



OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

PHONE (405) 521-3133
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December 28, 2001

Re: Our file Number LR -01-190; Tax exempt guidelines

Dear

The following information is provided in response to your request regarding the exemption for federal and state government and how they must be structured in order to qualify for sales tax exemption.

Sales or services to governmental entities, are exempt from sales tax only if the sales or services are billed to and paid by that entity. Although sales to schools are exempt, purchases made with funds of members, students, faculty sponsors and sponsoring organizations are not exempt, even if those members, students, faculty members, etc. are to be reimbursed for their expenses at a later date by the school. In other words, purchases made with other than public funds or from school funds are subject to sales tax. Likewise, charges for goods and taxable services billed to and paid by a church are exempt unless incurred "in the course of business for profit or savings." [See 68 O.S. 1356(7)]

All state and federal employees on reimbursable travel status are subject to applicable state, county and city sales tax on the purchase of lodging and meals. Presentation of an agency issued exemption certificate does not create a sales tax exempt transaction when the sale is to an employee, even when on reimbursable travel status.

Federal and state employees, in many cases, hold MasterCard, Diners Club, Visa, or American Express Cards which denote the employee's name or the agency for which they work. Since these cards are billed to the individual who is personally responsible for the charges, the transaction is taxable.

However, for federal employees, if the charge is paid with special government credit cards, known as SmartPay™ cards, the sales would be exempt from sales tax since the charges are billed directly to the United States Government. The cards bear the seal of the United States, the words "United States Government", trademark of the SmartPay™ program next to the letters "GSA" and an indication for the types of purchases for which the card is valid. Information

about the SmartPay™ program, including pictures of the cards may be downloaded from the website of GSA at: <http://pub.fsa.gsa.gov/services/gsa-smartpay/gsa-smartpay-btm.html>

Documentation obtained from your customer validating the exempt status of the sale should be retained. All sales transactions should be included in the amount entered on line one, identified as total gross receipts on the sales tax report, and the appropriate deduction for exempt sales should be taken on line four of the report.

To help you make a correct determination of the exempt status of an organization, I have sent a copy of a booklet entitled Sales Tax Vendor Liability Notice, Rules, and Forms and have enclosed copies of Rules 710:65-7-6; 65-13-130 and 710:65-19-143 which deal with sales you will make.

Please note that if you are located in a city that has enacted a room or occupancy tax, you should contact that city directly if you have any questions regarding such local levies.

If you have additional questions concerning this matter or if I can be of further assistance, please feel free to contact me at (405) 521-3133.

Sincerely,

Brenda J. Sullivan
Tax Policy Analyst
OKLAHOMA TAX COMMISSION

Enclosures