



## Illinois Department of Revenue

Legal Services Office 5-500  
101 W. Jefferson Street  
Springfield, Illinois 62794

March 31, 2000

Rosemarie Dunn  
GSA/FSS/FCXC  
1941 Jefferson Davis Highway, Room 507  
Arlington, VA 22201

Attention: GSA SmartPay Program

Dear Ms. Dunn:

This letter is in response to the letter you faxed to us on July 16, 1999, your telephone conversation with Keith Staats, the Department's General Counsel, and your follow up conversations with me describing how the numbering on the GSA SmartPay cards relates to billing.

In your letter, you have stated and made inquiry as follows:

On December 10, 1998, we sent you a letter explaining the implementation of our new credit card program that replaced the United States Government's purchase cards (I.M.P.A.C.), travel cards (American Express), and fleet cards (Wright Express) with one consolidated program. This new program is called 'GSA SmartPay' and instead of a single provider of card based services, the Federal Government has awarded multiple contracts. Cards are now issued by Citibank, First National Bank of Chicago, NationsBank, Mellon Bank and U.S. Bank.

The letter also explained that all cards issued have unique prefixes and account numbers, government designed artwork, and wording that denotes the card is for use by the United States of America. Card designs and our December 10, 1998 letter may be viewed on our web site at <http://pub.fss.gsa.gov/services/gsa-smartpay>.

Our previous letter asked for your continued support of the GSA SmartPay card programs by continuing to extend tax exemption status for Federal Government credit card purchases, where applicable. Tax exemption results in significant cost savings for the Federal Government. We asked

that your State or Commonwealth continue to recognize that credit card purchases made and paid directly by the Federal Government are tax exempt and requested that you return a written confirmation. Additionally, we asked that you review and rescind any requirement for the Federal Government to provide a tax exemption certificate when a Federal Government credit card is used as the method of purchase.

To date, we have not received an official response from your state or commonwealth. There are many federal agencies and merchants who do business in your state who are most interested in receiving your response to our December 10, 1998 request. We are making all responses available on our website and if you publish any special notices on your website, we will gladly provide a link to your site if you provide us with the address.

Under Illinois law, sales made to governmental bodies (Federal, State, local, or foreign) are not subject to Retailers' Occupation Tax. In order to make a tax exempt purchase, governmental bodies must have an active exemption identification number issued by the Department or present a U.S. Government Bank Card. Only sales of tangible personal property invoiced directly to the governmental body are exempt. Sales made to individual government employees who will be reimbursed by the government are subject to tax.

Currently the Department's regulation at 86 Ill. Adm. Code 130.2080(a), copy enclosed, provides that "retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number." At the time the regulation was promulgated, sales paid for by U.S. Bank Cards were all billed directly to the Federal government. Thus, presentation of the card was enough to demonstrate that the sale was, in fact, a sale to the Federal Government. It is our understanding that this is no longer the case with the GSA SmartPay Program.

As we understand it, fleet cards, which are always billed to the U.S. Government, bear prefixes 8699 or 5568. Purchase cards, which are always billed to the U.S. Government, bear prefixes 4486, 4716, or 5568. Travel cards and the travel line of an integrated card may either be billed to the U.S. Government or to individuals. Travel cards (and integrated cards carrying a travel line) that are always billed to the U.S. Government bear prefixes 4486, 4716, or 5568 and have "0," "6," "7," "8," or "9" as the 6<sup>th</sup> digit. Travel cards (and integrated cards carrying a travel line) that are billed to individuals bear prefixes 4486, 4716, or 5568 and have "1," "2," "3," or "4" as the 6<sup>th</sup> digit.

In summary, the 6<sup>th</sup> digit has no significance to transactions made with the fleet or purchase card. Transactions made with a fleet or purchase card, or the fleet or purchase card functionality of an integrated card are always centrally billed to the U.S. Government. The 6<sup>th</sup> digit has significance only to the travel card or the travel functionality of an integrated card.

The scheme does not present a problem for Illinois hoteliers with regard to sales subject to the Hotel Operators' Occupation Tax. The incidence of tax under that tax is on the hotelier and not the guest. The hotelier may seek reimbursement of his Hotel Operators' Occupation Tax obligation from the guest. Since this is a reimbursement, not a tax on the guest, no exemption applies.

The scheme does, however, present problems for documenting sales of tangible personal property to the Federal Government as exempt. When Illinois retailers make sales at retail they must either collect tax on the sale or document an exemption. As stated above, in Illinois, sales made to individual government employees who will be reimbursed by the government are subject to tax. Therefore, sales which will be billed to government employees, rather than directly to the Federal Government, even if made with the use of a SmartPay Card, do not qualify as exempt. Sales made to the Federal Government which are paid for by SmartPay Cards billed directly to the government, will continue to be tax exempt.

As you can see, the SmartPay scheme places new burdens on Illinois retailers to distinguish between sales to government employees, which are not exempt from tax, and sales to the Federal Government, which are. They cannot assume that all sales paid for with SmartPay Cards are exempt sales to the Federal Government. In light of this, the Department intends to amend its regulations to include information about the SmartPay Cards and provide guidance regarding when SmartPay Cards can be accepted to document an exempt purchase to the Federal Government.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, you may contact me at (217) 782-2844, or Keith Staats at (217) 785-5237.

Very truly yours,

*Martha P. Mote*

Martha P. Mote  
Associate Counsel

Section 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel

- a) Sales made to a governmental body (Federal, State, local or foreign) are exempt from the Retailers' Occupation Tax. Such sales are not exempt from the Retailers' Occupation Tax unless a governmental body has an active exemption identification number issued by the Department. However, retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number.
  - 1) For the foregoing purposes, the date of sale is considered to be the date of delivery to the purchaser.
  - 2) The purchase of meals, fuel and other tangible personal property by corporations in Illinois are taxable sales at retail, unless otherwise exempt, notwithstanding the fact that the stock of such corporations may be owned exclusively or in part by foreign governments.
- b) When making a purchase, the holder of the card presents it to the retailer, who records the card number instead of collecting the tax.
- c) The U.S. State Department, Office of Foreign Missions, issues tax exemption identification cards to accredited foreign diplomatic and consular officials. Under the authority of the Foreign Missions Act, various levels of exemption are authorized. Section 130. Illustration A depicts examples of the various cards currently being issued.

(Source: Amended at 15 Ill. Reg. 6621, effective April 17, 1991)

AMENDED

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