

250.0000 FOREIGN CONSULS—Regulation 1619

(a) SALES TAX

250.0005 Argentine Diplomatic Corp. A taxpayer makes sales of marine fuel to the Argentine Diplomatic Corporation. The fuel is used for operation of Argentine Navy vessels. The sale is taxable unless the purchaser can establish it is entitled to an exemption by furnishing the tax exemption card issued by the U.S. Department of State. 2/9/95.

250.0025 Corporation Owned by Foreign Government. A taxpayer is a corporation, organized under the laws of the Commonwealth of Australia, and solely owned by the Australian government. Under Internal Revenue Code section 892, this corporation would be treated as a foreign government for United States tax purposes. The question was posed if this corporation would be considered a foreign government under the California Sales and Use Tax Law. California does not have an equivalent code section or regulation to Treasury Regulation section 1.892-2T.

California makes no distinction between corporations owned or controlled by foreign government and any other corporation. (See Annotation 250.0190 (07/25/90).)

Accordingly, if the corporation makes sales of tangible personal property at retail in this state, or stores, uses or otherwise consumes tangible personal property purchased from a retailer for use in this state, the corporation would not be exempt from the application of the Sales and Use Tax Law in California. Further, sales to the corporation are not exempt from sales tax. 7/15/96.

250.0050 Federal Republic of Germany. The consulate general of the Federal Republic of Germany requested the Board to issue its tax exemption cards to foreign nationals who are employees (clerks and secretaries), not diplomatic officers, of the consulate. These employees' applications listed their visa status as "immigrant."

"Immigrants" are generally aliens who seek permanent residence in the U.S., with the possibility of later becoming citizens, as contrasted with alien nonimmigrants who seek only a temporary stay in the U.S., with no intention of abandoning their country of residence. (8 U.S.C.A. section 1101 (a)(15).)

The multilateral Vienna Convention on Consular Relations to which the U.S. and Germany are parties, in summary exempts consular employees from certain taxes, including state sales and use taxes, except when consular employees are permanent residents of the receiving country unless the receiving country so provides. (Articles 49 and 71, Vienna Convention on Consular Relations, U.S. Treaties and other International Acts Series No. 6820.)

With respect to German nationals, the U.S. has done so under Article XIX of the 1925 U.S.-German treaty. Therefore, tax exemption cards should be issued to the consulate general's employees as requested. This is based on the fact that immigrants to the U.S. do not lose their status as foreign nationals, nor do they acquire status as U.S. nationals even though the immigrants have become permanent residents of the U.S. under their immigrant visas. 12/6/83.

250.0060 **Foreign Students.** Sales tax applies to sales of books and merchandise to foreign students by University of California students' store, even though paid for through the embassies in Washington, D.C. 10/1/63.

250.0070 **Mission Tax Exempt Card.** The Mission Tax Exemption Card provides an exemption from the sales or use tax for tangible personal property sold to foreign consular officers, employees, or members of their families. (Regulation 1619.) However, in the case of a construction contract between the owner of the building occupied by a foreign consular officer and the contractor, the sale is being made to the owner of the building rather than to the foreign consular officer. Accordingly, the Mission Tax Exemption Card does not provide an exemption to any taxes imposed with respect to the construction contract. 1/28/94.

250.0075 **Olympic Games.** The California Legislature has made no concessions or special exemptions from tax regarding equipment to be used in the Olympic Games. Participating teams fully sponsored by foreign governments are not immune from California taxes. The exemption applicable to certain consular officers, Regulation 1619, does not extend to Olympic teams. 4/26/83.

[250.0080](#) **United States Providing Purchase Money.** Sale of the vehicle to a foreign government's representative, with the United States Government furnishing the purchase money through AID, is taxable because the sale is not a sale to the United States Government. Even though foreign governments are exempt from payment of use tax, the sale to the foreign government is still taxable since the tax is on the retailer and not on the consumer. The sale cannot qualify as an exempt sale in interstate or foreign commerce, despite the representative's intention of shipping the vehicle to the foreign country, because delivery of the vehicle was made to the foreign government's representative in the state. 10/14/69.

250.0095 **Sales—Consular Officers Serving in Third Country.** California sales tax does not apply to the sale of tangible personal property to consular officers and their families residing in the state, pursuant to treaty or other diplomatic agreement. However, sales in California to foreign consular officers serving in a country other than the United States are not exempt. 8/6/76.

[250.0097](#) **Taiwan Diplomats.** In 1979, governmental relations between the United States and the governing authorities of Taiwan were terminated. Congress then passed the Taiwan Relations Act to promote the continuation of commercial, cultural, and other relations between the United States and the people of Taiwan. A nonprofit corporation called the American Institute in Taiwan was established and functions much like a foreign embassy. The Act exempted the Institute from any taxes imposed by any state or local taxing authority. Pursuant to the Act, the U.S. Department of State issues a Tax Exemption Card to members of the Institute stating that the holder is exempt from all sales taxes.

Since the State Department has identified the members of the American Institute in Taiwan as immune from state and local taxation pursuant to the Taiwan Relations Act, neither sales nor use tax applies to the sale or use of personal property sold to Taiwan Diplomats holding a Tax Exemption Card issued by the U.S. Department of State. 1/12/89.

250.0099 **Tax Exemption Card Withdrawn.** When the U.S. State Department has withdrawn the tax exemption cards of the personnel at a foreign government consulate's office due to differences in treaty interpretations, purchases by such personnel will be subject to sales tax. 6/8/87.

(b) USE TAX

250.0110 **Foreign Air Carrier—Corporation Not Wholly Owned by a Foreign Government.** A foreign corporation which is substantially an air carrier, but not wholly owned by a foreign government, is not exempt from use tax. Thus, it is not treated any differently than any other person for purposes of section 6009.1 which requires that the properties be purchased "for use solely outside the state". 5/10/90.

250.0120 **Foreign Airline Company.** The imposition of the use tax on spare aircraft parts installed in this state for a foreign airline company is not in violation of tax reciprocity agreements under treaties between the U.S. and France. The treaties were signed long after the imposition of a use tax by this state and the tax is not discriminatory, being imposed to the same extent on domestic aircraft companies. 4/1/65.

250.0140 **Government-Owned Foreign Airline.** A foreign airline company, a public corporation formed and substantially owned by a foreign government, is liable for use tax measured by the purchase price of spare aircraft parts purchased outside California and shipped into California for storage and installation, as needed, where tax treaties between the United States and the foreign government grant no immunities from state use taxes. However, parts later transshipped to points outside for installation are exempt. It is immaterial that such parts, when purchased, were not specifically intended or earmarked for storage and installation in California. 6/8/64; 7/15/64.

[250.0150](#) **International Organizations.** While neither sales nor use tax applies to books and documents purchased from foreign governments, international organizations are not regarded as foreign governments but as entities separate and apart from the constituent member states. Generally, there are no exemptions or exclusions for sales made by international organizations.

However, the United Nations is unique in that, by treaty, it is not required to pay sales tax on its sales transactions. The treaty immunity, however, does not shelter purchases from the United Nations from the California use tax because the use tax is imposed directly on the purchasers. Thus, purchases made from the United Nations are subject to use tax. 6/8/90.

[250.0190](#) **Person.** The definition of "person" in Sales and Use Tax Law section 6005 includes corporations but not foreign governments. However, there is no distinction between corporations partially or wholly owned by a foreign government and any other corporation publicly or privately owned. It also makes no exception for existing corporations which are "nationalized" by foreign governments.

Any possible immunity from use tax by virtue of treaties between the United States and the foreign governments owning such corporations is a matter of

evidence, with the person claiming exemption having the burden of proof to cite the specific treaty and provision which supports immunity. 7/25/90.

250.0200 Purchases from Foreign Governments. The use tax does not apply to purchases from foreign governments for the reason that they are not “persons” as defined in section 6005 and the purchases, therefore, are not made from a “retailer.” 12/23/54.

250.0220. Purchases from International Organizations. Generally, there are no exemptions in the Sales and Use Tax Law for sales made by international organizations. They are not regarded as foreign governments, but as entities separate and apart from the constituent member states.

The United Nations is unique in that it is not required to pay sales tax on its sale transactions. This is because the United Nations is expressly immune from direct taxation, by treaty. However, the treaty immunity of the United Nations does not shelter purchasers from the California use tax, because the use tax is imposed directly on the purchaser. Thus, purchases made from the United Nations are subject to use tax.

Also, tax does apply to sales made by, or purchases made from, organizations whose members are states to the United States, i.e., sales made by the Multistate Tax Commission. 6/8/90.

FOREIGN GOVERNMENTS

See Foreign Consuls