

# UNUSED GIFT CARD BALANCES SHOULD GO BACK TO CONSUMERS OR HELP SUPPORT THE PUBLIC GOOD

Elected leaders must close the loophole in Washington's unclaimed property law

## Overview

Consumers in the United States lose billions of dollars annually to unspent gift cards. Credit Summits' 2023 survey of US consumers demonstrates that 60% have at least one unspent gift card, and at least half of customers have lost a gift card before spending it.<sup>1</sup>

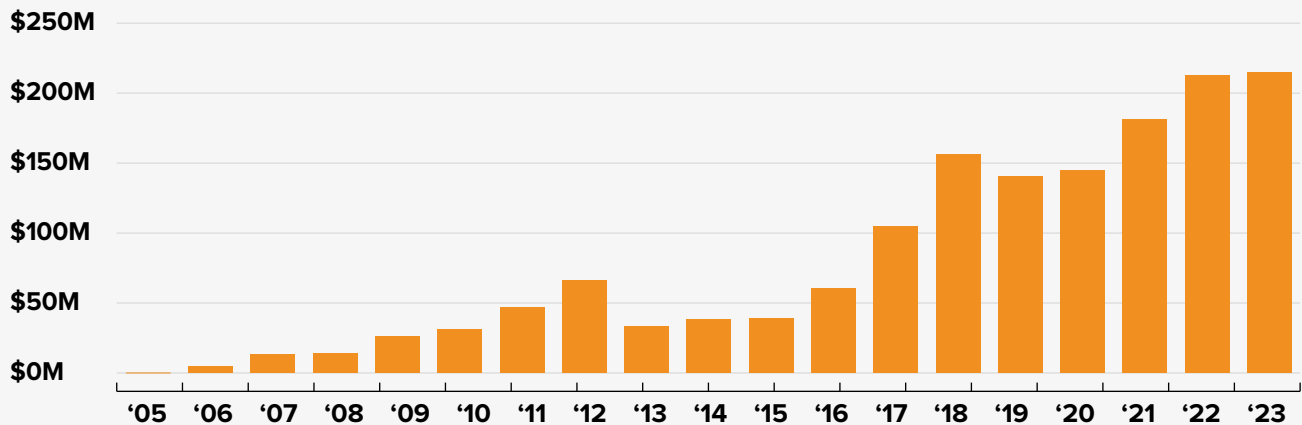
Gift cards go unclaimed for a variety of reasons. For consumers, it means the loss of \$21 billion in unused gift cards<sup>2</sup> collectively, and for companies, it means taking profit from customers without providing any services or products in return. This type of revenue is called breakage, an accounting term that identifies revenue for services paid for by consumers but never used.<sup>3</sup> Over 65% of Fortune 500 companies, including Amazon<sup>4</sup> and Walmart<sup>5</sup>, are incorporated in Delaware. According to Delaware state law, these companies are required to work with that state's unclaimed property program

to try to return the money from unclaimed gift cards to consumers.<sup>6,7</sup> If customers do not recover their funds, the money is spent on public services rather than being kept by the corporation for unrendered services. On average, 42% of all unclaimed property is eventually claimed and returned to the original owner.<sup>8</sup>

However, companies incorporated in Washington state have an incentive to make it difficult for consumers to use or cash out gift cards. That's because, in 2004, some big business interests—including Starbucks—supported an exemption for gift certificates from unclaimed property law.<sup>9</sup> At the time, Washington's Department of Revenue (DOR) collected just \$2.7 million per year in unspent certificates from all companies incorporated in Washington state.<sup>10</sup> Since 2005, revenue for companies from unclaimed gift cards has exploded. For example,

## Starbucks breakage revenue skyrockets after gift certificate law changes in their favor

Starbucks annual revenue from unused gift card balances (\$ millions) from 2005 – 2023



Source: Starbucks Corporation's Annual Reports, U.S. Securities and Exchange Commission 10-K Filings, 2005-2023

Starbucks recognized \$215 million from unredeemed consumer gift cards in the last fiscal year, and that figure grew year over year.<sup>11</sup> In the last five years, the company has booked \$894.2 million in breakage revenue from unspent gift cards.<sup>12 13 14 15</sup>

Under current law, companies are free to use a variety of practices that increase breakage revenue. Some examples of these practices may include: 1) making it difficult to cash out gift card balances 2) requiring customers to reload gift cards in unnecessarily high amounts or in specific increments 3) preventing split purchases where customers pay with both a gift card and another payment method, and 4) seeking exemptions from unclaimed property law that then allows companies to keep unspent gift cards balances for themselves.

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Our elected leaders should pass legislation to make it easier for consumers to use the entire balance of their gift cards and disincentivize businesses engaged in practices that increase revenue without providing a service. These policies include:

- ▶ Making it easier to cash out gift card balances under \$50;
- ▶ Encouraging companies to alert consumers about unused gift cards with unspent balances;
- ▶ Enabling customers to reload their gift cards in any dollar amount they choose;
- ▶ Ending the gift certificate exemption from unclaimed property law for large companies; and
- ▶ Requiring the ability to split payments between gift cards and other forms of payment.

## Who does this impact?

Sixty percent of U.S. consumers have at least one unused gift card.<sup>16</sup> People between 18 and 24 (primarily members of Generation Z) are most likely to have unredeemed gift cards, with 84% having at least one unused gift card.<sup>17</sup> Gen Z is the most racially and ethnically diverse generation in U.S. history and more likely to identify as LGBTQ.<sup>18, 19</sup>

## What is unclaimed property?

All 50 states and the District of Columbia have unclaimed property programs that return billions of dollars to the owners of lost and forgotten assets.<sup>20</sup> States return over three billion dollars annually and coordinate through a national database of unclaimed property, called Missing Money, which allows the public to search most states at once at no cost.<sup>21</sup> Washington state offers free online searches of its unclaimed property database, conducts outreach at community events, and proactively matches owners with their unclaimed property through publicly available databases.<sup>22</sup>

In Washington state, companies paid \$321.98 million in unclaimed property to the state Department of Revenue (DOR) last fiscal year.<sup>23</sup> In fiscal year 2023, DOR returned \$138.9 million in unclaimed property to their owners; that represents 43% of the total value of unclaimed property the state received.<sup>24</sup> Common unclaimed accounts include utility deposits, customer (store) credits, uncashed checks, bank accounts, insurance proceeds, and safe deposit box contents.<sup>25</sup>

The state also helps companies return property directly to owners. Every year, companies incorporated in Washington state must deliver abandoned property to the state, which holds the property until it is claimed by its rightful owner.<sup>26</sup> If the abandoned property is worth \$75 or more, at least 60 days before the filing date, the state requires that companies mail and email owners to remind them about their unclaimed property and inform them of how they can recover it.<sup>27</sup>





How each state defines, enforces, and verifies unclaimed property varies. For example, Washington, Alabama, Utah, and Michigan exempt all gift cards from unclaimed property filings, while New York, Delaware, and Colorado require companies to send abandoned gift cards to their respective state unclaimed property programs.<sup>28</sup> As noted earlier in this report, on average, 42% of abandoned property is eventually returned to the consumer through unclaimed property funds.<sup>29</sup> In most states, the remaining funds go to the general fund.<sup>30</sup>

In Washington, DOR manages the unclaimed property fund. State law requires at least \$750,000 in the unclaimed property account so that it can quickly deploy unclaimed property to the rightful owner.<sup>31</sup> Periodically, the state's unclaimed property fund is balanced with the general fund, and any surplus of unclaimed property above a certain threshold goes to the general fund. If the fund dips below a certain threshold, the fund must be replenished with general fund dollars.<sup>32</sup>

## Current consumer protections for gift card holders should be enhanced

In 2004, the state legislature passed several important consumer protections. First, it required that issuing businesses must allow people to cash out gift certificate balances of \$5 or less in cash.<sup>33</sup> Second, it made it unlawful for gift certificates to have an expiration

date, fees or service fees, and dormancy or inactivity charges.<sup>34</sup> Within the same legislation, companies won an exemption for gift cards from unclaimed property law, incentivizing corporations to manipulate consumers into leaving unused balances on their gift cards.

Legislators can strengthen or enhance several consumer protections and close a corporate loophole to exempt abandoned gift cards. The full policy package includes the following protections:

- ▶ **Increasing the dollar threshold under which companies must provide cash** in exchange for customers' gift card balances – from \$5 to \$50.
- ▶ **Encouraging companies to remind consumers** to use their unused gift card balances.
- ▶ **Enabling people to load their reloadable gift cards in any dollar amount they choose.** Companies could set a maximum amount that can be reloaded onto a card but not a minimum amount required to reload a card.
- ▶ **Allowing customers to combine their gift cards with other forms of payment** to make purchases when the remaining gift card balance is lower than the cost of a transaction.
- ▶ **Moving abandoned gift cards to the state's unclaimed property program** to be held by the DOR and eventually returned to the customer or used to fund public services.
- ▶ **Ensuring that gift cards will always be useable by a consumer,** even if the gift card is presumed abandoned and returned to the state. In that case, DOR would reimburse the company if customers spend those abandoned gift cards.
- ▶ **Exempting small businesses** with annual revenues below \$100 million and gift cards sold through companies' paid membership programs (\$50 or more per year) from requirements around reporting unspent gift cards to unclaimed property.



## Past, present, and future: Gift card laws in Washington

Law prior to 2004	Present law	Proposed legislative changes
Unused gift cards were considered unclaimed property that went back to consumers or were used for public good.	Unused gift cards are exempt from unclaimed property rules and corporations keep the money.	End gift card exemption from unclaimed property law. Abandoned gift cards again included in WA unclaimed property program and returned to customer or used for public good.
Companies could not claim unused gift cards as revenue.	Companies can consider unused gift cards as revenue.	Companies must return unspent gift cards to consumers or to state budget.
Companies can decide the dollar amounts which customers can reload gift cards.	Companies can decide the dollar amounts which customers can reload gift cards.	Companies must allow customers to reload gift cards in any dollar amount.
Companies can prevent customers from combining gift cards with other forms of payment.	Companies can prevent customers from combining gift cards with other forms of payment.	Companies must allow customers to combine gift cards with other forms of payment.
Expiration dates and service or inactivity fees were allowed.	Expiration dates and service or inactivity fees are unlawful.	Expiration dates and service or inactivity fees are unlawful.
Companies were not required to cash out cards.	Companies must provide cash back if card value is less than \$5.	Companies must provide cash back if card value is less than \$50.

## This proposal would boost funding for public services like schools and housing

Closing the loophole on unspent gift cards in Washington’s unclaimed property law would increase the funds held by the state DOR to pay out unclaimed property claims by hundreds of millions of dollars. For example, in 2022, if this law had been in effect, Starbucks and Nordstrom would have sent \$252 million of abandoned gift card balances to the state’s unclaimed property fund.<sup>35,36</sup> Washington and other states successfully return about half of abandoned property back to property owners.<sup>37</sup> The remaining balance (at least \$151 million in 2022) would have been held in the state general fund and used to pay for schools, parks, and other public investments until property owners come forward to claim their funds.

Companies currently pay a 1.5% business and occupation (B&O) tax on this type of breakage revenue.<sup>38</sup> This law change would result in a modest reduction in B&O tax collections since companies would no longer be able to keep revenue from unspent gift cards. For 2022, this is estimated at \$3.78 million from Starbucks and Nordstrom.<sup>39</sup> Even with this revenue offset, the state general fund would have hundreds of millions of additional dollars available each year for public investments. In 2022 alone, our communities could have received at least \$142 million for public services that benefit us all.

## Updating unclaimed property laws is good for our state

Ultimately, lawmakers need to put people above corporate profits. Enacting these commonsense policies will:

- ▶ **Ensure gift cards never expire and can always be redeemed.** These policies increase how consumers can use the full value of their gift card.
- ▶ Incentivize companies to encourage consumers to use the entire value of their gift cards and disincentivize **manipulative tactics to push customers into leaving unused balances on their cards.**
- ▶ **Help pay for critical public services like education and public health** instead of lining corporate balance sheets for services never redeemed.

Legislators can close this corporate loophole and restore the law to what it was before 2004, when unspent gift cards were treated as belonging to the consumer, not corporations. Instead of allowing an outdated unclaimed property exemption to line the pockets of corporate executives, unspent customer dollars should be returned to people and fund vital public services like public schools, housing people can afford, and services for those experiencing homelessness or addiction.

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IN 2022 FOR SCHOOLS, PARKS,  
AND OTHER PUBLIC SERVICES  
THAT BENEFIT US ALL.

# Endnotes

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