



**BOARD OF EQUALIZATION**

**BUSINESS TAXES COMMITTEE MEETING MINUTES**

HONORABLE DIANE L. HARKEY, COMMITTEE CHAIR

450 N STREET, SACRAMENTO

MEETING DATE: JULY 28, 2015, TIME: 10:00 A.M.

**Action Items & Status Report Items**

**Agenda Item No.: 1**

**Title: Proposed Amendments to Regulation 1619, *Foreign Consuls***

**Issue:**

Whether the Board should amend Regulation 1619, *Foreign Consuls*, to make a specific reference to sales to a foreign consulate or representative office for official purposes and add references regarding the issuance of tax exemption cards by the American Institute of Taiwan.

**Committee Discussion:**

Staff introduced the issue. There was no discussion of this item.

**Committee Action:**

Upon motion by Mr. Horton and seconded by Ms. Stowers, without objection, the Committee approved and authorized for publication the proposed amendments to Regulation 1619, *Foreign Consuls*. A copy of the proposed amendments to Regulation 1619 is attached.

Honorable Diane L. Harkey, Committee Chair

Cynthia Bridges, Executive Director

BOARD APPROVED

at the 7/28/15 Board Meeting

Joann Richmond, Chief  
Board Proceedings Division

**Regulation 1619. Foreign Missions and Consuls.**

*Reference:* Sections 6272, 6352, and 7053, Revenue and Taxation Code.

Vienna Convention on Diplomatic Relations of April 18, 1961.

Article 34 (23 UST 3242) T.I.A.S. No. 7502.

Vienna Convention on Consular Relations of April 24, 1963.

Article 49 (21 UST 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.

Designation and Determination under the Foreign Missions Act, 79 Fed. Reg. 16090-16091 (March 24, 2014).

(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 a form of payment in the name of the foreign mission or representative office.

(2) Personal Purchases - In General. ~~Neither sales tax nor use tax applies~~ Tax does not apply 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 representative 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)(24) below. Also, tax applies to sales of

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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.

~~(24) 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 returns 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~~

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~~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.

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