



**PHIL BREDESEN**  
Governor

**STATE OF TENNESSEE**  
DEPARTMENT OF REVENUE  
**ANDREW JACKSON STATE OFFICE BUILDING**  
**NASHVILLE, TENNESSEE 37242**

**REAGAN FARR**  
Commissioner

March 5, 2009

Ms. Camesha Everett  
U.S. General Services Administration  
Office of Charge Card Management  
2200 Crystal Drive, Room 500  
Arlington, VA 22202

Dear Ms. Everett:

This letter is in response to your request regarding application of Tennessee tax exemptions and exemption documentation requirements for Federal Government purchases made using the GSA SmartPay® 2 charge cards. The SmartPay® 2 program began November 30, 2008, and replaces the previous SmartPay® charge card program that has been in effect since November 1998.

For purposes of sales and use taxes, Tennessee statutes and rules provide the following:

Tenn. Code Ann. § 67-6-308, "Notwithstanding § 67-6-501(a), no sales or use tax shall be payable on account of any direct sale or lease of tangible personal property or services to the United States, or any agency thereof created by congress, for consumption or use directly by it through its own government employees."

Tenn. Rules and Regulations 1320-5-1-.58(1), "Dealers making sales direct to the United States, or any agency thereof, shall obtain appropriate exemption certificate, and keep it in their records as evidence of such a sale."

For purposes of petroleum and alternative fuels taxes (fleet tax), Tennessee statutes provide the following:

Tenn. Code Ann. § 67-3-401(a), "There shall be exempted from the taxes and fees imposed in part 2 of this chapter any government agency that holds an active permit issued by the department."

Tenn. Code Ann. § 67-3-401(j), "Notwithstanding any other provision of this part to the contrary, a governmental agency may purchase petroleum products from retail stations free of the taxes imposed in §§ 67-3-201 – 67-3-203, and free of the fee imposed in § 67-6-204. Such purchases may only be made through a fleet credit card or an oil company credit card which has been issued by the oil company to a governmental agency which holds an exemption permit issued by the commissioner pursuant to this part."

For purposes of hotel occupancy taxes, Tennessee counties and municipalities administer such tax and any information provided in the exemption offerings form should be considered informal and nonbinding.

Ms. Camesha Everett  
March 5, 2009  
Page 2

Tennessee tax statutes provide for federal government sales and use tax exemption when the billing for tangible goods and taxable services are made directly to and paid for directly by the federal government or its agency. Tennessee sales and use tax statutes *do not* provide tax exemption for purchases made and paid by government employees when the employee is reimbursed by the federal government. Centrally billed accounts (CBAs) are charge card accounts in which all the charges are billed directly to the federal government and paid directly by the federal government to the issuing bank. Federal government purchases made with GSA SmartPay® 2 charge card accounts that are centrally billed accounts may qualify for Tennessee's federal government sales and use tax exemption. According to the information provided GSA SmartPay® 2 Purchase Cards and Fleet Cards are all charge card accounts that are centrally billed accounts and are considered directly billed and paid by the federal government.

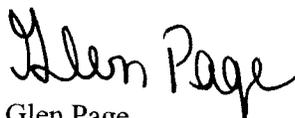
Individually billed accounts (IBAs) are charge card accounts in which charges are paid directly by the cardholder/federal employee to the issuing bank and federal employees are then reimbursed by the government. Purchases made with GSA SmartPay® 2 charge cards that are individually billed accounts *do not* qualify for Tennessee government tax exemptions. According to the information provided GSA SmartPay® 2 Travel Cards and Integrated Cards that include travel card functionality that are individually billed accounts are *not* considered directly billed and paid by the federal government or its agencies and therefore will *not* qualify for government tax exemptions for sales and use taxes, petroleum taxes, or hotel occupancy taxes.

While the GSA SmartPay® 2 cards that are centrally billed accounts are considered direct sales to and purchases by the federal government or its agencies, sellers making taxable sales to the federal government or its agencies are required to also obtain exemption certificates or exemption permits to document tax exempt sales to or purchases by the federal government or its agencies. Tennessee sales and use tax statutes and rules require retailers to obtain from government purchasers exemption certificates and keep such documents in their records to document exempt sales to the United States government or its agencies. The sales and use tax government certificate of exemption is available at <http://www.state.tn.us/revenue/forms/sales/fl301301.pdf>. In lieu of the Tennessee government certificate, government customers may instead present retailers with a Streamlined Sales and Use Tax Certificate of Exemption form that is available at <http://www.state.tn.us/revenue/streamlined/exemptioncertificate.pdf>.

Tennessee petroleum and alternative fuels taxes are imposed on the importer or licensed supplier. However, an importer, licensed supplier or wholesaler can obtain a refund for taxes paid on petroleum products imported into Tennessee that were subsequently sold tax free to government agencies that have obtained a government agency petroleum tax exemption permit from the Tennessee Department of Revenue. Federal government purchases made with GSA SmartPay® 2 Fleet Cards may qualify for petroleum and alternative fuels tax exemption if the federal government agency has obtained the government agency petroleum tax exemption permit. Application for the government agency petroleum tax exemption permit is available at <http://www.state.tn.us/revenue/forms/petro/fl403001.pdf>.

This response does not constitute a revenue tax ruling or a binding letter ruling of the Department of Revenue pursuant to Tenn. Code Ann. § 67-1-109. Please contact Sherry Harrell, Tax Policy Analyst, if you have additional questions at phone number (615) 532-6021 or email at [Sherry.Harrell@state.tn.us](mailto:Sherry.Harrell@state.tn.us).

Sincerely,



Glen Page  
Deputy Commissioner

# Tax Exemption Offerings Form

GSA SmartPay<sup>®</sup> 2

[www.qsa.gov/smartpay](http://www.qsa.gov/smartpay)

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

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

**State – Tennessee**

## 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.)
<p><b>Sales Tax</b>      <input checked="" type="checkbox"/> Centrally Billed Accounts</p> <p style="padding-left: 150px;"><input type="checkbox"/> Individually Billed Accounts</p>	<p>Tenn. Code Ann. § 67-6-308 – exemption for direct sales to United States government or agency thereof created by Congress, for consumption and use directly by it through its own government employees.</p> <p>Tenn. Rules &amp; Regulations 1320-5-1-.58 – government purchasers required to issue to vendors a completed government tax exemption certificate certifying sale is a direct purchase by United States government or agency thereof created by Congress.</p> <p>The sales and use tax government certificate of exemption form is available at <a href="http://www.state.tn.us/revenue/forms/sales/f1301301.pdf">http://www.state.tn.us/revenue/forms/sales/f1301301.pdf</a>. The form is to be completed by the governmental agency and presented to the retailer to make sales and use tax exempt purchases of tangible personal property or taxable services. In lieu of the Tennessee government certificate of exemption, government customers may instead present retailers with the Streamlined Sales and Use Tax Certificate of Exemption form that is available at <a href="http://www.state.tn.us/revenue/streamlined/exemptioncertificate.pdf">http://www.state.tn.us/revenue/streamlined/exemptioncertificate.pdf</a>.</p> <p>Purchases made by federal government employees who pay the bill and are later reimbursed by the federal government are subject to sales and use tax. Such purchases do not qualify for government exemption for sales and use tax.</p>
<p><b>Lodging Tax</b>      <input type="checkbox"/> Centrally Billed Accounts  <input type="checkbox"/> Individually Billed Accounts</p>	<p>Not Applicable. See Sales Tax and Hotel Occupancy Tax.</p>
<p><b>Hotel Occupancy Tax</b>      <input checked="" type="checkbox"/> Centrally Billed Accounts</p> <p style="padding-left: 150px;"><input type="checkbox"/> Individually Billed Accounts</p>	<p>Tax is levied by Tennessee counties and cities by private act or pursuant to Tenn. Code Ann. § 7-4-101–102 or 67-4-1401–1425; The Hotel Occupancy Tax, which may also be called Tourist Accommodation Tax in some local jurisdictions, is not administered by the Tennessee Department of Revenue. However, in an effort to provide informal assistance, both the Legal Office of the Department of Revenue and the Tax Division of the Attorney General's Office indicated that, pursuant to Article VI Clause 2 of the Constitution of the United States, charges directly billed to and paid by the United States government or agency thereof for the privilege of occupancy in any hotel should not be subject to the hotel occupancy taxes. The Department of Finance for the counties or municipalities, or county or city court clerks administer these locally imposed taxes and should be contacted regarding requirements for exemption.</p> <p>Purchases made by federal government employees who pay the bill and are later reimbursed by the federal government are not exempt from hotel occupancy taxes.</p>

**Tax Exemption Offerings**  
(Please check all that apply)**Additional Information**  
(Description, pertinent statutes, regulations, etc.)

<b>Public</b>		
<b>Accommodation Tax</b>	N/A Centrally Billed Accounts N/A Individually Billed Accounts	Not Applicable. See Sales Tax and Hotel Occupancy Tax.
<b>Tourism Tax</b>	N/A Centrally Billed Accounts N/A Individually Billed Accounts	Not Applicable. See Sales Tax and Hotel Occupancy Tax.
<b>Fleet Tax</b>	X Centrally Billed Accounts X Gasoline X Diesel Fuel X Alternative Fuel  X Maintenance	Petroleum and alternative fuels taxes are imposed on the importer or licensed supplier pursuant to Tenn. Code Ann. § 67-3-201–204. Governments must register with the Department of Revenue for a government exemption permit authorizing petroleum tax exemption for purchases by governments from importers and licensed suppliers. Application for the government agency petroleum tax exemption permit is available at <a href="http://www.state.tn.us/revenue/forms/petro/f1403001.pdf">http://www.state.tn.us/revenue/forms/petro/f1403001.pdf</a> . A government petroleum tax exemption is also available at retail stations with the use of fleet cards or oil company cards that are centrally billed to the government, and the government agency has obtained the government agency petroleum tax exemption permit. See Tenn. Code Ann. §§ 67-3-401 and 67-3-413. Tennessee imposes sales tax on repair and installation of tangible personal property. See Sales Tax.
<b>Other Tax</b>	N/A Centrally Billed Accounts N/A Individually Billed Accounts	Not Applicable.

**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:**[www.Tennessee.gov/revenue](http://www.Tennessee.gov/revenue)

1. Tennessee Sales or Use Government Certificate of Exemption <http://www.state.tn.us/revenue/forms/sales/f1301301.pdf>
2. Streamlined Sales Tax Certificate of Exemption <http://www.state.tn.us/revenue/streamlined/exemptioncertificate.pdf>
3. Atomic Energy Commission Purchasing Agent Sales/ Use Exemption <http://www.state.tn.us/revenue/forms/sales/f1306601.pdf>
4. Government Agency Application for Petroleum Tax Exemption Permit <http://www.state.tn.us/revenue/forms/sales/f1301301.pdf>

**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:****Website Address or Hyperlink:**[www.Tennessee.gov/revenue](http://www.Tennessee.gov/revenue)

1. Sales and use tax claims for refund may only be refunded and paid to the parties that paid the sales or use tax directly to the Tennessee Department of Revenue. Government customers must obtain refunds from the retailer to which the tax was incorrectly paid. The retailer must refund the tax or issue a credit memorandum to the government customer prior to obtaining a sales or use tax refund from the Department of Revenue. Government customers must provide the Tennessee Sales or Use Tax Government Certificate of Exemption to retailers to make sales and use tax exempt purchases. In lieu of the Tennessee Sales or Use Tax Government Certificate of Exemption, government customers may also present to retailers a fully completed Streamlined Sales and Use Tax Certificate of Exemption form to document direct sales to the United States government and agencies.
2. Contact the Department of Finance of the counties or cities, or the county or city court clerks, for information and procedures regarding any incorrectly paid hotel occupancy taxes for centrally billed accounts to the United States government and agencies.
3. Petroleum tax refunds may only be refunded and paid to the parties that paid the petroleum tax to the Tennessee Department of Revenue. Government customers must obtain refunds from the licensed wholesalers or retail stations. Licensed wholesalers who have paid petroleum taxes and fees under Tenn. Code Ann. § 67-3-201–204, may apply for a refund or credit of taxes or fees paid on any petroleum products subsequently sold free of tax to a governmental agency holding a government exemption permit issued by the Tennessee Department of Revenue. For sales of petroleum products made to governmental agencies from retail stations, the licensed wholesaler, supplier, or importer may apply for refund or claim a credit on behalf of a retail vendor.

## V. CONTACT INFORMATION

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

Last Name, First Name:	Harrell, Sherry
Name of Agency:	Tennessee Department of Revenue
Office Address (Line 1):	Legal Office, 6 <sup>th</sup> Floor
Office Address (Line 2):	500 Deaderick Street
City, State, Zip:	Nashville, TN 37242
Phone Number:	(615) 532-6021
Fax Number:	(615) 532-7346
Email Address:	<a href="mailto:Sherry.Harrell@state.tn.us">Sherry.Harrell@state.tn.us</a>