# Subpart 29.2 - Federal Excise Taxes

**Parent topic:** Part 29 - Taxes

## 29.201 General.

(a) Federal excise taxes are levied on the sale or use of particular *supplies* or services. Subtitle D of the Internal Revenue Code of 1954, Miscellaneous Excise Taxes, 26 U.S.C.4041, *etseq.*, and its implementing regulations, 26 CFR parts 40 through 299, cover miscellaneous federal excise tax requirements. Questions arising in this area *should* be directed to the agency-designated counsel. The most common excise taxes are-

(1) Manufacturers' excise taxes imposed on certain motor-vehicle articles, tires and inner tubes, gasoline, lubricating oils, coal, fishing equipment, firearms, shells, and cartridges sold by manufacturers, producers, or importers; and

(2) Special-fuels excise taxes imposed at the retail level on diesel fuel and special motor fuels.

(b) Sometimes the law exempts the Federal Government from these taxes. *Contracting* officers *should* solicit prices on a tax-exclusive basis when it is known that the Government is exempt from these taxes, and on a tax-inclusive basis when no exemption exists.

(c) Executive agencies *shall* take maximum advantage of available Federal excise tax exemptions.

## 29.202 General exemptions.

No Federal manufacturers' or special-fuels excise taxes are imposed in many *contracting* situations as, for example, when the *supplies* are for any of the following:

(a) The exclusive use of any State or political subdivision, including the District of Columbia (26 U.S.C. 4041 and 4221).

(b) *Shipment* for export to a foreign country or an outlying area of the *United States*. *Shipment must* occur within 6 months of the time title passes to the Government. When the exemption is claimed, the words "for export" *must* appear on the contract or purchase document, and the *contracting officer must* furnish the seller proof of export (see 26 CFR 48.4221-3).

(c) Further manufacture, or resale for further manufacture (this exemption does not include tires and inner tubes) (26 CFR 48.4221-2).

(d) Use as fuel *supplies*, ships or sea stores, or legitimate equipment on vessels of war, including (1) aircraft owned by the *United States* and constituting a part of the armed forces and (2) guided missiles and pilotless aircraft owned or chartered by the *United States*. When this exemption is to be claimed, the purchase *should* be made on a tax-exclusive basis. The *contracting officer shall* furnish the seller an exemption certificate for *Supplies* for Vessels of War (an example is given in 26 CFR 48.4221-4(d)(2) ; the IRS will accept one certificate covering all orders under a single contract for a specified period of up to 12 calendar quarters) (26 U.S.C. 4041 and 4221).

(e) A nonprofit educational organization (26 U.S.C. 4041 and 4221).

(f) *Emergency* vehicles (26 U.S.C. 4053 and 4064(b)(1)(c)).

## 29.203 Other Federal tax exemptions.

(a) Pursuant to 26 U.S.C.4293, the Secretary of the Treasury has exempted the *United States* from the communications excise tax imposed in 26 U.S.C.4251, when the *supplies* and services are for the exclusive use of the *United States*. (Secretarial Authorization, June 20,1947, Internal Revenue Cumulative Bulletin,1947-1, 205.)

(b) Pursuant to 26 U.S.C. 4483(b), the Secretary of the Treasury has exempted the *United States* from the federal highway vehicle users tax imposed in 26 U.S.C. 4481. The exemption applies whether the vehicle is owned or leased by the *United States*. (Secretarial Authorization, Internal Revenue Cumulative Bulletin,1956-2, 1369.)

## 29.204 Federal excise tax on specific foreign contract payments.

(a) Title 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C-1 through 1.5000C-7 require acquiring agencies to collect this excise tax via withholding on applicable contract payments (see 29.402-3, 31.205-41(b)(8)). Agencies merely withhold the tax (section 5000C tax) for the Internal Revenue Service (IRS). All substantive issues regarding the underlying section 5000C tax, e.g., the imposition of, and exemption from the tax, are matters under the jurisdiction of the IRS. The *contracting officer* will refer all questions relating to the interpretation of the IRS regulations to https://www.irs.gov/help/tax-law-questions.

(b) In accordance with the clause 52.229-12, Tax on Certain Foreign *Procurements*, contractors that are subject to the section 5000C tax will complete IRS Form W-14, Certificate of Foreign *Contracting* Party Receiving Federal *Procurement* Payments, and submit this form with each voucher or *invoice*. In the absence of a completed IRS Form W-14 accompanying a payment request, the default withholding percentage is 2 percent for the section 5000C withholding for that payment request. Information about IRS Form W-14 is available via the internet at www.irs.gov/w14.

(c)

(1) Exemptions from the withholding in the IRS regulations at 26 CFR 1.5000C-1(d)(1) through (4) are captured under the provision prescription at 29.402-3(a) *(i.e.*, the *contracting officer* will not include the provision when one of the 29.402-3(a) exceptions applies).

(2) The exemptions at 26 CFR 1.5000C-1(d)(5) through (7) *must* be claimed by the *offeror* when it submits an IRS Form W-14 with the *offer*. If not submitted with the *offer*, exemptions will not be applied to the contract.

(3) Any exemption claimed and self-certified on the IRS Form W-14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the section 5000C tax are adjudicated by the IRS as the section 5000C tax is a tax matter, not a contract issue.

(d) The exemptions in 29.201 through 29.302 do not apply to this section 5000C tax.

(e) Additional information about this excise tax on specific foreign contract payments is available via the internet at https://www.irs.gov/government-entities/excise-tax-on-specified-federal-foreign-procurement-payments.