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Law



FOREIGN TAX RELIEF PROGRAM

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OPR: HQ USAF/JAO
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This instruction implements AFPD 51-7, International Law, 19 January 2001, and DOD Instruction 5100.64, DOD Foreign Tax Relief Program, March 30, 2006, and supersedes AFI 51-702, Foreign Tax Relief, 28 April 1994. It outlines Air Force responsibilities in supervising and monitoring programs to obtain tax relief from foreign governments. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 37-123 (will convert to AFMAN 22-363), Management of Records, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://afirms.amc.af.mil>. Refer recommended changes and questions about this publication to HQ USAF/JAO using the AF IMT 847, Recommendation for Change of Publication. This publication applies to the Air National Guard (ANG) only while in Title 10 status.

SUMMARY OF CHANGES

This document has been revised and must be reviewed. Changes include updating terminology to align Air Force responsibilities and procedures with DODI 5100.64 (formerly DODD 5100.64).

1. Air Force policy is to obtain, to the maximum extent practicable, effective relief from all foreign taxes whenever the ultimate economic burden of those taxes would otherwise result in the expenditure of funds appropriated or allocated to the Air Force or under the control of its nonappropriated fund activities. Tax relief shall be considered impractical when the total economic burden of a tax not readily identifiable in the normal course of business is so small that it may be considered a de minimis matter, or when the administrative burden of securing effective relief from a tax in a particular instance is out of proportion to the amount of the relief obtained.

2. Responsibilities.

2.1. Air Force Personnel involved in the expenditure of appropriated or nonappropriated Air Force funds will obtain, to the maximum extent practicable, effective relief from foreign taxes.

2.2. The Operations and International Law Division (HQ USAF /JAO) supervises and monitors the Air Force's program for foreign tax relief and coordinates with the Office of the Air Force General Counsel (SAF/GC) on relevant foreign tax matters.

2.3. Commanders of Combatant Commands designate a military commander to be responsible for tax matters for each foreign country.

2.4. Designated Military Commanders are responsible for the Department of Defense foreign tax relief programs within their respective countries and are the single point of contact for U.S. contracting officers and foreign tax relief program activities. Designated military commanders may appoint an in-country senior US officer, the US country representative (COREP), for each country within their command.

2.5. Major Commands (MAJCOM). In countries where the designated military commander is not an Air Force commander, overseas MAJCOM commanders appoint an Air Force Liaison Officer (AFLO) to coordinate communication among all Air Force activities, the designated military commander, COREP, and other competent authorities about the Air Force tax relief program.

2.6. Contracting Officers inform the servicing judge advocate offices of any attempts to impose foreign taxes and whether the contractors have fully and promptly complied with the foreign tax provisions of contracts.

3. Referrals.

3.1. The appropriate Air Force office having responsibility for tax relief in the country concerned (designated military commander, COREP, AFLO) refers foreign tax problems involving the Air Force and its contractors or subcontractors for action to HQ USAF/JAO. Such referrals may be submitted through combatant command or Air Force channels.

3.2. When the designated military commander, COREP, or AFLO refers a foreign tax problem involving a contractor to higher headquarters, contracting officers must notify the contractor, unless doing so is not advisable due to overriding US national interests, such as those relating to negotiating positions or security requirements.

4. Foreign Tax Relief Reports. Submit a copy of any report or summary of significant foreign tax relief program activities prepared by or for the air component of a combatant command with HQ USAF/JAO.

JACK L. RIVES, Major General, USAF
The Judge Advocate General

Attachment 1

ABBREVIATIONS AND ACRONYMS

References

DOD Instruction 5100.64, DOD Foreign Tax Relief Program, 30 March, 2006

AFPD 51-7, International Law, 19 January 2001

Acronyms

AFLO – Air Force Liaison Officer

COREP – US Country Representative

MAJCOM – Major Command

Terms

Relief—Includes any method, technique, or procedure by which the ultimate economic burden of a tax on DOD funds may be avoided or otherwise remedied, such as exemptions, refunds, or drawbacks.

Tax—Includes all foreign customs duties, import and export taxes, excises, fees, and any other charges, except for services rendered or other consideration actually received for them. Taxes may be direct or indirect, and imposed at the national, local, or an intermediate level of a foreign country. It doesn't matter how the tax is denominated in foreign law or regulation. These taxes may include, but are not limited to purchase tax, sales tax, use tax, gross receipts tax, stamp tax, transfer tax, transaction tax, turnover tax, value added tax, service tax, trade tax, business tax, license tax, transportation tax, circulation tax, luxury tax, possession tax, production tax, registration tax, consumption tax, gasoline tax, real property tax, personal property tax, and gross income tax.