

## Revenue Information Bulletin

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Sales Tax

### Regarding Sales Tax Treatment of Hotel Accommodations for Employees of the Federal Government

This RIB concerns the sales/use tax treatment of federal employees' lodging at hotels located within Louisiana. This RIB answers the issue of taxable sales of hotel services to federal employees, as well as those procedures that must be followed for the federal employee to exercise the exemption from taxation.

#### Law/Analysis

Louisiana Revised Statute 47:302(C), 47:321(C), and 47:331(C) impose an aggregate 4% state sales tax on the sale of certain enumerated services. Under R.S. 47:301(14) the term "sale of services" includes the furnishing of sleeping rooms, cottages, or cabins by hotels. A "hotel," as defined by La. R.S. 47:301(6)(a), means any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location.

Under La. R.S. 47:301(8)(a) a "person" includes any "individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any parish, city and parish, municipality, district or other political subdivision thereof or any board, agency, instrumentality, or other group or combination acting as unit, and the plural as well as the singular number.

Louisiana Administrative Code 61:4301.C *Person* (f) states that "...due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI., §2, federal employees are also entitled to the exclusion from the definition of person when renting hotel rooms in the state. Since most purchases of lodging services for persons excluded by R.S. 47:301(8) are made by government employees, the following criteria are drafted from the perspective of those entities."

Under LAC 61:4301.C *Person* (f)(i):

Renting a hotel room to an employee of the United States government, the state of Louisiana, or a political subdivision of the state of Louisiana who is traveling on official business is considered a sale of a service to a government employer regardless of the form of payment to the hotel, provided the lodging services are obtained by the employee at the direction of the employer and accounted to and reimbursed by the government agency.

In order to receive the exemption, LAC 61:4301.C *Person* (f)(ii) requires a federal employee to present documentation certifying the exclusion in one of the following two ways:

- (a) with a copy of the employee's written travel orders certifying that the government employer will reimburse the actual lodging expenses incurred. The travel orders must be on government letterhead or forms and signed by an authorized representative of the government entity other than the employee engaging the hotel services. The orders must state that the employee is authorized to secure a room for a specific time period at a specific hotel or at a hotel within a defined travel area.

- (b) If written travel orders are unavailable or if the travel orders are incomplete or insufficient to satisfy all of the requirements in §4301.C. *Person* (f)(ii)(a), an exemption certificate signed by the employee and the authorized agent of the governmental agency other than the employee will certify the transaction's exempt status. The hotel can accept the department's certificate entitled Certificate of Governmental Exemption from the Payment of Hotel Lodging Taxes or one used by federal agencies, provided the form states that the employee's expenses are reimbursed by the employer in the actual amount incurred.

Louisiana Administrative Code 61:4301.C *Person* (f)(iii) further holds that:

Hotels must retain this documentation to support a sales tax deduction for room rentals to government employees on official business. Failure to do so will cause the deduction to be disallowed unless the hotel can provide competent independent evidence to certify the exemption's validity. The exemption will also be disallowed if it is determined that the documentation was obtained fraudulently or that the hotel knew the documentation was invalid when the employee presented it.

#### Requirements to Meet the Exemption

In order to qualify for the exemption the federal government employee on official business must follow the appropriate procedures, which vary depending on the form of payment. Generally, a federal government employee on official business will be exempt from state taxation if the employee is acting at the direction of the employer and is accounted to and reimbursed by the government agency, regardless of the form of payment. However, in order for a federal government employee on official duty to qualify for the exemption, the employee must present one of the following two forms of documentation, as required by LAC 61:4301.C. *Person* (f)(ii). The first is met by presentation of a copy of the employee's written travel orders certifying that the government employer will reimburse the actual lodging expenses incurred. The travel orders must be on government letterhead or forms and signed by an authorized representative of the government entity, other than the employee engaging the hotel services, and state that the employee is authorized to secure a room for a specific time period at a specific hotel or at a hotel within a defined travel area.

Alternatively, if written travel orders are unavailable or if the travel orders are incomplete or insufficient to satisfy all of the requirements in §4301.C. *Person* (f)(ii)(a), the federal government employee on official business may comply with LAC 61:4301.C. *Person* (f)(ii)(b) by providing a qualified exemption certificate as set forth therein.

#### Methods of Payment

In Rev. Ruling Number 07-008, the Department determined the taxability of certain purchases made by employees of the federal government using government issued federal credit cards, otherwise called "SmartPay Cards". The cards, issued by the United States government, come in four varieties, including: purchase, fleet, travel, and integrated. The Department determines that purchase and fleet cards are exempt from taxation as they are always billed directly to the United States government. In addition, travel cards, which can be used at hotels, are exempt from sales tax if the charges are centrally billed to the United States government and directly paid by the United States government. Contrarily, individually billed charges, i.e. those charges billed to and paid by the government employee who is subsequently reimbursed by the United States government, are subject to sales tax. To establish the status of a travel card, the sixth digit of a travel card determines whether the charge is centrally or individually charged. Travel cards whose 6<sup>th</sup> digit is 0,6,7,8 or 9 are centrally billed and exempt from sales tax. Travel cards whose 6<sup>th</sup> digit is 1, 2, 3, or 4 are individually billed and subject to sales tax. The ruling further explains

that a merchant need not obtain an exemption certificate to substantiate tax-exempt status as government-issued credit cards can be identified by their type and account numbering sequence. Instead, the vendor need only require identification establishing the person's identity and status as a U.S. government employee, such as an employee photo identification card.

Conclusion

If a federal government employee on official business should pay for hotel accommodations using a government issued credit card or a so-called "SmartPay Card," the employee need not comply with the requirements of LAC 61:4301.C. *Person* (f)(ii)(a)-(b). If the sixth digit of the travel card is 0, 6,7,8, or 9, indicating the charge is directly billed to the United States government, the vendor need only require identification establishing the person's identity and status as a U.S. government employee, such as an employee photo identification card. If the sixth digit of the travel card is any other number, the federal government employee on official duty must present one of the two forms of documentation required in LAC 61:4301.C *Person* (f)(iii)(a)-(b) in order for the transaction to be exempt from sales and use tax.

If you should have any questions or need additional information, please contact the Policy Services Division at (225) 219-2780.

Sincerely,

Cynthia Bridges  
Secretary

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