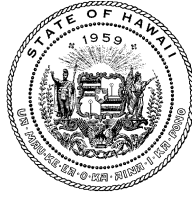


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TAX INFORMATION RELEASE NO. 2001-3

RE: United States Government Credit Cards Issued Under the "GSA Smart Pay" Program

This Tax Information Release ("TIR") discusses the application of the: (1) general excise tax; (2) fuel tax; (3) transient accommodations tax; and (4) rental motor vehicle tax to income received from purchases made with the General Services Administration ("GSA") Smart Pay credit cards. This TIR also explains the requirements for claiming a tax exemption and record keeping requirements.

I. GSA Smart Pay Credit Cards

The federal government, through the GSA, has implemented a consolidated credit card program for purchases by federal government employees on official government business.¹ The GSA awarded contracts to financial institutions issuing several types of Smart Pay credit cards, including:

- Smart Pay credit cards imprinted with the designation "for official U.S. government purchases only" to purchase tangible personal property (goods) or services for official use by the federal government ("Purchase Card");
- Smart Pay credit cards imprinted with the designation "for official government fleet use only" to purchase fuel, oil, maintenance or repair services for motor vehicles used by the federal government ("Fleet Card"); and
- Smart Pay credit cards imprinted with the designation "for official government travel only" for federal government employees traveling on official business to pay for transportation, lodging, and motor vehicle rentals ("Travel Card").

¹ This program replaced the International Merchant Purchase Authorization Card (IMPAC) purchase credit card, American Express travel card, and Wright Express fleet card with the Smart Pay credit card.

This TIR discusses the Hawaii tax implications of purchases of goods or services with these three types of credit cards.²

II. Application of the General Excise Tax (GET)

The GET is imposed on the gross income received by persons doing business in Hawaii. All income is subject to the GET, unless specifically exempted.

A. GET Exemption for Goods Purchased With a Smart Pay Purchase Card or Fleet Card

HRS §237-25, exempts from the GET income received from the sale of goods to the federal government. This exemption does not apply to the sale of services to the federal government. When a federal agency or employee purchases goods using a Smart Pay Purchase Card or Fleet Card for official use, the transaction constitutes a sale to the federal government, rather than a sale to the individual employee. Thus, the sale is exempt from the GET under HRS §237-25.

Example 1: A federal government agency pays for office supplies with a Smart Pay Purchase Card. The income received from the sale is exempt from the GET because the office supplies are sold to the federal government.

Example 2: A federal employee using a federal government vehicle pays for gasoline with a Smart Pay Fleet Card, which is assigned to the vehicle. The income received is exempt from the GET because the gasoline is sold to the federal government. To the extent the GET is accrued or collected, the gas station based on the tax information received from the financial institution issuing the Fleet Card or the credit card transaction processor may claim an exemption on the sale under HRS §237-25 or a credit or refund. The financial institution or the credit card transaction processor should exclude the amount of the GET on the billing to the federal government for the purchase of gasoline paid with a Fleet Card.³ *See* example 8 regarding an exemption from Hawaii fuel taxes.

² The Department of the Interior uses a single integrated card, which is imprinted with the designation: “for official government use only.” Purchases of goods with this card are exempt from the GET if the transaction is billed directly to the federal government. The Integrated card uses the sixth digit to identify whether the card is billed directly to the federal government. See the discussion in Part IIB of this TIR.

³ The financial institution’s merchant discount fee, however, is not exempt from the GET.

Example 3: A federal government agency pays for computer training services with a Smart Pay Purchase Card. The income received from these services is not exempt from the GET because services sold to the federal government are not exempt under HRS §237-25.

This exemption is not applicable where goods are furnished in conjunction with services sold to the federal government, even though the goods are segregated or billed separately from the services. *See* HRS §237-25(c).

Example 4: Assume the same facts as Example 2, except that the muffler and tailpipe on the government vehicle are replaced by a repair shop. The income received from the sale of the parts and labor is not exempt from the GET even if the parts are billed separately.

In addition, the income received from the rental of real property or goods by the federal government is not exempt under HRS §237-25.

Example 5: A federal government agency rents a room and audio visual equipment for a conference and pays with a Smart Pay Purchase Card. The rental income is not exempt from the GET.

B. GET Exemption for Goods Purchased With a Smart Pay Travel Card That is Billed Directly to the Federal Government

The GSA announced that a Travel Card with the number 6, 7, 8, 9 or 0 as the sixth digit is billed directly to the federal government. The income received from goods purchased with a Smart Pay Travel Card that is billed directly to the federal government is exempt from the GET. These sales constitute an exempt sale to the federal government.

Example 6: A federal employee rents a car for official business and pays for gasoline with a Smart Pay Travel Card that is billed directly to the federal government. The income received by the gas station is exempt from the GET because the gasoline is sold to the federal government. The income received from the rental of the car, however, is not exempt from the GET.

C. GET Exemption for Goods Purchased With a Smart Pay Travel Card That is Billed Directly to the Federal Government Employee

The income received from goods purchased with a Smart Pay Travel Card that is billed directly to the federal employee (rather than the government), is exempt from the GET, provided

the employee can document the transaction as an official government purchase through a travel authorization.

Example 7: Assume the same facts as Example 6, except that the Travel Card is billed directly to the federal employee and the employee presents a travel authorization. The income received by the gas station is exempt from the GET because the gasoline is sold to the federal government.

The income received from the sale of services, rental of real property or goods, or lodging purchased with any Travel Card is not exempt from the GET.

III. Application of Hawaii Fuel Taxes

Hawaii fuel taxes are imposed on a distributor for each gallon of liquid fuel that is imported, refined, manufactured, produced, or compounded and sold or used in Hawaii. *See* HRS §243-4. The fuel taxes may be passed-on by the distributor to its customer (e.g., gas station).

However, a sale by a distributor to the federal government is exempt from Hawaii fuel taxes. *See* HRS §243-7. The Smart Pay Fleet Card or Travel Card is generally used to make purchases of liquid fuel. When a federal government agency or employee purchases liquid fuel for official use (with a Fleet Card or Travel Card), the transaction is an exempt sale to the federal government.

Example 8: Assume the same facts as in Example 2. This sale of gasoline is exempt from Hawaii fuel taxes because the gasoline is sold to the federal government.

Example 9: Assume the same facts as in Example 6. This sale of gasoline is exempt from Hawaii fuel taxes because the gasoline is sold to the federal government.

If a federal employee purchases liquid fuel with a Travel Card that is billed directly to the federal employee, the sale is exempt, provided the employee can document the transaction as an official government purchase through a travel authorization.

Example 10: Assume the same facts as Example 7. This sale of gasoline is exempt from Hawaii fuel taxes because the gasoline is sold to the federal government.

The federal government will not have to file for a refund of fuel taxes on exempt sales because the financial institution issuing the Fleet Card or Travel Card or the credit card

transaction processor should exclude Hawaii fuel taxes on the billing to the federal government. If taxes were passed-on in the billing, the federal government should request a revised billing that excludes the fuel taxes.

Because the fuel taxes may be passed-on by the distributor to the gas station, the gas station may claim a credit from the distributor for exempt sales.

The distributor may file for a refund of the fuel taxes for exempt sales.

IV. Application of the Transient Accommodations Tax (“TAT”)

The TAT is imposed at the rate of 7.25 per cent on the income received by an operator from furnishing transient accommodations or a time share plan manager based upon the resort time share vacation unit’s (“RTSV”) fair market rental value. *See* HRS §§ 237D-2; 237D-15.

There is no TAT exemption for the income received by an operator for furnishing transient accommodations, including a RTSV, to a federal government employee regardless if the employee pays with a Smart Pay credit card.

There is, however, a TAT exemption for the income received by an operator furnishing transient accommodations to military personnel who receive temporary lodging allowances (“TLA”) while seeking accommodations in Hawaii or while awaiting reassignment to new duty stations outside Hawaii. *See* HRS §237D-3(4) and Hawaii Administrative Rules (“HAR”) §18-237D-3-01(a)(4).

The income received by an operator furnishing transient accommodations to military personnel receiving TLA is not exempt from the GET.

V. Application of the Rental Motor Vehicle Surcharge Tax (“RV tax”)

The RV tax is imposed on a lessor at the rate of \$3 a day or any portion of a day for the rental or lease (for a period of 6 months or less) of a motor vehicle. *See* HRS §251-2. There is no exemption from the RV tax for a motor vehicle rented or leased to a federal government employee regardless if the employee pays with a Smart Pay credit card.

VI. Tax Exemption Certificate or Tax Exemption Identification Number Not Required

A tax exemption certificate or identification number is not required on: (1) a sale of

goods to the federal government; (2) a sale of liquid fuel to the federal government; and (3) transient accommodations furnished to military personnel receiving TLA.

VII. Record keeping Requirements

A taxpayer should have records to support the exemption; e.g, a photocopy of the charge slip and the Smart Pay card. If the Smart Pay card cannot be photocopied, a taxpayer should record the federal government employee's name, federal government agency's name, and the Smart Pay card number, type, and expiration date.

Records must be kept and preserved within the State for a period of three years, and shall be open for examination at any time by the department, the Multistate Tax Commission, or the authorized representative of either entity.

VIII. Prior Tax Information Release Superseded

This TIR supersedes TIR No. 91-3, issued April 26, 1991, relating to the United States Government I.M.P.A.C. Visa credit cards.

Forms and other tax information are available at the Department's website at: **www.state.hi.us/tax**. On Oahu, forms may be ordered by calling the Department's Forms Request Line at: 587-7572. Persons who are not calling from Oahu may call: 1-800-222-7572 (toll-free) to receive forms by mail or by fax.

Marie Y. Okamura

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HRS Sections explained: HRS §§237-13(2), 237-25, 237D-2, 237D-3, 243-4, 243-7, and 251-2.
Rules Sections Explained: HAR §§18-237D-3-01