STATE OF CALIFORNIA

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Executive Director

September 11, 2015

To Interested Parties:

Notice of Proposed Regulatory Action

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1619, *Foreign Consuls*

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation or Reg.) 1619, *Foreign Consuls*. The proposed amendments:

- Rename the regulation from "Foreign Consuls" to "Foreign Missions and Consuls" and add additional references to a federal treaty and diplomatic agreements relating to the American Institute in Taiwan (AIT) to the regulation's reference note;
- Add a new subdivision (a)(1) to the regulation entitled "Official Purchases – In General," to clarify that sales or use tax does not apply to the sale or lease of tangible personal property to a foreign mission or representative office, itself, to the extent that the such mission or representative office has been identified by the United States (U.S.) Department of State or the AIT as exempt from the tax pursuant to treaties or other diplomatic agreement with the United States, and specify that an exemption for the sale or lease to a mission or representative office for official purchases must be supported by evidence showing that payment was in a form bearing the name of the foreign mission or representative office;
- Renumber the first paragraph in current subdivision (a)(1) as subdivision (a)(2), add the title "Personal Purchases – In General" to the subdivision, and revise the subdivision to clarify that sales or use tax does not apply to the sale or lease of tangible personal property sold or leased to a representative office's employees and members of their families, to the extent that such persons have been identified by the AIT as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States;

- Add references to new subdivision (a)(1) and renumbered subdivision (a)(2) regarding the issuance of tax exemption cards by the AIT to eligible representative offices and personnel;
- Renumber the second paragraph in current subdivision (a)(1) of the regulation as subdivision (a)(3);
- Renumber current subdivision (a)(2), which is entitled "Vehicles," as subdivision (a)(4), update the type of records that a retailer may use to support an exempt sale or lease of a vehicle to include a copy of a tax exemption card and exemption letter issued by the AIT, and remove obsolete language with respect to the sale or lease of vehicles prior to June 1, 2003, including retailers' record-keeping requirements with respect to such sales;
- Add provisions to renumbered subdivision (a)(3) to clarify that tax does apply to sales of tangible personal property to foreign missions or representatives offices or to a representative office's employees and members of their families_who do not hold a Tax Exemption Card issued by the U. S. Department of State or the AIT, except as provided in renumbered subdivision (a)(4);
- Clarify in subdivision (b) that a retailer shall retain evidence that the form of payment for purchases made as described in new proposed subdivision (a)(1) was made in the name of the foreign mission or representative office, and that such payments may include official checks, official credit cards, or electronic funds transfers (automated clearing house debits, automated clearing house credits, or wire transfers); and
- Clarify in subdivision (b) that a retailer must retain a copy of a letter from the U.S. Department of State, Office of Foreign Missions or the AIT stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax.

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on October 27, 2015. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at *www.boe.ca.gov* at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. or as soon thereafter as the matter may be heard on October 27, 2015. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1619.

AUTHORITY

RTC section 7051

REFERENCE

RTC sections 6272, 6352, and 7053; Vienna Convention on Diplomatic Relations of April 18, 1961, article 34, 23 U.S.T. 3242), T.I.A.S. No. 7502; Vienna Convention on Consular Relations of April 24, 1963, article 49, 21 U.S.T. 77, T.I.A.S. No. 6820; Taiwan Relations Act (22 U.S.C. §§ 3301-3316); Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013; and Designation and Determination under the Foreign Missions Act, dated March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014)).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

California imposes sales tax on retailers for the privilege of selling tangible personal property at retail. (RTC, § 6051.) Unless an exemption or exclusion applies, the tax is measured by a retailer's gross receipts from the retail sale of tangible personal property in California. (RTC, §§ 6012, 6051.) Although sales tax is imposed on retailers, retailers may collect sales tax reimbursement from their customers if their contracts of sale so provide. (Civ. Code, § 1656.1; Reg. 1700, subd. (a)(1).)

When sales tax does not apply, California use tax is imposed, measured by the sales price of property purchased from a retailer for storage, use, or other consumption in California. (RTC, §§ 6201, 6401.) The use tax is imposed on the person actually storing, using, or otherwise consuming the property. (RTC, § 6202.) However, every retailer "engaged in business" in California that makes sales subject to California use tax is required to collect the use tax from its customers and remit it to the Board, and such retailers are liable for California use tax that they fail to collect from their customers and remit to the Board. (RTC, §§ 6203, 6204; Reg. 1684.)

The term "retail sale" means a sale of tangible personal property for any purpose other than resale in the regular course of business. (RTC, § 6007, subd. (a)(1).) The term "seller" includes "every person engaged in the business of selling tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax." (RTC, § 6014.) The term "retailer" includes "[e]very seller who makes any retail sale or sales of tangible personal property . . . ." (RTC, § 6015, subd. (a)(1).) Also, retailers are generally required to keep all records necessary to determine their correct tax liability under the Sales and Use Tax Law (RTC, § 6001 et seq.) and all records necessary for the proper completion of their sales and use tax returns. (RTC, § 7053; Reg. 1698.)

RTC section 6352 specifies that "[t]here are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this State of tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State." Regulation 1619 currently implements, interprets, and makes specific RTC section 6352 as it applies to sales and leases of tangible personal property, including vehicles (as defined in RTC, § 6272), to certain persons affiliated with foreign consulates that have been identified by the U.S Department of State as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States. Regulation

1619 also currently prescribes a retailer's general record keeping requirements in order to support any deduction claimed on sales tax returns for exempt sales to persons associated with foreign consulates.

Office of Foreign Missions – Tax Exemption Cards
The U.S. Department of State's website explains that the Office of Foreign Missions (OFM) issues two types of diplomatic tax exemption cards to eligible foreign missions and their accredited members and dependents based on international law and reciprocity. These cards facilitate the United States in honoring its host country obligations under the Vienna Convention on Diplomatic Relations (VCDR), Vienna Convention on Consular Relations (VCCR), and other treaties to provide an exemption from sales tax and other similarly imposed taxes throughout the United States at the point of sale. (See Attachments A and B to the Initial Statement of Reasons.)

Mission Tax Exemption Cards
OFM issued diplomatic tax exemption cards labeled "Mission Tax Exemption – Official Purchases Only" are used by foreign missions to obtain exemption from sales or use tax on purchases that are necessary for the mission's operations and functions. Also, all purchases must be paid for with a check, credit card, or wire transfer transaction in the name of the foreign mission to be exempt from tax. (See Attachment A to the Initial Statement of Reasons.)

OFM will only issue mission tax exemption cards to an individual who (1) is a principal member or employee of the mission, (2) holds an A or G series visa (and in the case of a G series visa holder, is a diplomatic agent), and (3) is not considered to be "permanently resident in" the United States for purposes of the VCDR and VCCR. This person's photo will appear on the card and is the mission's point of contact. However, individuals other than the person pictured on the exemption card may present the card when making purchases in the name of the mission. (See Attachment A to the Initial Statement of Reasons.)

Personal Tax Exemption Cards
OFM issued diplomatic tax exemption cards labeled "Personal Tax Exemption" are used by eligible foreign mission members and their dependents to obtain exemption from sales or use tax on personal purchases in the United States. The card must be used solely for the benefit of the individual identified and pictured on the card. The card is not transferable and cannot be loaned to any other person, regardless of that person's eligibility for exemption from taxation. There is no restriction on the form of payment that can be used with the card. (See Attachment A to the Initial Statement of Reasons.)

Eligibility for personal tax exemption cards is determined on a case-by-case basis, but the following individuals are generally entitled to apply for a card, if they are neither United States nationals nor permanently resident in the United States for purposes of the VCDR or VCCR:

- Diplomatic agents, members of the administrative and technical staff, consular officers, and consular employees; and

- The members of their families forming part of their households, but in the case of a child: those aged 18-21 years, or aged 18-23 years if accredited as a justified student.

In addition, other personnel may also be eligible to apply for a card if they qualify based on a treaty other than the VCDR or VCCR. (See Attachment A to the Initial Statement of Reasons.)

American Institute in Taiwan – Issues Tax Exemption Cards
The U.S. Department of State's website also explains that, in 1979, after the United States established diplomatic relations with the People's Republic of China, Congress, via the Taiwan Relations Act (TRA), created the AIT and charged it with the task of fostering strong but non-diplomatic ties between the people of the United States and Taiwan. The AIT serves as the advocate to Taiwan authorities for U.S. political, economic and security interests. In addition, the AIT supports the operations of a wide variety of U.S. agencies by negotiating cooperation agreements on behalf of the United States with its Taiwan counterpart, the Taipei Economic and Cultural Representative Office in the United States (TECRO). (See Attachment C to the Initial Statement of Reasons.)

Pursuant to federal law, TECRO, the Taipei Economic and Cultural Offices (TECOs), their designated employees, and their qualifying dependents are also entitled to tax exemption privileges. (Taiwan Relations Act (22 U.S.C. §§ 3301-3316); Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013; and Designation and Determination under the Foreign Missions Act, dated March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014).) Such privileges are authorized by the AIT, not the OFM. (See Attachment D to the Initial Statement of Reasons.)

Similar to the tax exemption cards issued by the OFM, the tax exemption cards issued by the AIT for eligible TECRO and TECOs personnel authorize an exemption from state sales and use tax, lodging/occupancy tax and similarly imposed taxes at the point of sale. The cards incorporate the same features and design elements as OFM's tax exemption cards. (See Attachment D to the Initial Statement of Reasons.)

Levels of Exemption
Not all missions or personnel are issued diplomatic tax exemption cards, and missions and personnel holding cards may have varying levels of tax exemption privileges authorized by the card. The level of exemption is set by the OFM based on reciprocity, determined by the tax relief privileges enjoyed by the U.S. Mission and personnel in a foreign country. The cards contain text on the front and back that indicate the level of exemption authorized for the cardholder. Some cards authorize an unrestricted exemption from sales taxes, and other cards authorize an exemption with some degree of restriction, such as a minimum purchase requirement, excluded categories, or both. In addition, tax exemption cards may not be used for exemption from taxes imposed on purchases of motor vehicles, gasoline/diesel fuel, utility services, airline tickets, or cruises. (See Attachments A and B to the Initial Statement of Reasons.)_Exemption from taxes on these items is managed and authorized by different means, and requires a request to be directed to the OFM or AIT. With respect to the sales and use tax

exemption for vehicles, the purchaser is required to provide a valid Tax Exemption Card or protocol identification card and the retailer is required to obtain an exemption letter from the OFM or AIT. (See Attachment E to the Initial Statement of Reasons.)

OFM Assistance
OFM regularly communicates with vendors to educate them about the tax exemption program. OFM explains that tax exemption cardholders should encourage vendors to verify the card's validity at its website or by calling OFM during business hours. (See Attachment A to the Initial Statement of Reasons.)

Effect, Objective, and Benefits of the Proposed Amendments to Regulation 1619

Need for Clarification

In a December 16, 2014, letter addressed to the Board's Executive Director, the OFM notified the Board that the AIT issues tax exemption cards to certain eligible persons, as explained above, the AIT has now issued tax exemption cards to TECRO, TECOs, and their eligible personnel and dependents, and that the policies regarding the use of AIT-issued tax exemption cards are the same as the policies for the OFM-issued tax exemption cards. The letter suggested that the Board issue a regulation, ruling, or statement mirroring the rules discussed above with respect to the tax exemption cards for TECRO, TECOs, and their personnel, "particularly in light of the presence of TECO offices in both Los Angeles and San Francisco." The letter also suggested that the Board revise Regulation 1619 to include a specific reference to sales to a foreign government/consulate itself for official purposes.

Based on the letter and a review of Regulation 1619, Board staff determined that there were issues with Regulation 1619 because:

- There were no specific references to exempt sales of tangible personal property other than vehicles to a foreign government consulate or mission, itself (i.e., official purchases);
- The regulation did not address the tax exemption for TECRO, TECOs, and their personal, or the tax exemption cards being issued by the AIT;
- There was obsolete language regarding exempt sales or leases of vehicles to individuals who do not hold a Personal Tax Exemption Card and missions that do not have a Mission Tax Exemption Card, prior to June 1, 2003; and
- There was a need to update the type of records that a retailer may use to support an exempt sale or lease of a vehicle to conform to the requirements for the tax exemption for TECRO, TECOs, and their personal discussed above.

Interested Parties Process

The Board's Business Taxes Committee (BTC) staff prepared draft amendments to Regulation 1619 to address the issues described above and a discussion paper to explain the draft amendments. Both were provided to interested parties.
On May 5, 2015, BTC staff conducted an interested parties meeting to discuss the draft amendments. No written comments were submitted prior to or at the interested parties meeting. However, staff did receive a May 5, 2015, email from Ms. Cheryl A. Cappiello Edson, Program Manager, Tax & Customs, Office of Foreign Missions, U.S. Department of State, after the interested parties meeting, which suggested adding citations to the following relevant treaty and diplomatic agreements relating to the AIT to the regulation's reference note: Vienna Convention on Consular Relations of April 24, 1963, article 49, 21 U.S.T. 77, T.I.A.S. No. 6820; Taiwan Relations Act (22 U.S.C. §§ 3301-3316); Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013; and Designation and Determination under the Foreign Missions Act, dated March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014)). Therefore, BTC staff agreed to add the citations to the regulation's reference note.

BTC staff also received and worked with interested parties' informal suggestions to refine the draft amendments, including a suggestion to add provisions to the regulation regarding the type of payments that would be acceptable for official purchases by a foreign mission. It was generally agreed that a form of payment bearing the name of the foreign mission or representative office would be acceptable and that unacceptable forms of payment would include cash, cashier's check, personal check, money order or personal credit card. BTC staff agreed to consider adding clarifying language to the draft amendments with respect to the acceptable types of payment.

Given the overall support for the draft amendments and the fact that BTC staff did not receive any written comments, other than the May 5, 2015, email, subsequent to the interested parties meeting, the second discussion paper and second interested parties meeting were cancelled.

July 28, 2015 Business Taxes Committee Meeting

Subsequently, BTC staff prepared Formal Issue Paper 15-006 and distributed it to the Board Members for consideration at the Board's July 28, 2015, BTC meeting. Formal Issue Paper 15-006 recommended that the Board propose to change the name of Regulation 1619 from "Foreign Consuls" to "Foreign Missions and Consuls." The change to the title of the regulation was suggested by BTC staff as more inclusive of the proposed clarification regarding an exemption from sales or use tax for foreign missions (discussed below). The formal issue paper also recommended adding additional references to the treaty and diplomatic agreements relating to the AIT referred to in the May 5, 2015, email discussed above to Regulation 1619's reference note so that the regulation's reference note refers to the relevant treaties and the diplomatic agreements relating to the AIT that are being implemented, interpreted, and made specific by Regulation 1619.

The formal issue paper recommended that a new subdivision (a)(1), entitled "Official Purchases – In General," be added to the regulation to clarify that sales or use tax does not apply to the sale or lease of tangible personal property to a foreign mission or representative office, such as TECRO or a TECO, to the extent that the such mission or representative office has been identified by the U.S. Department of State or the AIT as exempt from the tax pursuant to treaties or other diplomatic agreement with the United States, and specify that the sale or lease to a mission or representative office for official purchases must be supported by evidence showing that payment was in a form bearing the name of the foreign mission or representative office, as provided by federal law.

The formal issue paper recommended that the first paragraph in current subdivision (a)(1) of the regulation be renumbered as subdivision (a)(2), and entitled "Personal Purchases – In General." The formal issue paper recommended that renumbered subdivision (a)(2) be amended to clarify that sales or use tax does not apply to the sale or lease of tangible personal property sold or leased to a representative office's employees and members of their families, to the extent that such persons have been identified by the AIT as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States, as provided by federal law. The formal issue paper also recommended adding references to new subdivision (a)(1) and renumbered subdivision (a)(2) regarding the issuance of tax exemption cards by the AIT to eligible representative offices and personnel.

Additionally, the formal issue paper recommended that the second paragraph in current subdivision (a)(1) of the regulation be renumbered as subdivision (a)(3). The formal issue paper recommended renumbering current subdivision (a)(2), which is entitled "Vehicles," as subdivision (a)(4), updating the type of records that a retailer may use to support an exempt sale or lease of a vehicle to include a copy of a "valid" tax exemption card and exemption letter from the AIT, as currently provided by federal law, moving the regulation's current definition of "vehicle" to the end of renumbered subdivision (a)(4), and deleting the obsolete language with respect to the sale or lease of vehicles prior to June 1, 2003, including a retailers' record-keeping requirements with respect to such sales, from renumbered subdivision (a)(4) and current subdivision (b). The formal issue paper also recommended that renumbered subdivision (a)(3) be amended to clarify that tax does apply to sales of tangible personal property to foreign missions or representatives offices or to a representative office's employees and members of their families who do not hold a Tax Exemption Card issued by the U. S. Department of State or the AIT, except as provided in renumbered subdivision (a)(4).

Furthermore, the formal issue paper recommended that the Board propose amendments to updated and clarify subdivision (b) to reflect the documentation that retailers must currently have to establish that a transaction is exempt from sales and use tax under federal law. The recommended amendments clarify that a retailer shall retain evidence that the form of payment for purchases made as described in new subdivision (a)(1) was made in the name of the foreign mission or representative office, that such payments may include official checks, official credit cards, or electronic funds transfers (automated clearing house debits, automated clearing house credits, or wire transfers), as provided by federal law, and clarify that a retailer must retain a copy of a letter from the U.S. Department of State, OFM or similar letter from the AIT stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax that the retailer is required to obtain under federal law.

At the conclusion of the Board's discussion of Formal Issue Paper 15-006 during the July 28, 2015, BTC meeting, the Board Members unanimously voted to propose the amendments to Regulation 1619 recommended in the formal issue paper. The Board determined that the proposed amendments to Regulation 1619 are reasonably necessary to have the effect and accomplish the objective of clarifying and updating the regulation to address the issues referred to above and make the regulation consistent with current federal law regarding exempt sales to foreign missions, representative offices, their employees and their dependents.

The Board anticipates that the proposed amendments to Regulation 1619 will promote fairness and benefit foreign missions, representative offices, and their respective representatives and employees as well as retailers, Board staff, and the Board by providing updated guidance about how the exemption provided by RTC section 6352 applies and what identification and documents must be provided to the retailer and retained by the retailer for purposes of claiming the exemption. The Board has performed an evaluation of whether the proposed amendments to Regulation 1619 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because Regulation 1619 is the only state regulation that provides specific guidance to retailers regarding the proper application of RTC section 6352 to sales to foreign missions, representative offices, foreign consular officers, and employees of foreign missions and representative offices, and their dependents. In addition, the proposed amendments do implement, interpret, and make specific provisions in federal statues (22 U.S.C § 3301-3316) and a designation and determination published in the Federal Register (79 Fed.Reg. 16090 (March 24, 2014)); however, the Board has determined that there are no comparable federal regulations or statutes to Regulation 1619 or the proposed amendments to Regulation 1619.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1619 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Regulation 1619 will result in no direct or indirect cost or savings to any state agency and will result in no cost or savings in federal funding to the State of California. The Board has also determined that the adoption of the proposed amendments to Regulation 1619 will result in no direct or indirect cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, and will result in no other non-discretionary cost or savings imposed on local agencies.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Regulation 1619 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1619 may affect small business.

NO KNOWN COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board has determined that the proposed amendments to Regulation 1619 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Regulation 1619 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Regulation 1619 will not affect the benefits of Regulation 1619 to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of the proposed amendments to Regulation 1619 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Monica Gonzalez Silva, Tax Counsel III, by telephone at (916) 323-3138, by e-mail at Monica.Silva@boe.ca.gov, or by mail at State Board of Equalization, Attn: Monica Gonzalez Silva, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080. Mr. Bennion is the designated backup contact person to Ms. Silva.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on October 27, 2015, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to Regulation 1619 during the October 27, 2015 Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1619. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underscored and strikeout version of the text of Regulation 1619 illustrating the express terms of the proposed amendments. The Board has also prepared an initial statement of reasons for the adoption of the proposed amendments to Regulation 1619, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's Website at *www.boe.ca.gov*.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1619 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1619, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at *www.boe.ca.gov*.

Sincerely,

Joann Richmond

Joann Richmond, Chief
Board Proceedings Division

JR:reb

STATE BOARD OF EQUALIZATION

BOARD APPROVED

At the October 27, 2015 Board Meeting

Joann Richmond

Joann Richmond, Chief
Board Proceedings Division

Initial Statement of Reasons for

Proposed Amendments to California Code of Regulations,

Title 18, Section 1619, *Foreign Consuls*

SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED, NECESSITY, AND ANTICIPATED BENEFITS

Current Law

Revenue and Taxation Code (RTC) section 6051 imposes California sales tax on retailers for the privilege of selling tangible personal property at retail. Unless an exemption or exclusion applies, the tax is measured by a retailer's gross receipts from the retail sale of tangible personal property in California. (RTC, §§ 6012, 6051.) Although sales tax is imposed on retailers, retailers may collect sales tax reimbursement from their customers if their contracts of sale so provide. (Civ. Code, § 1656.1; Cal. Code Regs., tit. 18, § (Regulation or Reg.) 1700, subd. (a)(1).)

When sales tax does not apply, California use tax is imposed, measured by the sales price of property purchased from a retailer for storage, use, or other consumption in California. (RTC, §§ 6201, 6401.) The use tax is imposed on the person actually storing, using, or otherwise consuming the property. (RTC, § 6202.) However, every retailer "engaged in business" in California that makes sales subject to California use tax is required to collect the use tax from its customers and remit it to the State Board of Equalization (Board), and such retailers are liable for California use tax that they fail to collect from their customers and remit to the Board. (RTC, § 6203, 6204; Reg. 1684.)

The term "retail sale" means a sale of tangible personal property for any purpose other than resale in the regular course of business. (RTC, § 6007, subd. (a)(1).) The term "seller" includes "every person engaged in the business of selling tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax." (RTC, § 6014.) The term "retailer" includes "[e]very seller who makes any retail sale or sales of tangible personal property . . . ." (RTC, § 6015, subd. (a)(1).) Also, retailers are generally required to keep all records necessary to determine their correct tax liability under the Sales and Use Tax Law (RTC, § 6001 et seq.) and all records necessary for the proper completion of their sales and use tax returns. (RTC, § 7053; Reg. 1698.)

RTC section 6352 specifies that "[t]here are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this State of tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State." Regulation 1619, *Foreign Consuls,* currently implements, interprets, and makes specific RTC section 6352 as it applies to sales and leases of tangible personal property, including vehicles (as defined in RTC, § 6272), to certain persons affiliated with foreign consulates that have been identified by the United States (U.S)

Department of State as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States. Regulation 1619 also currently prescribes a retailer's general record keeping requirements in order to support any deduction claimed on sales tax returns for exempt sales to persons associated with foreign consulates.

Office of Foreign Missions – Tax Exemption Cards

The U.S. Department of State's website explains that the Office of Foreign Missions (OFM) issues two types of diplomatic tax exemption cards to eligible foreign missions and their accredited members and dependents based on international law and reciprocity. These cards facilitate the United States in honoring its host country obligations under the Vienna Convention on Diplomatic Relations (VCDR),[1] Vienna Convention on Consular Relations (VCCR),[2] and other treaties to provide an exemption from sales tax and other similarly imposed taxes throughout the United States at the point of sale. (Attachment A, Discussion of OFM Diplomatic Sales Tax Exemption Cards from U.S. Department of State's Website, and Attachment B, Discussion of Diplomatic Tax Exemptions from U.S. Department of State's Website.)

Mission Tax Exemption Cards

OFM issued diplomatic tax exemption cards labeled "Mission Tax Exemption – Official Purchases Only" are used by foreign missions to obtain exemption from sales or use tax on purchases that are necessary for the mission's operations and functions. Also all purchases must be paid for with a check, credit card, or wire transfer transaction in the name of the foreign mission to be exempt from tax. (Attachment A.)

OFM will only issue mission tax exemption cards to an individual who (1) is a principal member or employee of the mission, (2) holds an A or G series visa (and in the case of a G series visa holder, is a diplomatic agent), and (3) is not considered to be "permanently resident in" the United States for purposes of the VCDR and VCCR. This person's photo will appear on the card and is the mission's point of contact. However, individuals other than the person pictured on the exemption card may present the card when making purchases in the name of the mission. (Attachment A.)

Personal Tax Exemption Cards

OFM issued diplomatic tax exemption cards labeled "Personal Tax Exemption" are used by eligible foreign mission members and their dependents to obtain exemption from sales or use tax on personal purchases in the United States. The card must be used solely for the benefit of the individual identified and pictured on the card. The card is not transferable and cannot be loaned to any other person, regardless of that person's eligibility for exemption from taxation. There is no restriction on the form of payment that can be used with the card. (Attachment A.)

Eligibility for personal tax exemption cards is determined on a case-by-case basis, but the following individuals are generally entitled to apply for a card, if they are neither United States nationals nor permanently resident in the United States for purposes of the VCDR or VCCR:

- Diplomatic agents, members of the administrative and technical staff, consular officers,

[1] The VCDR provides for the establishment of permanent diplomatic missions.

[2] The VCCR provides for consular functions (as defined) to be exercised by consular officers.

and consular employees; and

- The members of their families forming part of their households, but in the case of a child: those aged 18-21 years, or aged 18-23 years if accredited as a justified student.

In addition, other personnel may also be eligible to apply for a card if they qualify based on a treaty other than the VCDR or VCCR. (Attachment A.)

American Institute in Taiwan – Issues Tax Exemption Cards
The U.S. Department of State's website also explains that, in 1979, after the United States established diplomatic relations with the People's Republic of China, Congress, via the Taiwan Relations Act (TRA), created the American Institute in Taiwan (AIT) and charged it with the task of fostering strong but non-diplomatic ties between the people of the United States and Taiwan. The AIT serves as the advocate to Taiwan authorities for U.S. political, economic and security interests. In addition, the AIT supports the operations of a wide variety of U.S. agencies by negotiating cooperation agreements on behalf of the United States with its Taiwan counterpart, the Taipei Economic and Cultural Representative Office in the United States (TECRO). (Attachment C, Discussion of U.S. Relations with Taiwan from U.S. Department of State's Website.)

Pursuant to federal law,[3] TECRO, the Taipei Economic and Cultural Offices (TECOs), their designated employees, and their qualifying dependents are also entitled to tax exemption privileges. Such privileges are authorized by the AIT, not the OFM. (Attachment D, December 2014, Tax Exemption Card Flyer from U.S. Department of State's Website.)

Similar to the tax exemption cards issued by the OFM, the tax exemption cards issued by the AIT for eligible TECRO and TECOs personnel authorize an exemption from state sales and use tax, lodging/occupancy tax and similarly imposed taxes at the point of sale. The cards incorporate the same features and design elements as OFM's tax exemption cards. (Attachment D.)

Levels of Exemption
Not all missions or personnel are issued diplomatic tax exemption cards, and missions and personnel holding cards may have varying levels of tax exemption privileges authorized by the card. The level of exemption is set by the OFM based on reciprocity, determined by the tax relief privileges enjoyed by the U.S. Mission and personnel in a foreign country. The cards contain text on the front and back that indicate the level of exemption authorized for the cardholder. Some cards authorize an unrestricted exemption from sales taxes, and other cards authorize an exemption with some degree of restriction, such as a minimum purchase requirement, excluded categories, or both. In addition, tax exemption cards may not be used for exemption from taxes imposed on purchases of motor vehicles, gasoline/diesel fuel, utility services, airline tickets, or cruises. (Attachments A and B.) Exemption from taxes on these items is managed and authorized by different means, and requires a request to be directed to the

[3] Taiwan Relations Act (22 U.S.C. §§ 3301-3316); Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013; and Designation and Determination under the Foreign Missions Act, dated March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014)).

OFM or AIT. With respect to the sales and use tax exemption for vehicles, the purchaser is required to provide a valid Tax Exemption Card or protocol identification card and the retailer is required to obtain an exemption letter from the OFM or AIT. (Attachment E, Discussion of Vehicle Tax Exemption from U.S. Department of State's Website.)

OFM Assistance
OFM regularly communicates with vendors to educate them about the tax exemption program. OFM explains that tax exemption cardholders should encourage vendors to verify the card's validity at its website or by calling OFM during business hours. (Attachment A.)

<u>Proposed Amendments</u>

Need for Clarity

In a December 16, 2014, letter addressed to the Board's Executive Director, the OFM notified the Board that the AIT issues tax exemption cards to certain eligible persons, as explained above, the AIT has now issued tax exemption cards to TECRO, TECOs, and their eligible personnel and dependents, and that the policies regarding the use of AIT-issued tax exemption cards are the same as the policies for the OFM-issued tax exemption cards. The letter suggested that the Board issue a regulation, ruling, or statement mirroring the rules discussed above with respect to the tax exemption for TECRO, TECOs, and their personnel, "particularly in light of the presence of TECO offices in both Los Angeles and San Francisco." The letter also suggested that the Board revise Regulation 1619 to include a specific reference to sales to a foreign government/consulate itself for official purposes.

Based on the letter from OFM and a review of Regulation 1619, Board staff determined that there were issues (or problems within the meaning Gov. Code section 11346.2, subd. (b)) with Regulation 1619 because:

- There were no specific references to exempt sales of tangible personal property other than vehicles to a foreign government consulate or mission, itself (i.e., official purchases);
- The regulation did not address the tax exemption for TECRO, TECOs, and their personnel, or the tax exemption cards being issued by the AIT;
- There was obsolete language regarding exempt sales or leases of vehicles to individuals who do not hold a Personal Tax Exemption Card and missions that do not have a Mission Tax Exemption Card, prior to June 1, 2003; and
- There was a need to update the type of records that a retailer may use to support an exempt sale or lease of a vehicle to conform to the requirements for the tax exemption for TECRO, TECOs, and their personnel discussed above.

Interested Parties Process

The Board's Business Taxes Committee (BTC) staff prepared draft amendments to Regulation 1619 to address the issues described above and a discussion paper to explain the draft amendments. Both were provided to interested parties.

On May 5, 2015, BTC staff conducted an interested parties meeting to discuss the draft amendments. No written comments were submitted prior to or at the interested parties meeting. However, staff did receive a May 5, 2015, email from Ms. Cheryl A. Cappiello Edson, Program Manager, Tax & Customs, Office of Foreign Missions, U.S. Department of State, after the interested parties meeting, which suggested adding citations to the following relevant treaty and diplomatic agreements relating to the AIT to the regulation's reference note: Vienna Convention on Consular Relations of April 24, 1963, article 49, 21 U.S.T. 77, T.I.A.S. No. 6820; Taiwan Relations Act (22 U.S.C. §§ 3301-3316); Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013; and Designation and Determination under the Foreign Missions Act, dated March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014)). Therefore, BTC staff agreed to add the citations to the regulation's reference note.

BTC staff also received and worked with interested parties' informal suggestions to refine the draft amendments, including a suggestion to add provisions to the regulation regarding the type of payments that would be acceptable for official purchases by a foreign mission. It was generally agreed that a form of payment bearing the name of the foreign mission or representative office would be acceptable and that unacceptable forms of payment would include cash, cashier's check, personal check, money order or personal credit card. BTC staff agreed to consider adding clarifying language to the draft amendments with respect to the acceptable types of payment.

Given the overall support for the draft amendments and the fact that BTC staff did not receive any written comments, other than the May 5, 2015, email, subsequent to the interested parties meeting, the second discussion paper and second interested parties meeting were cancelled.

July 28, 2015 Business Taxes Committee Meeting

Subsequently, BTC staff prepared Formal Issue Paper 15-006 and distributed it to the Board Members for consideration at the Board's July 28, 2015, BTC meeting. Formal Issue Paper 15-006 recommended that the Board propose to change the name of Regulation 1619 from "Foreign Consuls" to "Foreign Missions and Consuls." The change to the title of the regulation was suggested by BTC staff as more inclusive of the proposed clarification regarding an exemption from sales or use tax for foreign missions (discussed below). The formal issue paper also recommended adding additional references to the treaty and diplomatic agreements relating to the AIT referred to in the May 5, 2015, email discussed above to Regulation 1619's reference note so that the regulation's reference note refers to the relevant treaties and the diplomatic agreements relating to the AIT that are being implemented, interpreted, and made specific by Regulation 1619.

The formal issue paper recommended that a new subdivision (a)(1), entitled "Official Purchases – In General," be added to the regulation to clarify that sales or use tax does not apply to the sale or lease of tangible personal property to a foreign mission or representative office, such as TECRO or a TECO, to the extent that the such mission or representative office has been identified by the U.S. Department of State or the AIT as exempt from the tax pursuant to treaties or other diplomatic agreement with the United States, and specify that the sale or lease to a mission or representative office for official purchases must be supported by evidence showing that payment was in a form bearing the name of the foreign mission or representative office, as provided by federal law.

The formal issue paper recommended that the first paragraph in current subdivision (a)(1) of the regulation be renumbered as subdivision (a)(2), and entitled “Personal Purchases – In General.” The formal issue paper recommended that renumbered subdivision (a)(2) be amended to clarify that sales or use tax does not apply to the sale or lease of tangible personal property sold or leased to a representative office’s employees and members of their families, to the extent that such persons have been identified by the AIT as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States, as provided by federal law. The formal issue paper also recommended adding references to new subdivision (a)(1) and renumbered subdivision (a)(2) regarding the issuance of tax exemption cards by the AIT to eligible representative offices and personnel.

Additionally, the formal issue paper recommended that the second paragraph in current subdivision (a)(1) of the regulation be renumbered as subdivision (a)(3). The formal issue paper recommended renumbering current subdivision (a)(2), which is entitled “Vehicles,” as subdivision (a)(4), updating the type of records that a retailer may use to support an exempt sale or lease of a vehicle to include a copy of a “valid” tax exemption card and exemption letter from the AIT, as currently provided by federal law, moving the regulation’s current definition of “vehicle” to the end of renumbered subdivision (a)(4), and deleting the obsolete language with respect to the sale or lease of vehicles prior to June 1, 2003, including a retailers’ record-keeping requirements with respect to such sales, from renumbered subdivision (a)(4) and current subdivision (b). The formal issue paper also recommended that renumbered subdivision (a)(3) be amended to clarify that tax does apply to sales of tangible personal property to foreign missions or representatives offices or to a representative office’s employees and members of their families who do not hold a Tax Exemption Card issued by the U. S. Department of State or the AIT, except as provided in renumbered subdivision (a)(4).

Furthermore, the formal issue paper recommended that the Board propose amendments to update and clarify subdivision (b) to reflect the documentation that retailers must currently have to establish that a transaction is exempt from sales and use tax under federal law. The recommended amendments clarify that a retailer shall retain evidence that the form of payment for purchases made as described in new subdivision (a)(1) was made in the name of the foreign mission or representative office, that such payments may include official checks, official credit cards, or electronic funds transfers (automated clearing house debits, automated clearing house credits, or wire transfers), as provided by federal law, and clarify that a retailer must retain a copy of a letter from the U.S. Department of State, OFM or similar letter from the AIT stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax that the retailer is required to obtain under federal law.

At the conclusion of the Board’s discussion of Formal Issue Paper 15-006 during the July 28, 2015, BTC meeting, the Board Members unanimously voted to propose the amendments to Regulation 1619 recommended in the formal issue paper. The Board determined that the proposed amendments to Regulation 1619 are reasonably necessary for the specific purpose of clarifying and updating the regulation to specifically address the issues (or problems) referred to above and make the regulation consistent with current federal law regarding exempt sales to foreign missions, representative offices, their employees and their dependents.[4] The Board anticipates that the proposed amendments to Regulation 1619 will promote fairness and benefit foreign missions, representative offices, and their respective representatives and employees as well as retailers, Board staff, and the Board by providing updated guidance about how the exemption provided by RTC section 6352 applies and what identification and documents must be provided to the retailer and retained by the retailer for purposes of claiming the exemption.

The proposed amendments to Regulation 1619 were not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Regulation 1619 or the proposed amendments to Regulation 1619.

DOCUMENTS RELIED UPON

The Board relied upon Formal Issue Paper 15-006, and the exhibits to the issue paper, including the December 16, 2014, letter to the Board's Executive Director referred to above, in deciding to propose the amendments to Regulation 1619 described above during its July 28, 2015, BTC meeting.

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the proposed amendments to Regulation 1619 at this time or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the proposed amendments to Regulation 1619 at this time because the Board determined that the proposed amendments are reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the proposed amendments to Regulation 1619 that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purposes of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5) AND ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

[4] This specifically includes the VCDR, VCCR, Taiwan Relations Act (22 U.S.C. §§ 3301-3316), Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013, and Designation and Determination under the Foreign Missions Act, dated March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014)), discussed above.

Article 6, clause 2 of the U.S. Constitution provides that the "Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding" ("Supremacy Clause"). Therefore, federal law, including treaties, generally supersedes California law, and the exemption provided by RTC section 6352 generally ensures that California sales and use tax is not imposed on transactions that are exempt from sales and use tax under federal law.

The proposed amendments overall clarify that sales or use tax does not apply to the sale or lease of tangible personal property to a foreign mission or representative office for official purposes to the extent that such mission or representative office has been identified by the U.S. Department of State or the AIT as exempt from the tax, add provisions regarding tax exemption cards issued by the AIT, delete obsolete language regarding the purchase or lease of vehicles prior to June 1, 2003, and clarify the type of documents retailers are currently required to retain for purposes of determining that tax does not apply to purchases made by a foreign mission or representative office or its employees.

As a result, the proposed amendments make Regulation 1619 consistent with federal law, but they do not establish any new exemptions or require retailers to maintain any documentation that they would not be required to obtain under current federal law or retain under current California law. The proposed amendments do not mandate that individuals or businesses do anything that is not already required by federal law, the Sales and Use Tax Law, or Regulations 1619 and 1698, *Records*, and there is nothing in the proposed amendments that would significantly change how individuals and businesses would generally behave, in the absence of the proposed regulatory action, or that would impact revenue. Therefore, the Board estimates that the proposed amendments will not have a measurable economic impact on individuals and businesses. And, the Board has determined that the proposed amendments to Regulation 1619 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, because the Board has estimated that the proposed amendments will not have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars ($50,000,000) during any 12-month period.

Further, based on these facts and all of the information in the rulemaking file, the Board has also determined that the adoption of the proposed amendments to Regulation 1619 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

Furthermore, Regulation 1619 does not regulate the health and welfare of California residents, worker safety, or the state's environment. Therefore, the Board has also determined that the adoption of the proposed amendments to Regulation 1619 will not affect the benefits of Regulation 1619 to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the proposed amendments to Regulation 1619 will not have a significant adverse economic impact on business.

The proposed amendments to Regulation 1619 may affect small businesses.

U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Sales Tax Exemption

DIPLOMATIC SALES TAX EXEMPTION CARDS

The Department's Office of Foreign Missions (OFM) issues diplomatic tax exemption cards to eligible foreign missions and their accredited members and dependents on the basis of international law and reciprocity. These cards facilitate the United States in honoring its host country obligations under the Vienna Convention on Diplomatic Relations (VCDR), Vienna Convention on Consular Relations (VCCR), and other treaties to provide relief from certain taxes.

The cards provide point-of-sale exemption from sales tax and other similarly imposed taxes throughout the United States. At the time of payment when making a purchase, the cardholder must present the card to the vendor in person. The vendor may verify the card's validity at **https://ofmapps.state.gov/tecv/** or by calling OFM during business hours. The vendor should retain a copy of the front and back of the card for accounting and reporting purposes.

TYPES OF SALES TAX EXEMPTION CARDS

MISSION TAX EXEMPTION CARDS

Diplomatic tax exemption cards that are labeled as "Mission Tax Exemption – Official Purchases Only" are used by foreign missions to obtain exemption from sales and other similarly imposed taxes on purchases in the United States that are necessary for the mission's operations and functions. All purchases must be paid for with a check, credit card, or wire transfer transaction in the name of the foreign mission.

OFM will only issue mission tax exemption cards to an individual who (i) is a principal member or employee of the mission, (ii) holds an A or G series visa (and in the case of a G series visa holder, is a diplomatic agent), and (iii) is not considered to be "permanently resident in" the United States for purposes of the VCDR and VCCR. This person's photo will appear on the card and is the mission's point of contact. This individual, however, does not need to be present when purchases are made in the name of the mission.

PERSONAL TAX EXEMPTION CARDS

Diplomatic tax exemption cards that are labeled as "Personal Tax Exemption" are used by eligible foreign mission members and their dependents to obtain exemption fror sales and other similarly imposed taxes on personal purchases in the United States. The card must be used solely for the benefit of the individual identified and pictured on the card. The card is not transferable and cannot be loaned to any other person, regardless of that person's eligibility for exemption from taxation. There is no restriction on the form of payment that can be used with the card.

Eligibility for personal tax exemption cards is determined on a case-by-case basis, but the following individuals are generally entitled to apply for a card, if they are neither U.S. nationals nor permanently resident in the United States for purposes of the VCDR or VCCR:

- individuals accredited as diplomatic agents, members of the administrative and technical staff, consular officers, and consular employees;
- the members of their families forming part of their households, but in the case of a child: those aged 18-21 years, or aged 18-23 years if accredited as a justified student.

Other personnel may also be eligible to apply for a card if they qualify based on a treaty other than the VCDR or VCCR.

*Note that employees (and their dependents) of international organizations and the Permanent Missions to the United Nations and Organization of American States who have been granted the privileges and immunities accorded to diplomatic agents are eligible for personal tax exemption cards. These unrestricted personal tax exemption cards facilitate the United States in honoring its obligations under relevant treaties to provide relief from certain taxes.

LEVELS OF EXEMPTION

Not all missions and personnel hold diplomatic tax exemption cards, and missions and personnel holding cards may have varying levels of tax exemption privileges authorized on the card. This level of exemption is set by OFM on the basis of reciprocity, determined by the tax relief privileges enjoyed by the U.S. Mission and personnel in that foreign country. Foreign missions interested in discussing improvements to their tax exemption benefits are encouraged to contact OFM.

The cards contain text on the front and back of the card that indicate the level of exemption authorized for the cardholder. Some cards authorize an unrestricted exemption from sales taxes, and other cards authorize an exemption with some degree of restriction, such as a minimum purchase requirement, excluded categories, or both.

In addition to the specific text, each tax exemption card bears one of four animal symbols indicating the specific type of tax exemption of the cardholder:

- Owl: *mission* tax exemption cards with unrestricted tax exemption.
- Buffalo: *mission* tax exemption cards with some degree of restriction.
- Eagle: *personal* tax exemption cards with unrestricted tax exemption.
- Deer: *personal* tax exemption cards with some degree of restriction.

TYPES OF PURCHASES PERMITTED AND NOT PERMITTED

Diplomatic tax exemption cards can generally be used to obtain exemption in person and at point-of-sale from sales taxes and other similarly imposed taxes on purchases of most goods and services, hotel stays, and restaurant meals in the United States. For specific policies and procedures concerning using official and personal tax exemption cards for hotel stays and lodging, missions and personnel should refer to the Department's note No. 13-619, dated July 19, 2013.

Tax exemption cards may not be used for exemption from taxes imposed on purchases of motor vehicles, gasoline/diesel fuel, utility services, airline tickets, or cruises. Exemption from taxes on these items is authorized using different means, which are explained at **http://www.state.gov/ofm/tax**.

Furthermore, because the nature of purchases made via the internet or by telephone does not allow for the presentation of the tax exemption card to the vendor, the card cannot be honored in such transactions. OFM is unable to provide any assistance to foreign missions or their members in obtaining an exemption or reimbursement of taxes charged on purchases not made in-store.

STATE-SPECIFIC RULES, INCLUDING STREAMLINED SALES TAX AGREEMENT

U.S. states and territories typically enact statutes and/or regulations or issue other guidance concerning the manner in which vendors in that state or territory must accoun for the diplomatic tax exemption in its records. OFM continues its efforts to ensure that tax authorities in all states and territories issue guidance supporting the diplomatic tax exemption card program so that vendors will appropriately extend a tax exemption with confidence.

Some U.S. states require their vendors to retain additional documentation in addition to a copy of the tax exemption card. For example, certain states require foreign missions and their members to complete a streamlined sales tax agreement exemption certificate. OFM has compiled relevant state guidance on its website at **http://www.state.gov/ofm/tax/sales/c63020.htm**. This may be particularly useful for foreign mission members who are traveling and expect to use the tax exemption card outside of their usual jurisdiction.

OFM ASSISTANCE WITH REFUNDS OR REJECTIONS

Missions and their members should encourage vendors to verify the card's validity at https://ofmapps.state.gov/tecv/ or by calling OFM during business hours. If a vendor is not familiar with the diplomatic tax exemption card program, they should be encouraged to visit the OFM website at **http://www.state.gov/ofm**; and especially **http://www.state.gov/ofm/tax/sales/c63020.htm**, which provides relevant state-specific guidance; or e-mail OFM for more information about the program. OFM regularly communicates with vendors to educate them about the program.

If the transaction occurs after OFM business hours, and the vendor does not accept the card, OFM will attempt to assist the mission or member in obtaining refunds of improperly imposed taxes (if more than a de minimis amount) by speaking to the vendor, but a refund cannot be guaranteed.

HOW TO APPLY FOR A TAX EXEMPTION CARD

To apply for an initial or renewal tax exemption card, eligible missions and their members should submit an application on the Department's E-Government (E-Gov) system. Applications are generally processed within five business days.

If a card is lost or stolen and the mission or member wishes to apply for a replacement card, a diplomatic note or letter must be uploaded in E-Gov (in pdf or jpg format) which explains when and where the card in question was lost or stolen. The replacement card application may be held for 30 days before it is processed.

Tax exemption cards are printed by the U.S. Government Printing Office at its facility in Washington and mailed via the U.S. Postal Service to the cardholder's residential address. Consequently, it is important that all individuals ensure that their addresses are correct with OFM.

RETURN OF TAX EXEMPTION CARDS

All tax exemption cards are the property of the U.S. government and must be returned to OFM when they have expired or been recalled, or when the cardholder's employment or assignment with a foreign mission has been terminated. When a mission member is terminated at one location and reaccredited at another location in the United States, his or her tax exemption card will be terminated. Therefore, he or she must return that card and apply for a new one.

If tax exemption cards are not returned to the Department, OFM reserves the right to take appropriate action, which may include temporarily suspending the issuance of new tax exemption cards to that mission.

Tax exemption cards should be delivered to OFM's Customer Service Center at 3507 International Place NW, Washington, DC 20522, or the nearest OFM regional office (New York, Miami, Chicago, Houston, San Francisco, or Los Angeles).

MISUSE OF TAX EXEMPTION CARD

Noncompliance with the rules stated herein constitutes misuse of the card, which is a serious offense. In the event of misuse, OFM will take appropriate action, which ma include: invalidating and recalling the card, delaying the issuance of new cards, and notifying law enforcement authorities.

Foreign missions, personnel, and vendors may contact OFM in Washington at **OFMTaxCustoms@state.gov** or (202) 895-3500 ext. 2. Anyone located outside of the Washington, DC, metropolitan area may contact the nearest OFM Regional Office. Information concerning OFM's regional offices is available at **www.state.gov/ofm/ro/**.

U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Diplomatic Tax Exemptions

In 1982, Congress passed the Foreign Missions Act, 22 U.S.C. 4301-4316, which created a new office in the United States Department of State. This office is called the Office of Foreign Missions (OFM). The purpose of OFM is to serve the foreign diplomatic and consular communities stationed in the United States, and to control their activities. All services are based on the principle of reciprocity. In other words, no privileges are granted to a foreign official here unless United States Embassy and Consular personnel receive the equivalent privileges in that country.
OFM responsibilities include the Diplomatic Tax Exemption Program, which provides sales and use, occupancy, food, airline, gas, and utility tax exemptions to eligible foreign officials on assignment in the United States. Tax exemption privileges for foreign diplomats, consular officers, and staff members are generally based on two treaties: the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. These treaties have been ratified by the United States and are the supreme law of the land under Article VI of the Constitution.

Not all foreign missions and their personnel are entitled to tax exemption, because this privilege is based on reciprocity and not all foreign countries grant such tax exemption to American Embassies and personnel.

*Note that diplomatic tax exemption cards are issued on the basis of international law and treaties to eligible international organizations and the Permanent Missions to the United Nations and Organization of American States, and to employees (and their dependents) of such offices who have been granted the privileges and immunities accorded to diplomatic agents.

Questions concerning bookkeeping requirements should be directed to the appropriate City or State Department of Revenue. Any questions regarding the eligibility of diplomatic or consular officers for sales and use tax exemption should be directed to the Office of Foreign Missions by electronic mail at **OFMTaxCustoms@state.gov** or:

Office of Foreign Missions
3507 International Place, NW
Washington, DC 20522-3303
(202) 895-3500

Office of Foreign Missions
Chicago Regional Office
77 W. Jackson Blvd, Ste 2122
Chicago, IL 60604-1503
(312) 353-5762

Office of Foreign Missions
Houston Regional Office
8701 S, Gessner Suite 906
Houston, Texas 77074
(713) 272-2865

Office of Foreign Missions
Los Angeles Regional Office
10940 Wilshire Blvd, Ste 1425
Los Angeles, CA 90024
(310) 235-6292

Office of Foreign Missions
Miami Regional Office
95 Merrick Way, Suite 505
Coral Gables, FL 33134
(305) 442-4943

Office of Foreign Missions
New York Regional Office
799 United Nations Plaza, 8th floor
New York, NY 10017
(646) 282-2825

Office of Foreign Missions
San Francisco Regional Office
One Market, Spear Tower, Suite 1375

San Francisco, CA 94105-1839
(415) 744-2910

U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

U.S. Relations With Taiwan

BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS
Fact Sheet
February 12, 2015

More information about Taiwan is available on the Taiwan Page and from other Department of State publications and other sources listed at the end of this fact sheet.

U.S.-TAIWAN RELATIONS

The United States and Taiwan enjoy a robust unofficial relationship. The 1979 U.S.-P.R.C. Joint Communique switched diplomatic recognition from Taipei to Beijing. In the Joint Communique, the United States recognized the Government of the People's Republic of China as the sole legal government of China, acknowledging the Chinese position that there is but one China and Taiwan is part of China. The Joint Communique also stated that the people of the United States will maintain cultural, commercial, and other unofficial relations with the people on Taiwan. The American Institute in Taiwan (AIT) is responsible for implementing U.S. policy toward Taiwan.
The United States does not support Taiwan independence. Maintaining strong, unofficial relations with Taiwan is a major U.S. goal, in line with the U.S. desire to further peace and stability in Asia. The 1979 Taiwan Relations Act provides the legal basis for the unofficial relationship between the United States and Taiwan, and enshrines the U.S. commitment to assist Taiwan in maintaining its defensive capability. The United States insists on the peaceful resolution of cross-Strait differences, opposes unilateral changes to the status quo by either side , and encourages dialogue to help advance such an outcome.

U.S. Assistance to Taiwan

U.S. development assistance to Taiwan in the 1950s and 1960s helped Taiwan create the prosperous economy it enjoys today. Currently, the United States provides no development assistance to Taiwan.

Economic Relations

The United States has maintained and enhanced its commercial ties with Taiwan since 1979. Taiwan is the United States' 10th largest trading partner, and the United States is Taiwan's largest foreign investor. Taiwan enjoys Export-Import Bank financing, Overseas Private Investment Corporation guarantees, normal trade relations status, and ready access to U.S. markets. AIT has been engaged in a series of trade discussions that have focused on protection of intellectual property rights and market access for U.S. goods and services. The United States has a trade and investment framework agreement with Taiwan under the auspices of AIT and the Taipei Economic and Cultural Representative Office in the United States.

Taiwan's Membership in International Organizations

The United States supports Taiwan's membership in international organizations that do not require statehood as a condition of membership and encourages Taiwan's meaningful participation in international organizations where its membership is not possible. Taiwan and the United States belong to a number of the same international organizations, including the World Trade Organization, the Asia-Pacific Economic Cooperation forum, and the Asian Development Bank.

Foreign Representation

The United States maintains unofficial relations with the people on Taiwan through the American Institute in Taiwan, a private nonprofit corporation, which performs citizen and consular services similar to those at diplomatic posts. The Director of AIT is Christopher J. Marut. Other principal officials are listed on **AIT's site**.

Taiwan maintains the Taipei Economic and Cultural Representative Office in the United States at 4201 Wisconsin Avenue, NW, Washington, DC 20016 (tel: 202-895-1800).

More information about Taiwan is available from the Department of State and other sources, some of which are listed here:

Department of State Taiwan Page
CIA World Factbook Taiwan Page
History of U.S. Relations With Taiwan (see China)
Human Rights Reports
International Religious Freedom Reports
Trafficking in Persons Reports
Narcotics Control Reports
Investment Climate Statements
Office of the U.S. Trade Representative Countries Page
U.S. Census Bureau Foreign Trade Statistics
Export.gov International Offices Page
Travel and Business Information

Attachment D -

TAX EXEMPTION CARDS

The U.S. Department of State issues tax exemption cards to eligible foreign missions, accredited members and dependents on the basis of international law and reciprocity. These cards authorize exemption from sales tax, occupancy tax, and similarly imposed taxes at the point of sale.

✓ **YES** ***most goods and services, hotel stays, and restaurant meals (subject to restrictions)***

✗ **NO** ***motor vehicles, gasoline/diesel fuel, utility services, or property tax (requests must be sent to OFM)***

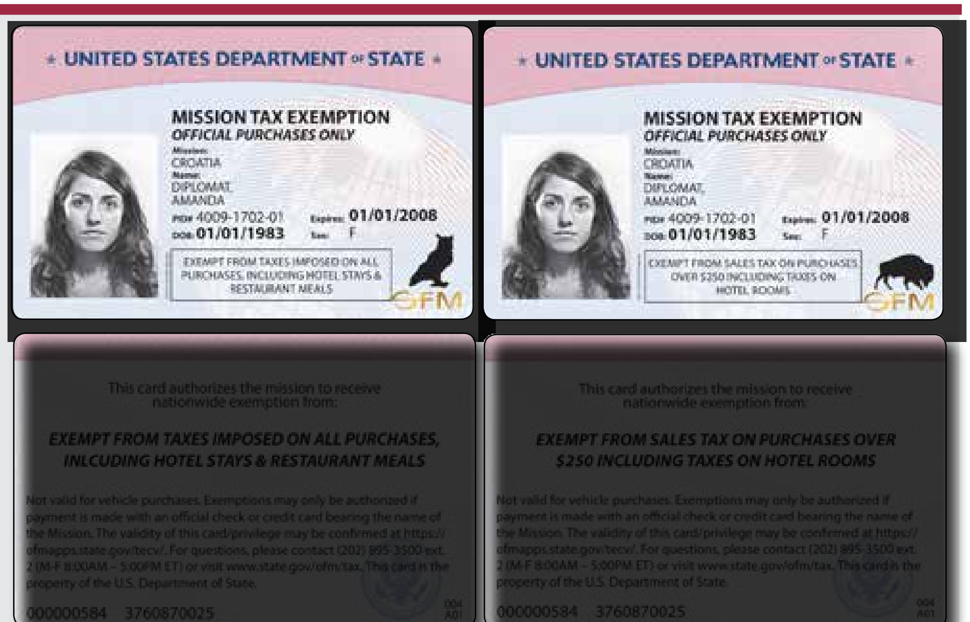
Please verify the validity of a tax exemption card at **https://ofmapps.state.gov/tecv/** or by contacting the **Office of Foreign Missions (OFM)** during business hours:

Washington, DC	(202) 895-3500 x2
Chicago	(312) 353-5762
Houston	(713) 272-2865
Los Angeles	(310) 235-6292
Miami	(305) 442-4943
New York	(646) 282-2825
San Francisco	(415) 744-2910

For more information, please visit **http://www.state.gov/ofm/tax.**

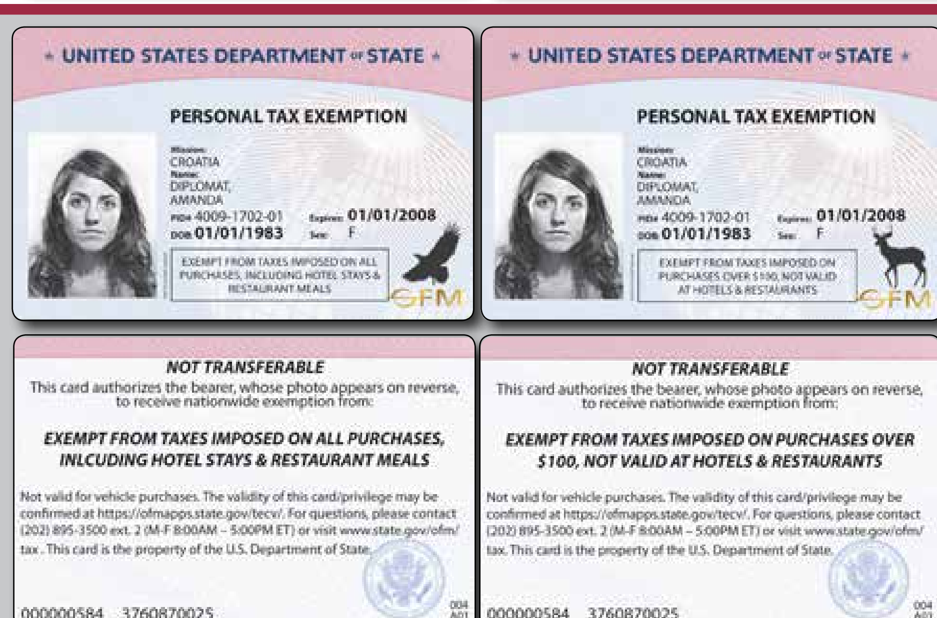
OFFICIAL PURCHASES

- Used by missions
- Payment in mission's name
- Individual pictured need not be present
- **OWL: no restrictions**
- **BUFFALO: some restrictions (please read card)**



PERSONAL PURCHASES

- Not transferable
- Any form of payment
- For benefit of individual pictured
- **EAGLE: no restrictions**
- **DEER: some restrictions (please read card)**



Attachment D -

AMERICAN INSTITUTE IN TAIWAN
TAX EXEMPTION CARDS

Under U.S. law, the Taipei Economic and Cultural Representative Office (TECRO), Taipei Economic and Cultural Offices (TECOs), their eligible employees and dependents are also eligible for tax exemption privileges. These privileges are authorized by the **American Institute in Taiwan (AIT)** and not the U.S. Department of State.

Please verify the validity of an AIT tax exemption card at **https://ofmapps.state.gov/tecv/** or by contacting AIT during business hours at **(703) 525-8474**.

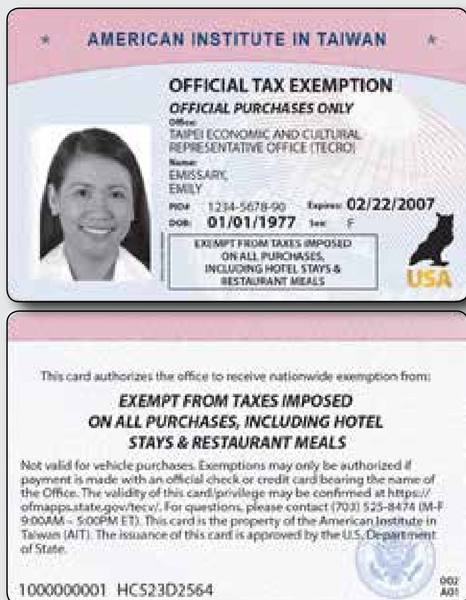
Like the other tax exemption cards, these cards authorize exemption from sales tax, occupancy tax, and similarly imposed taxes at the point of sale.

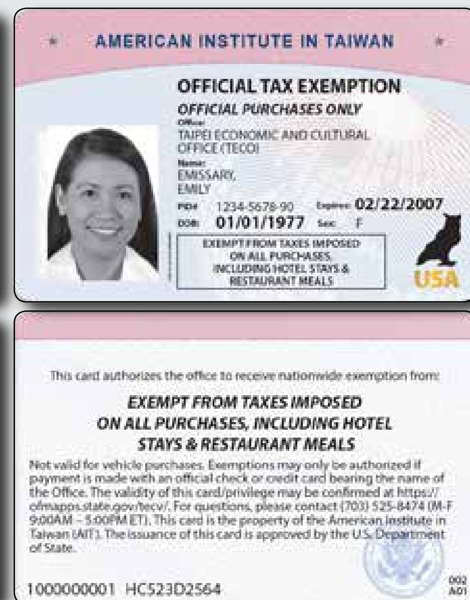
✓ **YES** ***most goods and services, hotel stays, and restaurant meals***

× **NO** ***motor vehicles, gasoline/diesel fuel, utility services, or property tax (requests must be sent to AIT)***

OFFICIAL PURCHASES

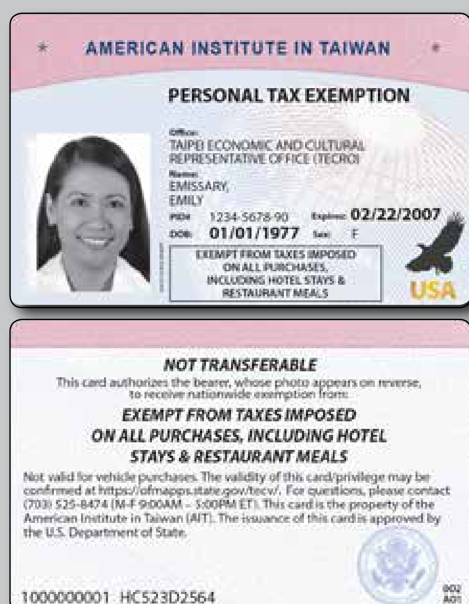
- Used by TECRO/TECO
- Payment in TECRO/TECO's name
- Individual pictured need not be present
- **OWL: no restrictions**

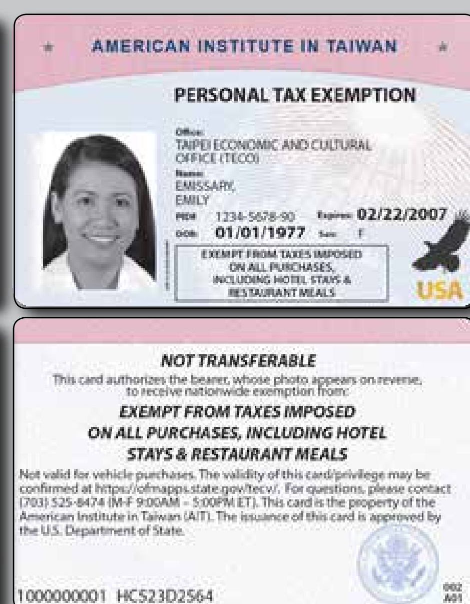




PERSONAL PURCHASES

- Not transferable
- Any form of payment
- For benefit of individual pictured
- **EAGLE: no restrictions**





DECEMBER 2014

U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Vehicle Tax Exemption

The Office of Foreign Missions (OFM) enforces the exemption of eligible foreign missions and their members from payment of any taxes when purchasing, leasing, registering or titling a vehicle. The following procedures are associated with requesting and obtaining a tax exemption on purchases or leases of official or personal motor vehicles by eligible foreign missions and their members in the United States. A "motor vehicle" is defined as any self-propelled vehicle, including but not limited to automobiles, motorcycles, boats, and aircraft.

The exemption of sales and use taxes imposed on purchases or leases of motor vehicles in the United States on the basis of the diplomatic or consular status or accreditation of the purchasing foreign mission or accredited mission member and their dependents is solely authorized via the issuance of a *Motor Vehicle Tax-Exemption Letter* by the Department's Office of Foreign Missions (OFM) to the seller or lessor of such motor vehicle. **Note that *Diplomatic Tax Exemption Cards* are not valid for exemption from taxes imposed on purchases of motor vehicles.**

Therefore, prior to finalizing a purchase or lease of a motor vehicle, all foreign missions and their accredited members must instruct the seller/lessor to directly contact OFM during normal business hours to request the issuance of a *Motor Vehicle Tax-Exemption Letter.*

Motor vehicle sellers/lessors may make such requests by electronic mail or telephone.

Sellers/lessors in Maryland, Virginia, or the District of Columbia should direct requests to **OFMTaxCustoms@state.gov** or (202) 895-3500, x2. Sellers/lessors outside this area should direct requests to the nearest **OFM Regional Office:**

- Chicago: **OFMCGCustomerService@state.gov** or (312) 353-5762
- Houston: **OFMHOCustomerService@state.gov** or (713) 272-2865
- Los Angeles: **OFMLACustomerService@state.gov** or (310) 235-6292
- Miami: **OFMMICustomerService@state.gov** or (305) 442-4943
- New York: **OFMNYCustomerService@state.gov** or (646) 282-2825
- San Francisco: **OFMSFCustomerService@state.gov** or (415) 744-2910

Sellers/lessors must provide the following information to OFM:

1. The seller/lessor's name, mailing address, and telephone and fax numbers;

2. The color, year, make, and model of the motor vehicle that the mission or accredited mission member is planning to acquire; and

3. For official motor vehicles: the name of the foreign mission that is purchasing or leasing a motor vehicle; or

4. For personal motor vehicles: the name (as it appears on their current "A or G series" visa) of the accredited mission member or their dependent who is purchasing or leasing a motor vehicle, the name of the foreign mission to which the individual is assigned, and the individual's Department-issued Personal Identification Number (PID). (Note that individuals must present proof of accreditation to the seller/lessor – i.e., valid passport which contains their current "A or G series" visa, or Department-issued protocol identification card, or Department-issued driver's license, or Department-issued Diplomatic Tax Exemption Card.)

OFM strives to transmit *Motor Vehicle Tax-Exemption Letters* to the requesting seller/lessor by either electronic mail or facsimile within two hours of receiving the request.

Sellers/lessors are required to send all original ownership documents directly to OFM so that the motor vehicle can be properly registered and titled. Auto dealerships and state motor vehicle administrations should treat this transaction as an out of state registration. OFM will issue a registration card and federal license plates once proper documentation is received. Also, a title will be sent to the indicated lien holder to protect the interest of the lender.

For more information on these procedures, see the **Department's note No. 12-331, dated December 3, 2012**

For more information on registration and titling, visit **http://www.state.gov/ofm/dmv/index.htm**.

Text of Proposed Amendments to

California Code of Regulations, Title 18, Section 1619

1619. Foreign Missions and Consuls.

(a) Application of Tax.

(1) Official Purchases – In General. Tax does not apply to the sale or use of tangible personal property sold or leased to a foreign mission or representative office to the extent that such mission or representative office has been identified by the U.S. Department of State or the American Institute in Taiwan as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. A foreign mission or representative office exempt from taxation pursuant to treaties or other diplomatic agreements with the United States will be issued a Mission Tax Exemption Card by the U.S. Department of State, or an Official Tax Exemption Card by the American Institute in Taiwan, for official purchases only and for the sole benefit of the foreign mission or representative office identified on the face of the card. To qualify for exemption, the U.S. Department of State or the American Institute in Taiwan requires that all purchases be paid in the form of payment in the name of the foreign mission or representative office.

(2~~1~~) Personal Purchases - In General. ~~Neither sales t~~Tax does not~~nor use tax~~ apply~~ies~~ to the sale or use of tangible personal property sold or leased to foreign consular officers, employees, or members of their families, or to a representative office's employees and members of their families, to the extent that such persons have been identified by the U.S. Department of State or the American Institute in Taiwan as exempt from the tax pursuant to treaties or other diplomatic agreements with the United States. Persons identified as exempt from taxation pursuant to treaties or other diplomatic agreements with the United States will be issued a Personal Tax Exemption Card by the U. S. Department of State or the American Institute in Taiwan which identifies the bearer as exempt from tax and which specifies the extent of the exemption.

(3) Tax applies to sales of tangible personal property to foreign missions or representatives offices, foreign consular officers, employees, or members of their families, or to a representative office's employees and members of their families, who do not hold a Tax Exemption Card issued by the U. S. Department of State or the American Institute in Taiwan except as provided in subparagraph (a)(4~~2~~) below. Also, tax applies to sales of tangible personal property to persons holding Tax Exemption Cards where their total purchases in a single transaction do not exceed the minimum level of exemption as specified on the Tax Exemption Card. Sales or use tax applies to the sale or use of tangible personal property sold to nationals of the United States even though such persons may perform consular functions for foreign governments.

(4~~2~~) Vehicles. In addition to the exemption provided in subparagraphs (a)(1) and (a)(2), ~~the purchase or lease of vehicles on or after the date of assumption of duties by foreign consular officers, employees, or members of their families who do not hold a Personal Tax Exemption Card will be exempt from the sales and use taxes if an identification letter is furnished directly to the retailer by the Office of Foreign Missions, U.S. Department of State (OFM). In the absence of a Mission Tax Exemption Card, the purchase or lease of vehicles on behalf of~~

~~a mission also will be exempt from the sales and use taxes provided an identification letter is furnished directly to the retailer by OFM. Such letters must confirm the name, exempt status, identification number (if available), and date of assumption of duties of the person seeking the exemption (if applicable) and must be furnished to the retailer at the time of the sale. For purposes of this regulation, "vehicle" is as defined in Section 6272 of the Revenue and Taxation Code.~~

~~Effective June 1, 2003,~~ the sale or lease of vehicles to foreign missions or representative offices, foreign consular officers, employees, or members of their families, or to a representative office's employees and members of their families, will be exempt from the sales and use tax if:

(A) The purchaser provides a valid Tax Exemption Card (Personal, ~~or~~ Mission, or Official) or a protocol identification card to the retailer; and

(B) The retailer contacts and obtains directly from the U.S. Department of State, Office of Foreign Missions~~OFM~~ or the American Institute in Taiwan a letter stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax ~~("OFM Eligibility Letter")~~.

For purposes of this regulation, "vehicle" is as defined in section 6272 of the Revenue and Taxation Code.

(b) Records of Retailers. Invoices or other written evidence of sale must be retained by the retailer to support any transaction~~deduction~~ claimed as an exempt sale on its sales and use tax return~~s~~ for sales to foreign consuls. The invoices or other written evidence should show the name of the purchaser, the name of the mission or representative office, the tax exemption number, the expiration date of the Tax Exemption Card, and the minimum level of exemption specified on the Tax Exemption Card. For official purchases as described in subdivision (a)(1), the retailer shall retain evidence that the form of payment was in the name of the foreign mission or representative office. Such payments may include official checks, official credit cards, or electronic funds transfers (automated clearinghouse debits, automated clearinghouse credits, or wire transfers). In addition, to support each transaction claimed as an exempt sale or lease of a vehicle ~~to a foreign diplomat or mission not holding a Tax Exemption Card, the identification letter from the OFM confirming the exempt status of the diplomat must be retained by the retailer.~~

~~Effective June 1, 2003, in addition to retaining invoices or other written evidence as specified above~~, the retailer must retain a copy of the Tax Exemption Card (Personal, ~~or~~ Mission, or Official) or protocol identification card, and the letter from the U.S. Department of State, Office of Foreign Missions~~OFM~~ or the American Institute in Taiwan stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax~~Eligibility Letter to support each transaction claimed as an exempt sale or lease of a vehicle to a foreign consular officer, employee, or member of his or her family~~.

Note: For special provisions affecting record retention, see Regulation 1698.

Authority cited: Section 7051, Revenue and Taxation Code. Reference: Sections 6272, 6352 and 7053, Revenue and Taxation Code; ~~and~~ Vienna Convention on Diplomatic Relations of April 18, 1961, a~~A~~rticle 34, ~~(~~23 U.S.T. 3242,~~)~~ T.I.A.S. No. 7502~~.~~; Vienna Convention on Consular Relations of April 24, 1963, article 49, ~~(~~21 U.S.T. 77~~)~~, T.I.A.S. No. 6820; Taiwan Relations Act (22 U.S.C. §§ 3301-3316); Agreement on Privileges, Exemptions and Immunities between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States, signed February 4, 2013; and Designation and Determination under the Foreign Missions Act, March 9, 2014 (79 Fed.Reg. 16090 (March 24, 2014)).

Regulation History

Type of Regulation: Sales and Use Tax

Regulation: 1619

Title: *Foreign Consuls*

Preparation: Monica Silva
Legal Contact: Monica Silva

The State Board of Equalization proposes to adopt amendments to Sales and Use Tax Regulation 1619, *Foreign Consuls*, to make the regulation consistent with current federal law regarding exempt sales to foreign missions, representative offices, their employees and their dependents.

History of Proposed Regulation:

October 27, 2015	Public Hearing
September 11, 2015	OAL publication date; 45-day public comment period begins; Interested Parties mailing
August 31, 2015	Notice to OAL
July 28, 2015	Business Tax Committee, Board Authorized Publication (Vote 5-0)

Sponsor: NA
Support: NA
Oppose: NA