

SC TEMPORARY REVENUE RULING #05-15

- SUBJECT:** FEMA and Red Cross Financial Assistance – Hurricane Katrina
(Sales and Use Tax)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** All previous advisory opinions and any oral directives in conflict herewith.
- REFERENCES:** S. C. Code Ann. Section 12-36-2120(2) (2000)
- AUTHORITY:** S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2004)
SC Revenue Procedure #03-1
- SCOPE:** The purpose of a Temporary Revenue Ruling is to provide immediate guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. A Temporary Revenue Ruling is an advisory opinion; it does not have the force or effect of law and is not binding on the public. It is, however, temporary, and is binding on agency personnel only until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Introduction:

The United States Department of Homeland Security's Federal Emergency Management Agency (“FEMA”) has activated an expedited assistance program for victims of Hurricane Katrina. More than 230,000 eligible households are receiving payments to help pay for their emergency needs of food, shelter, clothing, personal necessities and medical needs.

FEMA has sent out award payments to displaced individuals in many of the 50 states, and the District of Columbia, where victims of Hurricane Katrina have evacuated.

Once individuals register with FEMA for assistance, funds will be made available either through the use of electronic transfer to put funds directly in individuals' bank accounts, debit cards in some locations, or by check.

With respect to the FEMA debit cards, the United States Treasury is depositing funds with JPMorgan Chase Bank who, in turn, will be making the disbursement to retailers and others who accepts the cards. All cards will carry the same bank identification number which is 511393. The cards will require the use of a personal identification number (“PIN”) to make a purchase. The

cards may also be used to obtain cash through various ATM networks. The cards will be MasterCard branded and will carry one of two designs. Most will carry American flag art work; however, some initial cards will be blue with a Chase bank logo. (See the attached copies of the front and back of each FEMA debit card.) Retailers will be able to use the single bank identification number to program extra discounts for purchases using the cards, block purchases of alcohol, tobacco, and firearms, and to also address tax issues.

The American Red Cross (“Red Cross”) is putting in place a mechanism for providing financial assistance for the victims of Katrina, many of whom are now in locations across the nation. As part of this effort, the Red Cross may also distribute debit cards (“Red Cross Client Assistance Cards”) to victims of Hurricane Katrina. These cards are issued and funded by the Red Cross.

When the debit cards are used to purchase food, shelter, clothing, personal necessities and medical needs, the money is paid from a bank account of FEMA or the Red Cross, depending on which debit card is used.

At this time, victims of Hurricane Katrina are being relocated throughout the country, including South Carolina, and these victims will receive assistance as described above through FEMA and the Red Cross.

Law and Conclusion:

Code Section 12-36-2120(2) exempts from the South Carolina sales and use tax “tangible personal property sold to the federal government.”

FEMA is a part of the United States Department of Homeland Security and is therefore an agency of the federal government. The Red Cross is an instrumentality of the United States government. *Department of Employment et.al. v. United States*, 385 US 355 (1966).

Therefore, sales to, or purchases by, FEMA or the Red Cross are exempt from the South Carolina sales and use tax.

The Department, upon review of the above transactions, has determined that sales in which purchases are made with the above described FEMA debit cards or Red Cross debit cards are sales to either FEMA or the Red Cross and exempt from the South Carolina sales and use tax as sales to the federal government. This position is similar to one taken by the Department with respect to disbursement vouchers issued by the Red Cross in 1989 as a result of Hurricane Hugo. See SC Information Letter #89-34.

However, sales in which purchases are made by storm victims using funds which are received from FEMA or the Red Cross by check to the individual or by electronic transfer directly into the victim’s bank account are not sales to, or purchases by, the federal government and are therefore not exempt from the South Carolina sales and use tax. In addition, if a storm victim uses his own funds or if a storm victim uses a debit card to obtain cash from an ATM (if permissible under FEMA or Red Cross guidelines), then purchases made with such personal funds or cash are not exempt from the South Carolina sales and use tax.

Retailer should maintain proper records of all sales in which a FEMA or Red Cross debit card is used in order to document such tax exempt sales to FEMA or the Red Cross.

Note: FEMA recently discontinued the issuance of the above described debit cards. However, sales in which purchases are made with the FEMA debit cards that were previously issued to victims of Hurricane Katrina are still exempt from the South Carolina sales and use tax.

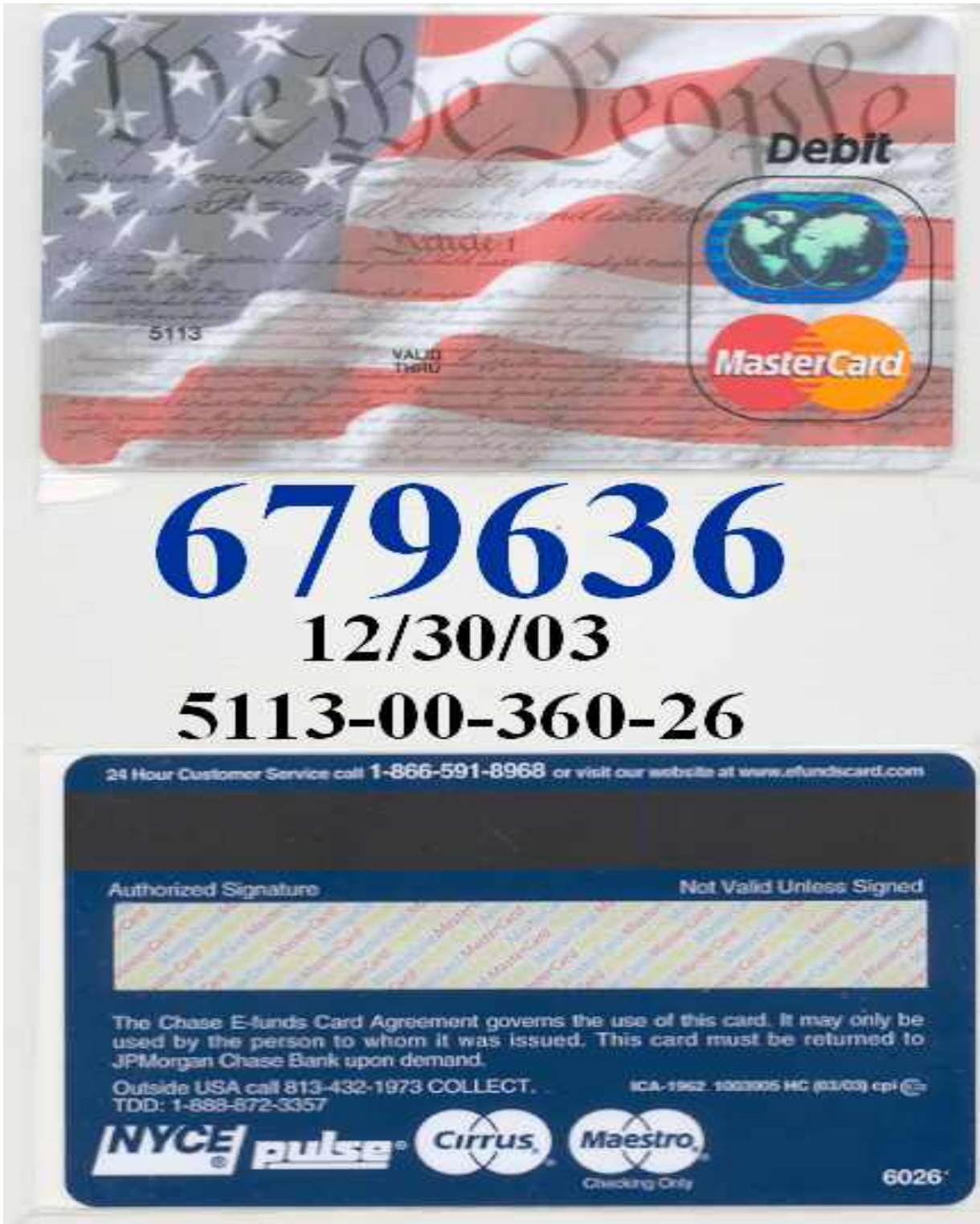
SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank III, Director

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Columbia, SC 29201

FEMA DEBT CARD



FEMA DEBT CARD

