

Surcharges and How They Work

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Surcharging is a complex topic. Qualpay provides the information below as a general overview but is not intended as legal advice. You are encouraged to consult with your own legal counsel before implementing any surcharging program.

What is Surcharging?

Generally speaking, surcharging is a practice in which a merchant passes on all or part of the cost of accepting a credit card to a consumer.

What laws govern surcharging?

Surcharging is regulated by state and federal law. There is a patchwork of state regulations regarding surcharging. Connecticut, Massachusetts, Maine, and Puerto Rico currently prohibit surcharging. Other states, like Texas, California, Florida, and Oklahoma, have surcharging laws on the books, but a court or state attorney general has expressed a view that the law is not enforceable or that it would be enforceable only in certain limited circumstances. If you do business in multiple states, you may not be able to implement a surcharging program uniformly. State laws may also require specific notices or signage or set a cap on the surcharge amount. Again, please consult with your own legal counsel before implementing a surcharging program.

What do Visa and MasterCard say about surcharging?

Visa and MasterCard rules allow surcharging but set parameters for how it may be done. Merchants must register with the card brands 30 days before implementing a surcharging program. Surcharges may only be assessed on credit cards and are subject to a cap set by the card brands. The card brands also require certain signage at the point of sale, apprising consumers of the surcharge. Recent versions of the [Visa](#) and [MasterCard rules](#) regarding surcharging—particularly Visa Rule 5.5 and MasterCard Rule 5.12.2—are hyperlinked here for your convenience. Please note that the card brands update their rules periodically, usually around April and October of each year, so the versions hyperlinked here may not be the most recent ones.

Card Brand guidelines for applying for credit card Surcharges

For U.S. merchants that accept credit or debit cards on the major card payment brands (Visa, MasterCard, American Express, Discover, and PayPal), surcharge practices are subject to the following specific usage guidelines pursuant to card brand rules. As a merchant, there are certain guidelines you will need to follow before you decide on surcharging your customers:

- Surcharges for a debit or prepaid card are not allowed for transactions processed on Visa and MasterCard-owned networks. Inspect the card before the transaction to verify if there is a brand network logo. Surcharging a debit card used as a credit card is not allowed if the debit card falls under the Visa or MasterCard networks.
- The surcharge should not exceed the merchant's discount rate (i.e., the amount the merchant pays to accept the card).
- Surcharge fees must not exceed 3% (even if the merchant discount fee exceeds 3%). Surcharges in Colorado must not exceed 2%.
- Visa and MasterCard require merchants to disclose, at both the point of entry and the point of sale, that the merchant will assess a surcharge and that the surcharge is no greater than the merchant's

cost of accepting the card. For telephone orders, Visa permits a verbal disclosure of the surcharge, but a written disclosure is required for all other payment channels. Additionally, some states have laws specifying the disclosure language or where it must be displayed.

- The customer must be given the opportunity to cancel the transaction before the surcharge is assessed and pay by means other than a credit card to avoid the surcharge.
- Surcharging is prohibited for sales to those consumers residing in Connecticut, Massachusetts, Maine, and Puerto Rico. Other states allow surcharging, but there are additional risks or requirements, including California, Colorado, Florida, Kansas, New York, Oklahoma, and Texas. Merchants are encouraged to consult their legal counsel when beginning a surcharging program.
- The Surcharge must not be charged in addition to any other convenience fee or service fee.
- Any refunds must include surcharge fees (even partial refunds warrant a partial surcharge fee refund).
- Merchants must [register with the card brands](#) before charging the fee (30 days prior).
- Not all industries are allowed to use surcharging. For instance, debt collectors may not collect a surcharge because the Fair Debt Collection Practices Act prevents the collection of any amount in excess of that specifically permitted by the debt agreement. Regulations for industries that may collect a surcharge vary from state to state. Consult your state statutes to determine eligibility.

To Enable Surcharging in the Qualpay Virtual Terminal:

1. Merchants must [register with and be approved by Qualpay and the Card Brands](#) at least 30 days before processing a surcharge.
2. To require surcharging with the Qualpay Virtual Terminal once enabled:
 - Log into the Qualpay Manager
 - Select **Administration**
 - Select **Settings**
 - Select **Payment** and scroll to **Virtual Terminal Settings**
 - Select **Surcharge**
3. Once enabled, the toggle option is displayed in *green*. If disabled, the toggle is displayed in *white*.
4. Add the default percent to surcharge, which is generally recommended by Qualpay (The amount cannot exceed more than 3% programmatically).
5. Click **Save Payment Profile**.

You can now apply a surcharge to your transactions in the [Qualpay Virtual Terminal](#).

To Process Transactions in the Virtual Terminal with a Surcharge Applied:

1. Log into the [Qualpay Manager](#).
2. Go to **New Transaction**
3. Select the [Transaction Type](#).
4. Enter the *Subtotal*.
5. The *Surcharge* field is pre-populated from the **Settings** section.
6. Add the *Credit Card details, Billing Information*, and then click **Submit**.

Note: By default, Qualpay does not allow surcharging in any prohibited locations or on transactions where the surcharge exceeds 3% of the transaction total.

