

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-94 (30)S
Sales Tax
July 18, 1994

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S940502C

On May 2, 1994, a Petition for Advisory Opinion was received from Empire Blue Cross and Blue Shield, 622 Third Avenue, New York, New York 10017-6758.

The issue raised by Petitioner, Empire Blue Cross and Blue shield, is whether purchases made by employees of Petitioner using corporate credit cards issued in the name of the employee and containing the initials of Petitioner would be subject to State and local sales and use taxes.

Petitioner is an organization exempt from State and local sales and use taxes and has been issued an Exempt Organization Certificate, Form ST-119. As an exempt organization, Petitioner provides its employees with a New York State and Local Sales and Use Tax Exempt Organization Certification, Form ST-119.1, to use when they travel on company business to make tax free purchases. Several establishments who have accepted a Form ST-119.1 in the past from Petitioner's employees have informed Petitioner that they can no longer accept them to certify that the purchaser is an exempt organization since the corporate credit card only carries the employee's name and makes no reference to Petitioner specifically. Due to the limitations of American Express regarding the number of characters allowed for a corporate name on the credit card, Petitioner proposes to use the abbreviation "EBCBS" in place of Petitioner's full name. New credit cards issued to employees will now bear the employees name along with initials EBCBS.

Section 529.7(h) of the Sales and Use Tax Regulations provides as follows:

(h) Sales to exempt organizations. (1) Any sale or amusement charge to or any use or occupancy by an exempt organization to which an exempt organization certificate has been issued is exempt from sales and use tax.

(2) In order to exercise its right to exemption the organization must be the direct purchaser, occupant or patron of record. It must also be the direct payer of record and must furnish its vendors with a properly completed exempt organization certification. "Direct purchaser, occupant or patron" as used in this paragraph includes any agent or employee authorized by the organization to act on its behalf in making such purchases, provided the organization and its agent or employee are both identified on any bill or invoice. "Direct payer of record" means that direct payment is made by the organization or from its funds.

(3) An exempt organization certification is deemed to be properly completed when it contains the:

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- (i) name and address of the vendor;
- (ii) name and address of the exempt organization;
- (iii) number assigned to the exempt organization certificate;
- (iv) signature of a responsible officer of the exempt organization;
and
- (v) date the certification was executed.

(4) Sales to any member, office or employee of an exempt organization are subject to the sales and use tax when the sales are for the personal use of the purchaser rather than the organization. (emphasis added)

Pursuant to Section 529.7(h) of the Sales and Use Tax Regulations, an exempt organization must be the direct purchaser and payer of record in order to make tax free purchases. A corporate credit card which bears the name of the employee along with name of the exempt organization, or an abbreviation for the name of the exempt organization, would be acceptable evidence for establishing that the exempt organization is the direct payer of record and that payment for purchases will be made from the funds of the organization. Accordingly, provided vendors are issued properly completed Exempt Organization Certifications, Form ST-119.1, by Petitioner's employees who are authorized by Petitioner to act on its behalf to make purchases and Petitioner and the employee are identified on any bill or invoice as the purchaser of record, employee purchases by use of the corporate credit card bearing the name of the employee and an abbreviation of Petitioner's name will not be subject to sales and use taxes.

DATED: July 18, 1994

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions are limited to the facts set forth therein.