of the items being purchased as displayed by the merchant and not achieved by applying an additional fee for a card payment as it may appear to be, and may be treated as, a surcharge and subject to Visa's surcharge rules

### **Can I assess a surcharge on purchases made using both credit and debit card?**

- No. The ability to surcharge only applies to purchases made with a credit card and, even then, only under certain conditions. U.S. merchants cannot surcharge purchases made using a Visa debit card or prepaid card

### **Can I assess a surcharge on debit card transactions where the debit cardholder chooses "credit" on the point-of-sale terminal?**

- No. The cardholder is still using a Visa debit card. The option to select a 'credit or debit' refers to the cardholder selecting either a signature-based transaction or a PIN-based transaction

### **Are there limits to the amount I can surcharge?**

- Yes. U.S. merchants may assess a surcharge on credit card purchases that does not exceed the merchant discount rate (MDR) for the applicable credit card surcharged or 3% whichever is lowest. More information can be found at <https://usa.visa.com/support/small-business/regulations-fees.html#2>

**Can I choose to surcharge Visa credit cards and not surcharge other card brands?**

- Yes, however merchants typically must surcharge Visa on the same terms and conditions as any equal or higher cost competitor that imposes limits on surcharging

**Am I required to disclose the surcharge to my customers?**

- Yes. U.S. merchants that surcharge must disclose the surcharge as a separate charge on the consumer's transaction receipt. In addition, disclosures indicating that a merchant outlet assesses a surcharge on credit card purchases must be posted at the point of entry and point of sale/transaction. Disclosure requirements such as signage font size and sample compliant signage can be found at <https://usa.visa.com/support/small-business/regulations-fees.html#2>

**What laws exist that may relate to surcharging?**

- Currently, the following states have laws that prohibit surcharging: Connecticut, Maine, Massachusetts, and Oklahoma. Additionally, merchants located in the Colorado may not surcharge more than 2%

**What if a merchant operates stores in multiple states and state laws prohibit the merchant from surcharging in some states but not others. Does that mean the merchant can't surcharge in any of the states where I operate?**

- No. The merchant outlet location must follow the state laws which the merchant outlet is located. If a merchant is legally prohibited from surcharging by state law, they cannot surcharge transactions in those stores. They may, however, surcharge at merchant outlets located in other states if those states do not prohibit surcharging

**Can I pick and choose what types of Visa credit cards I add a surcharge to?**

- U.S. merchants have the option to add a surcharge at the "brand level" to all transactions on Visa credit cards, or to transactions on particular types of Visa credit cards at the "product level" (e.g. Visa Traditional, Visa Traditional Rewards, Visa Signature) but not both

**Does the ability to surcharge apply to merchants globally?**

- No. The rules discussed in this Q&A related to the surcharging of credit cards apply to purchases made in the U.S. and U.S. territories only. Surcharging remains prohibited outside the U.S., with certain, limited exceptions. For further information, please visit: <https://usa.visa.com/dam/VCOM/download/about-visa/visa-rules-public.pdf>.

**Where can I get more information about Visa's rules related to surcharging, requirements for surcharging, and other related information?**

- Merchants can access this and other information by visiting: <https://usa.visa.com/support/small-business/regulations-fees.html#2>
- For further information, please visit: <https://usa.visa.com/dam/VCOM/download/about-visa/visa-rules-public.pdf>.