



COMMONWEALTH of VIRGINIA
Department of Taxation

December 12, 2003

[REDACTED]
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Re: Request for Ruling: Retail Sales and Use Tax
U.S. General Services Administration

Dear [REDACTED]

This is a clarification of the Department's policy regarding the application of the sales and use tax to federal government credit card purchases under the GSA SmartPay Program. This does not represent a policy change, but instead clarifies the information I previously sent to you on June 28, 2002, and which was subsequently published in Public Document 02-105. The clarification deals with the application of the sales and use tax to the four types of credit cards used to make government purchases as addressed in the section titled "Background." The remainder of the letter is unchanged.

The Government Exemption

Virginia Code § 58.1-609.1(4) provides an exemption from the retail sales and use tax for "[t]angible personal property for use or consumption by ... the United States." Further, the regulation set out in Title 23 of the Virginia Administrative Code 10-210-690 indicates that federal government purchases are exempt provided payment "is made directly by the federal government pursuant to an official purchase order (e.g., by direct billing to the government or use of government credit card). Only credit card purchases for which the credit of the federal government is bound and billings are sent directly to and paid by the government, are exempt from the tax." (Emphasis added.)

Background

Based on these authorities, the Department contacted your agency on September 27, 1999, and addressed the application of the sales and use tax to the following four types of credit cards issued under the GSA SmartPay Program.

Fleet and Purchase Cards

These cards are issued under the Voyager, Mastercard and VISA platforms. These cards carry the prefixes 8699 (Voyager), 5568 (Mastercard) and 4486 and 4716 (VISA). All purchases made with these cards are billed directly to and paid by the federal government and, thus, qualify for exemption from Virginia's sales and use tax. Fleet cards are imprinted with the language "For Official Government Fleet Use Only." Purchase cards are imprinted with the language "For Official US Government Purchases Only."

Travel Cards

These cards are issued under the Mastercard and VISA platforms and carry the same prefixes as stated above (Mastercard: 5568, VISA: 4486 and 4716). These cards may be billed directly to the federal government or billed to an individual. The billing of these cards can be identified by the sixth digit in the card's account number. If the sixth digit is "0", "6", "7", "8", or "9", the purchase is billed directly to the federal government and is exempt. Conversely, if the sixth digit is "1", "2", "3", or "4", the purchase is billed to the individual and is taxable. Such purchases are taxable because they violate the "direct" billing mandate set out in the regulation. Travel cards are imprinted with the language "For Official Government Travel Only."

Integrated (or Combined) Cards

These cards are issued under the same platforms and use the same prefixes as the travel cards above. The integrated cards provide for fleet, purchase and travel transactions in a single card. All fleet and purchase transactions made with these cards are billed directly to and paid by the federal government and, thus, qualify for exemption from Virginia's sales and use tax. Travel purchases made with these cards may be billed directly to the federal government or billed to an individual. The billing of travel purchases made using these cards can be identified by the sixth digit in the card's account number. If the sixth digit is "0", "6", "7", "8", or "9", the purchase is billed directly to the federal government and is exempt. Conversely, if the sixth digit is "1", "2", "3", or "4", the purchase is billed to the individual and is taxable. Such travel purchases are taxable because they violate the "direct" billing mandate set out in the regulation. Integrated cards are imprinted with the language "For Official Government Use Only."

The GSA SmartPay Program is effective for five years, with five one-year options to renew (for a total possible contract period of ten years).

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Exemption Certificates

For some time, the Department has allowed the use of an official purchase order or an exemption certificate as sufficient documentation for exempt purchases made by the federal government. Now that the taxable or exempt status of the credit cards can be determined by the card account numbers, it is no longer necessary that federal government agencies provide a purchase order or an exemption certificate to vendors when making exempt purchases using these cards.

The Department currently relies on the credit card number to determine whether a particular transaction qualifies as an exempt purchase by the federal government. In auditing vendors, the Department verifies that an exempt credit card number has been used to pay for an exempt transaction. Vendors, in accepting these credit cards, must make a determination of the taxable or exempt status of the transaction based on the card account number. Vendors must retain in their records a copy of the purchase invoice or receipt that includes the federal government credit card account number in order to document an exempt transaction.

PIN Number

I understand that the "Point of Sale" terminals of some vendors require that a four-digit code be used with the credit cards when purchases are made by federal government agencies. It is acceptable to use the "4700" PIN for such purposes. However, regardless of whether or not the "4700" PIN number is used, the Department will continue to rely on the credit card account number to determine whether a particular transaction qualifies for exemption. Therefore, vendors should maintain the appropriate documentation for exempt transactions as discussed above (and not merely the "4700" PIN number).

I hope the foregoing has responded to your inquiry. As you have suggested, this information is available on the Department's web site at www.tax.state.va.us.

If you have additional questions, please contact Valerie H. Marks in the Office of Policy and Administration, Appeals and Rulings, via e-mail at vmarks@tax.state.va.us or at (804) 367-0964.

Sincerely,



Kenneth W. Thorson
Tax Commissioner