



**I. STATE / JURISDICTION / U.S. TERRITORY INFORMATION**

Please indicate the state / jurisdiction / U.S. territory for which you are reporting:

State / Jurisdiction / U.S. Territory: Illinois

**II. TAX EXEMPTION OFFERINGS**

Please indicate which of the following tax exemptions your state / jurisdiction / U.S. territory provides to government customers with centrally billed accounts and/or individually billed accounts as described below. Please also use this section to provide a description of the applicable tax exemptions, pertinent statutes, regulations, court rulings, etc. that pertain to the type of tax exemption.

Centrally Billed Accounts (CBAs) are charge card accounts paid directly by the government to the issuing bank;  
 Individually Billed Accounts (IBAs) are charge card accounts paid directly by the cardholder to the issuing bank, but cardholders are reimbursed by the government, as official government expenses.

Tax Exemption Offerings (Please check all that apply)		Additional Information (Description, pertinent statutes, regulations, etc.)
Sales Tax	<input checked="" type="checkbox"/> Centrally Billed Accounts (CBAs)	State exemption letter from Illinois is required in order to be exempt.
	<input checked="" type="checkbox"/> Individually Billed Accounts (IBAs)	
Lodging Tax	<input type="checkbox"/> Centrally Billed Accounts (CBAs)	
	<input type="checkbox"/> Individually Billed Accounts (IBAs)	
Hotel Occupancy Tax	<input type="checkbox"/> Centrally Billed Accounts (CBAs)	
	<input checked="" type="checkbox"/> Individually Billed Accounts (IBAs)	Guest staying over a period of 30 or more consecutive stays!
Public Accommodation Tax	<input type="checkbox"/> Centrally Billed Accounts (CBAs)	
	<input type="checkbox"/> Individually Billed Accounts (IBAs)	
Tourism Tax	<input type="checkbox"/> Centrally Billed Accounts (CBAs)	
	<input type="checkbox"/> Individually Billed Accounts (IBAs)	
Fleet Tax	<input type="checkbox"/> Gasoline <input type="checkbox"/> Diesel Fuel <input type="checkbox"/> Alternative Fuel	
	<input type="checkbox"/> Maintenance	
Other Tax	<input type="checkbox"/> Other: please specify _____ <input type="checkbox"/> CBA <input type="checkbox"/> IBA	

### III. TAX EXEMPTION FORMS

As indicated in GSA's letter, we request that the GSA SmartPay® 2 cards' design and structure suffice for tax exemption certification. If this is not possible, please indicate if your state / jurisdiction / U.S. territory requires government customers to complete any documentation in order to receive a tax exemption. Also, please indicate the website address for accessing any required forms; you may also provide the form via an email attachment.

Tax Exempt Documentation	Website Address or Hyperlink:
1 State of Illinois Exemption	tax.illinois.gov
2	
3	

### IV. TAX RECOVERY PROCEDURES

Please indicate the procedures that government customers should follow in the event that taxes are charged to official government transactions in error.

Tax Recovery Procedures:
Contact the Finance department at the number here 312-345-1000 / or Fax the information to fax 312-334-6771 with exemption letter from the State.

### V. CONTACT INFORMATION

Please indicate the point-of-contact for follow-up questions related to your tax exemption policies.

Last Name, First Name:	Vega, Esmeralda
Name of Agency:	Hard Rock Hotel
Office Address (Line 1):	230 N. MICHIGAN AVE
Office Address (Line 2):	
City, State Zip:	CHICAGO, IL 60601
Phone Number:	312-334-16453
Fax Number:	312-334-6771
Email Address:	vega@hardrockhotelchicago.com

Thank you for your assistance in this important matter!



## Illinois Department of Revenue

Policy & Communications Office  
101 W. Jefferson St., 6-595  
Springfield, IL 62702

January 16, 2009

Erin E. VanDagna  
Service Delivery Division Director  
Office of Charge Card Management  
Federal Acquisition Service  
U.S. General Services Administration  
2200 Crystal Drive  
Arlington, VA 20406

Attention: Camesha Everett

Dear Ms. Everett:

This letter is in response to your letter dated December 22, 2008, in which you ask that the GSA SmartPay®2 card suffice for certification of federal sales tax exemption. You also ask about a series of taxes and how the process would work.

In a nutshell

- 1) SmartPay cards will not suffice for certification of tax exemption.
- 2) Many of the examples that you cite will not qualify for exemption from sales tax. In fact the only items eligible for tax exemption would be tangible personal property purchased for use by the federal government and paid for by a card that was centrally billed.

The procedure for claiming the sales tax exemption in Illinois would be for the federal employee to present a copy of the GSA's exemption letter at the time of purchase of items that qualify for tax exemption so that the retailer would not charge tax. Some retailers may require the federal employee to sign a statement that the purchase is for federal government use.

The details, tax by tax, including the statutory and administrative references you requested follow:

### **SALES TAX**

In an Illinois sales tax context, there are two separate but complementary taxes involved. The Retailers' Occupation Tax is imposed on the retailer and the Use Tax is imposed on the purchaser. Since the Use Tax is imposed on the purchaser, there is a tax to which an exempt

purchaser's exempt status can attach and, because these taxes are complementary, if the purchaser is exempt from paying Use Tax then the retailer is generally exempt from the Retailers' Occupation Tax. As a result, when an exempt entity purchases tangible personal property and presents its exemption identification number ("E" number) to a retailer, its purchases are exempt from Use Tax and the retailer is exempt from Retailers' Occupation Tax.

Under Illinois law, sales made to governmental bodies (Federal, State, local, or foreign) are not subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2080. In order to make a tax exempt purchase, governmental bodies must have an active exemption identification number issued by the Department which they give to the retailer who records the exemption number instead of collecting the tax. 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.

In your letter, you indicated that the charge cards are either Centrally Billed Accounts (CBA), *i.e.*, charge card accounts which are always billed to and paid directly by the government to the issuing bank or Individually Billed Accounts (IBAs), *i.e.*, charge card accounts billed to and paid directly by the cardholder to the issuing bank and cardholders are reimbursed by the government.

This SmartPay®2 program presents problems for documenting sales of tangible personal property to the Federal Government as exempt. As pointed out above, the way the Illinois sales tax is structured, the Retailers Occupation Tax is imposed on the retailer who pays tax to the Department. As a result, the retailer must either collect tax on the sale or document an exemption. Therefore, a retailer has to know at the time of the sale whether the sale is being made by a tax-exempt entity. Tax exempt-entities are issued "E" numbers which they present to the retailer at the time of the sale so as to advise the retailer that it is a tax-exempt sale, and the retailer does not owe Retailers' Occupation Tax. Without this number, the retailer does not know whether the purchaser is tax exempt. As noted above, 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 GSA SmartPay®2 charge card, do not qualify as exempt.

As you can see, the SmartPay®2 program places new burdens on Illinois retailers, requiring them to distinguish between sales to government employees, which are not exempt from tax, and sales to the Federal Government, which are. The retailers cannot assume that all sales paid for with a SmartPay®2 charge card are exempt sales to the Federal Government because, as your letter indicates, some sales will be billed to and paid for by the individual government employee. Specifically, your letter indicates that some government charge cards are centrally billed, some are individually billed and some can be both centrally billed or individually billed. Currently, there is no way for a retailer to ascertain at the time of the sale how the card will be billed. This is especially true when the retailer does not have any interaction with the purchaser (for instance, when the purchaser buys motor fuel and pays at the pump). Using the "E" number system is an

efficient and practical method to let the retailer know at the time of the sale that the purchaser is a tax-exempt entity and that the sale is a tax-exempt sale.

### **LODGING TAX/HOTEL OPERATORS' OCCUPATION TAX**

We direct your attention to the Department's Regulation at 86 Ill. Adm. Code 480.101 which explains the nature, rate and scope of the Hotel Operators' Occupation Tax Act ("HOOT") and can be found on the Department's website. As you will see from Section 480.101 (b)(3), a hotel operator incurs this tax on room rentals to entities that would otherwise be exempt from sales taxes (i.e., entities such as exclusively charitable, religious, or educational groups or government entities that possess exemption identification numbers issued by the Department).

The HOOT operates very differently from what is commonly referred to as "sales taxes" in Illinois. Under the HOOT, tax is imposed only upon the hotel operator. There is no complementary tax imposed upon the room occupant. Since there is no tax liability imposed upon the room occupant, there is nothing to which an occupant's exempt status can attach. In addition, the HOOT does not exempt a hotel operator from tax when a room is rented to an exempt entity holding an "E" number issued by the Department.

The HOOT authorizes hotel operators to collect an amount from their customers that represents reimbursement for the hotel operator's tax liability. The fact that room occupants hold an exemption identification number issued by the Department does not exempt them from paying this reimbursement charge, if imposed by the hotel operator.

### **TOURISM TAX**

Illinois has no tourism tax.

### **PUBLIC ACCOMMODATION TAX**

Illinois has no public accommodation tax.

### **FLEET TAX**

The Motor Fuel Tax is imposed "on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State" and is collected by distributors or suppliers making sales to retailers. The pump price includes all State, local and federal taxes. For example, the following comprise the State taxes on motor fuel: the Illinois Retailers' Occupation Tax (i.e., sales tax) is currently imposed on the selling price of gasoline at the rate of 6.25%; the Motor Fuel Tax is imposed upon the sale of motor fuel consumed upon public highways at the rate of 19 cents per gallon from January 1, 1990; and diesel fuel used in motor vehicles on public highways is taxed (under the Motor Fuel Tax) at the rate of 21-1/2 cents per gallon after January 1, 1990.

Under Illinois law, there is a method by which the Federal Government can purchase motor fuel without paying the motor fuel tax. Motor fuel may be sold free of motor fuel tax by distributors and suppliers who document the sales as prescribed under 86 Ill. Adm. Code 500.210(c). Specifically, subsection (c) of this regulation which addresses the manner in which tax-free sales to the Federal government or its instrumentalities must be documented. The regulation states, in part, that “[t]he seller shall retain the invoice number and date, name of carrier, bill of lading/manifest number, name of purchaser, Illinois origin, Illinois destination, and invoiced gallons.” As you can see, these procedures are designed for utilization when the Federal Government buys directly from a distributor or supplier. See Department regulations found at 86 Ill. Adm. Code 500.210 which detail the manner in which tax-free sales of motor fuel by licensed distributors and suppliers must be documented under the Motor Fuel Tax Law.

As you can see, the SmartPay®2 program does not fit with the structure of the Motor Fuel Tax. Under the Motor Fuel Tax Law, distributors and suppliers collect the motor fuel tax from the retailer when they deliver the motor fuel. The tax is thus paid up front by the retailer and is passed along to the end user as part of the selling price of the motor fuel sold at the pump.

## **OTHER TAX**

Illinois has no other tax exemptions.

## **TAX EXEMPTION FORMS**

Please see the Department’s regulation at 86 Ill. Adm. Code 130.2007 for information on applying for an exemption number.

## **TAX RECOVERY PROCEDURES**

If Retailers’ Occupation Tax and Use Tax (sales tax) were paid in error, a claim for credit would have to be filed by the taxpayer. The Department’s regulation at 86 Ill. Adm. Code 130.1501 describes the procedures used to obtain a credit for sales tax that was erroneously paid. Please note that only persons who have actually paid tax to the Department can file a claim for credit. Since retailers usually pay the tax to the Department, only retailers generally file claims for credit.

In order to submit claims for credit, taxpayers must first establish that they have either borne the burden of the tax or that they have unconditionally repaid the amount of tax to the vendees from whom they have collected the tax. The taxpayers must apply for the credit in the manner described in the rule. Under Illinois sales tax laws, retailers are not required to file claims for credit. The Department has no authority to compel retailers to file a claim for credit. Whether or not retailers refund the taxes paid and file claims for credit with the Department is a private matter between retailers and purchasers. If retailers agree to file a claim for credit, purchasers must provide the retailers with documentation specifying the nature of the exemption.

U.S. General Services Administration  
January 16, 2009  
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I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or call me at 217 782-3128

Sincerely

A handwritten signature in black ink that reads "Mike Klemens". The signature is written in a cursive style with a long, sweeping underline.

Mike Klemens  
Manager of Policy and Communications