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Parent topic: PGI Defense Federal Acquisition Regulation

PGI 229.1 -GENERAL

PGI 229.101 Resolving tax problems.

(a) For the military departments, the Defense Logistics Agency, and the Defense Contract Management Agency, the members of the DFARS Tax Committee are the designated legal counsel for tax matters within their respective departments/agencies.

(b) Information on fuel excise taxes, including applicability, exemptions, and refunds, is available as follows:

(i) The DLA Energy website at www.desc.dla.mil provides information on Federal, State, and local excise taxes.

(ii) Internal Revenue Service Publications 510 and 378, available on the Internal Revenue Service website at www.irs.gov, provide information on Federal excise taxes.

(c) The contracting officer may direct the contractor to litigate the applicability of a particular tax if—

(i) The contract is either a cost-reimbursement type or a fixed-price type with a tax escalation clause such as FAR 52.229-4; and

(ii) The direction is coordinated with the DoD Tax Policy and Advisory Group through the agency-designated legal counsel.

(d)(i) Tax relief agreements between the United States and foreign governments in Europe that exempt the United States from payment of specific taxes on purchases made for common defense purposes are maintained by the United States European Command (USEUCOM). For further information, contact HQ USEUCOM, ATTN: ECLA, Unit 30400, Box 1000, APO AE 09128; Telephone: DSN 430-8001/7263, Commercial 49-0711-680-8001/7263; facsimile: 49-0711-680-5732.

(ii) Other international treaties may exempt the United States from the payment of specific taxes. The Department of State publishes a list of treaties on its website at www.state.gov.

(iii) Tax relief also may be available in countries that have not signed tax relief agreements. The potential for such relief should be explored in accordance with paragraph (d)(iv) of this section.

(iv) DoD Directive 5100.64, DoD Foreign Tax Relief Program, defines DoD tax relief policy and requires designation of a military commander as the single point of contact for investigation and resolution of specific matters related to the foreign tax relief program within the country for which the commander is designated. Those military commanders are the same as the ones designated under DoD Directive 5525.1, Status of Forces Policy and Information, and specified in Appendix C of Army Regulation 27-50/SECNAVINST 5820.4G,Status of Forces Policies, Procedures, and Information. Appendix C of Army Regulation 27-50/SECNAVINST 5820.4G is available at http://www.army.mil/usapa/epubs/xml_pubs/r27_50/main.xml#appc.

(v) Also see PGI 229.70 for special procedures for obtaining tax relief and duty-free import privileges when conducting U.S. Government acquisitions in certain foreign countries.

PGI 229.170 Reporting of foreign taxation on U.S. assistance programs.

PGI 229.170-3 Reports.

(1) Upon receipt of a notification under the clause at DFARS 252.229-7011, that a foreign tax has been imposed, submit the following information to the applicable office identified in paragraph (2) of this subsection.

(i) Contractor name.

(ii) Contract number.

(iii) Contractor point of contact (Name, phone number, FAX number, and e-mail address).

(iv) Amount of foreign taxes assessed by each foreign government.

(v) Amount of any foreign taxes reimbursed by each foreign government.

(2) Submit the information required by paragraph (1) of this subsection to—

(i) For Army contracts:

Commander, U.S. Army Security Assistance Command

ATTN:AMSAC-SR

5701 21st Street

Fort Belvoir, VA 22060-5940.

(ii) For Navy contracts:

Navy International Programs Office

ATTN: IPO 02C2F

Nebraska Avenue Complex

4255 Mt. Vernon Dr., Suite 17100

Washington, DC 20393-5445.

(iii) For Air Force contracts:

Secretary of the Air Force/International Affairs

ATTN: SAF/IAPC

1080 Air Force, Pentagon

Washington, DC20330-1080.

(iv) For Marine Corps contracts:

Navy International Programs Office

ATTN: IPO 02C2F

Nebraska Avenue Complex

4255 Mt. Vernon Dr., Suite 17100

Washington, DC 20393-5445.

(v) For all other DoD contracts:

Defense Security Cooperation Agency

ATTN: DBO-CFD

201 12th Street South, Suite 203

Arlington, VA 22202-5408.

PGI 229.70—SPECIAL PROCEDURES FOR OVERSEAS CONTRACTS

PGI 229.70 -SPECIAL PROCEDURES FOR OVERSEAS CONTRACTS

(See DFARS subpart Subpart 229.70 - SPECIAL PROCEDURES FOR OVERSEAS CONTRACTS)

PGI 229.7000 Scope of subpart.

This subpart prescribes procedures to be used by contracting officers to obtain tax relief and duty-free import privileges when conducting U.S. Government acquisitions in certain foreign countries.

PGI 229.7001 Tax exemption in Spain.

(a) The Joint United States Military Group (JUSMG), Spain Policy Directive 400.4, or subsequent directive, applies to U.S. contracting offices acquiring supplies or services in Spain when the introduction of material or equipment into Spain is required for contract performance.

(b) Upon award of a contract with a Direct Contractor, as defined in the clause at DFARS 252.229-7004, the contracting officer will notify JUSMG-MAAG Madrid, Spain, and HQ 16AF/LGTT and will forward three copies of the contract to JUSMG-MAAG, Spain.

(c) If copies of the contract are not available and duty-free import of equipment or materials is urgent, the contracting officer will send JUSMG-MAAG three copies of the Letter of Intent or a similar document indicating the pending award. In these cases, authorization for duty-free import will be issued by the Government of Spain. Upon formal award, the contracting officer will forward three copies of the completed contract to JUSMG-MAAG, Spain.

(d) The contracting officer will notify JUSMG-MAAG, Spain, and HQ 16AF/LGTT of ports-of-entry and identify the customs agents who will clear property on their behalf. Additional documents required for port-of-entry and customs clearance can be obtained by contacting HQ 16AF/LGTT. This information will be passed to the Secretaria General Tecnica del Ministerio de Hacienda (Technical General Secretariat of the Ministry of Finance). A list of customs agents may be obtained from the 600 ABG, APO AE 09646.

PGI 229.7002 Tax exemption in the United Kingdom.

This section contains procedures to be followed in securing relief from the British value added tax and import duties.

PGI 229.7002-1 Value added tax.

(a) U.S. Government purchases qualifying for tax relief are equipment, materials, facilities, and services for the common defense effort and for foreign aid programs.

(b) To facilitate the resolution of issues concerning specific waivers of import duty or tax exemption

for U.S. Government purchases (see PGI 229.7002-3), contracting offices shall provide the name and activity address of personnel who have been granted warranted contracting authority to Her Majesty's (HM) Customs and Excise at the following address: HM Customs and Excise, International Customs Division G, Branch 4, Adelaide House, London Bridge, London EC4R 9DB.

PGI 229.7002-2 Import duty.

No import duty shall be paid by the United States and contract prices shall be exclusive of duty, except when the administrative cost compared to the low dollar value of a contract makes it impracticable to obtain relief from contract import duty. In this instance, the contracting officer shall document the contract file with a statement that—

(a) The administrative burden of securing tax relief under the contract was out of proportion to the tax relief involved;

(b) It is impracticable to secure tax relief;

(c) Tax relief is therefore not being secured; and

(d) The acquisition does not involve the expenditure of any funds to establish a permanent military installation.

PGI 229.7002-3 Value added tax or import duty problem resolution.

In the event a value added tax or import duty problem cannot be resolved at the contracting officer's level, refer the issue to HQ Third Air Force, Staff Judge Advocate, Unit 4840, Box 45, APO AE 09459. Direct contact with HM Customs and Excise in London is prohibited.

PGI 229.7002-4 Information required by HM Customs and Excise.

(a) *School bus contracts*. Provide one copy of the contract and all modifications to HM Customs and Excise.

(b) *Road fuel contracts*. For contracts that involve an application for relief from duty on the road fuel used in performance of the contract, provide—

(1) To HM Customs and Excise—

(i) Contract number;

(ii) Name and address of contractor;

(iii) Type of work (e.g., laundry, transportation);

(iv) Area of work; and

(v) Period of performance.

(2) To the regional office of HM Customs and Excise to which the contractor applied for relief from

the duty on road fuel—one copy of the contract.

(c) *Other contracts awarded to United Kingdom firms*. Provide information when requested by HM Customs and Excise.