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State of South Carolina  
Department of Revenue  
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SC INFORMATION LETTER #03-25

**SUBJECT:** Foreign Diplomats  
(Sales and Use Tax)

**DATE:** November 18, 2003

**SUPERSEDES:** SC Revenue Informational Bulletin #03-2 and all previous documents and any oral directives in conflict herewith.

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 2000)  
SC Revenue Procedure #03-1

**SCOPE:** An Information Letter is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. **An Information Letter has no precedential value, and is not binding on the public or the Department.**

Background:

The “Vienna Convention on Diplomatic Relations” and the “Vienna Convention on Consular Relations” treaties provide certain tax exemption privileges for foreign diplomats, consular officers, and staff members. The Office of Foreign Missions (“OFM”) of the United States Department of State is responsible for the diplomatic tax exemption program. The privileges are based on the principle of reciprocity, *i.e.*, no privileges are granted to a foreign official in the United States unless United States Embassy and Consular personnel receive equivalent privileges in the foreign official’s country.

Exemption Cards:

The Office of Foreign Missions issues tax exemption cards to eligible foreign officials. There are two different types of tax exemption cards:

1. Cards for personal purchases. This card is used for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to a customer, and may be used only for the personal use of the bearer whose picture appears on the front of the card.

2. Cards for mission or official business. This card is issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases are prohibited.

The tax exemption card contains the individual's name, photograph, mission employed by, an expiration date, and a protocol identification number for identification purposes. Each card will have one of two different levels of sales and use tax exemption and is indicated by the color of the card and the written explanation in the colored box. A card with a blue stripe exempts the bearer from all state and local taxes nationwide on all personal and official purchases. A card with a yellow stripe allows a full tax exemption on all personal and official purchases except restricted categories or amounts identified on the face of the card. The tax exemption card, however, is not valid for exemption from taxes on telephones, other utilities, or gasoline purchases.

#### South Carolina Exemption and Vendor Recordkeeping Procedure:

Pursuant to the above referenced treaties and South Carolina Code Section 12-36-2120(1), sales to foreign officials are exempt from the sales and use tax ***in accordance with the type of card issued by the Office of Foreign Mission and the level of exemption authorized by that office.*** The exemption is only valid for the person whose photo appears on the card. Vendors may ask to see additional forms of identification, such as diplomatic I.D., driver's license, etc.

Vendors making sales to foreign officials are required to record the protocol identification number from the tax exemption card on the invoice, bill of sale, cash register tape, or other written evidence of the transaction.

Attached are copies of information from the State Department that explain the tax exemption program in more detail and show samples of the tax exemption cards and the tax exemption provisions of each card.

#### New Procedure for Purchase of Vehicles:

Effective May 14, 2003, the Office of Foreign Missions informed the Department that the procedure and policy for the authorization of tax exemption on vehicle purchases by all diplomatic missions and members in the United States has changed. The following describes the new procedure.

Before the transaction is completed and tax exemption is allowed, each purchase of a vehicle must be cleared or denied for tax exemption by the Office of Foreign Missions. In instances where the diplomatic mission or agent is denied tax exemption the vendor should collect any tax

that is normally imposed at the time of purchase. Vendors when authorizing a diplomatic tax exemption on the purchase of a vehicle must follow these procedures:

1. The purchaser should present a mission tax exemption card, a personal tax exemption card, or a protocol identification card to the seller of the automobile. This proves to the seller that the purchase is indeed a diplomatic agent or is authorized to make official purchases on behalf of a diplomatic mission. The seller is required to retain a copy of this card.

Members of the United Nations, Organization of American States, World Bank, and the International Monetary Fund requesting a diplomatic tax exemption on the purchase of a vehicle must present their personal tax exemption card. This is the only documentation of exemption that may be accepted to authorize a diplomatic tax exemption for members of the United Nations.

2. When a mission or diplomatic agent plans to purchase a vehicle, the vendor must contact the Office of Foreign Missions for a determination of the tax exempt status of the purchaser. The telephone number that the seller should contact is 202-895-3563. If the purchase is being made outside the Washington, D.C. area, the purchaser may contact an Office of Foreign Missions Regional Office.
3. The Office of Foreign Missions will determine the tax exempt status of the purchaser and provide a letter to the vendor. The letter will state whether or not the purchaser is eligible for exemption from any sales or use tax imposed at the point of purchase by the jurisdiction in which the sale will occur. If sales and use taxes are imposed by the jurisdiction in which the sale is taking place, and the purchaser is determined not to be eligible for exemption from this tax, the purchaser is required to pay this tax to the vendor. If the purchaser pays a sales and use tax to the vendor, proof of this transaction must be presented to the Office of Foreign Missions. The amount of tax paid to the seller will then be credited against the surcharge imposed at the time of registration.

# U.S. Department of State Office of Foreign Missions Diplomatic Tax Program

In 1982, Congress passed the *Foreign Missions Act*, 22 U.S.C. 4301-4316, which created a new office in the United States Department of State. This office is called the Office of Foreign Missions or OFM. The purpose of OFM is to serve the foreign diplomatic and consular communities stationed in the United States, and to control their activities. All services are based on the principle of reciprocity. In other words, no privileges are granted to a foreign official here unless United States Embassy and Consular personnel receive the equivalent privileges in that country.

OFM responsibilities include the Diplomatic Tax Exemption Program, which provides sales and use, occupancy, food, gas, and utility tax exemptions to eligible foreign officials on assignment in the United States. Tax exemption privileges for foreign diplomats, consular officers, and staff members are generally based on two treaties: the *Vienna Convention on Diplomatic Relations* and the *Vienna Convention on Consular Relations*. These treaties have been ratified by the United States and are the supreme law of the land under Article VI of the Constitution.

Not all foreign missions and their personnel are entitled to tax exemption, because this privilege is based on reciprocity and not all foreign countries grant such tax exemption to American Embassies and personnel.

Why would a foreign country refuse to give an American Embassy a benefit that the Vienna Convention treaties require? The answer is that many foreign countries have a national tax called the Value Added Tax or VAT. This tax - which can be as much as fifteen to thirty percent - is included in the purchase price. Many foreign governments argue that the VAT is an indirect tax and is therefore permitted under the treaties. The State Department does not agree, and OFM links exemption from state and local taxes in the United States to exemption from the VAT in foreign countries. For this reason, some foreign missions and diplomats have no, or restricted, tax exemption privileges in the United States.

Those foreign officials who are entitled to tax exemptions are issued a Tax Exemption Card by OFM. For identification purposes, the individual's name, photograph, mission employed by, expiration date, and protocol identification number are provided on the card. There are two different types of Tax Exemption Cards: Personal and Official/Mission. Each card will have one of two different levels of sales and use tax exemption. (The Tax Exemption Card does not allow its holder to purchase gas or utilities free of tax.) The level and kind of exemption are designed to match the levels of exemption encountered by American

Embassies in foreign countries. The level of tax exemption is indicated by the color of the card and the written explanation in the colored box.

The cards with a blue stripe exempt the bearer from all state and local taxes nationwide. The cards with a yellow stripe require the bearer to purchase a minimum amount of goods or services before the bearer is entitled to tax exemption. The requirements may range from a specified purchase amount or could exempt certain sectors from exemption, with the most common exclusion being hotel taxes.

When a cardholder presents a yellow card, with a minimum purchase requirement, the total of all items purchased in a single transaction must equal or exceed the minimum purchase level. For example, if a foreign official has a card with a minimum purchase requirement of \$150, he or she would be required to pay the sales or use tax on a bill of \$145. However, the same individual would be exempt from all taxes on a bill of \$160. Also, if two foreign officials are traveling together but they have separate rooms and separate bills, they cannot combine the bills under one total in order to qualify for tax exemption.

The Personal Tax Exemption Card is used at the point of sale for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to a customer. The Personal Card bears the photograph and identification of a duly accredited consulate, embassy, or eligible international organization employee who is entitled to the tax exemption privileges as stated on the card. This card is only for the personal use of the bearer whose picture appears on the front of the card.

The Mission Tax Exemption Card is used for official purchases of a foreign consulate or embassy. The Mission Card bears the photograph and identification of a consulate, embassy, or international organization employee who has been allowed official purchasing privileges for that office. This card is for official purchases only. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). For example, the purchasing agent might use the card to buy office supplies or to book twenty hotel rooms for a visiting official delegation from that foreign country, providing the reservation is in the name of the Mission and the bill is paid for by a mission check or credit card. The Mission Tax Exemption Card is not transferable, and not to be used for personal purchases. (There are instances where a mission tax exemption cardholder would not have access to a personal tax exemption card.)



# DIPLOMATIC TAX EXEMPTION PROGRAM



These are samples of the tax exemption cards issued by the U.S. Department of State to certain foreign government personnel and offices. The plastic cards, which are the size of credit cards and have a hologram, are valid nationwide and in the Commonwealth of Puerto Rico. Cards are used at the point of sale for exemption from state and local sales, restaurant, lodging, and similar taxes normally charged to customers. Some cards have restrictions on tax-free purchases. See explanations below. Tax exemption cards are not valid for exemption from taxes on telephones, other utilities, gasoline purchases or automobile purchases. Cards are not transferable; only the person whose photograph appears on the front side of card may use it.

## Tax Exemption Cards for Personal Purchases



### Blue Stripe

Full tax exemption on all personal and official purchases.



### Yellow Stripe

Full tax exemption on all personal purchases and official purchases except restricted category(ies) identified on the face of the card.

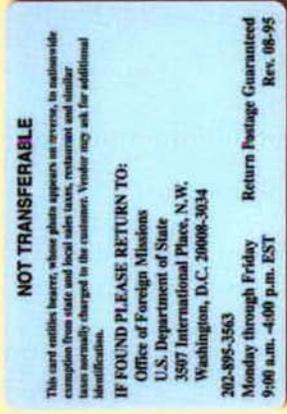
## Tax Exemption Cards for Mission (Official) Business



For questions regarding the tax exemption program, contact your State Tax Authority. You may also contact the regional office of the Office of Foreign Missions located nearest you.

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|-------------|----------------|----------------|----------------|
| Chicago     | (312) 353-5762 | New York       | (212) 826-4500 |
| Honolulu    | (808) 522-8125 | San Francisco  | (415) 744-2910 |
| Los Angeles | (310) 235-6292 | Washington, DC | (202) 895-3563 |
| Miami       | (954) 630-1146 |                |                |

## Reverse of both Mission and Personal Tax Exemption Cards



Mission tax exemption cards are issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the face of the card. All purchases must be made in the name of the mission and paid for by mission check or credit card (not cash or personal check). Personal purchases prohibited.

OFM's mailing address (which will be reflected on future editions of the card):

Office of Foreign Missions  
U.S. Department of State  
Washington, DC 20522-3303

Under the authority of the Foreign Missions Act, (22 USC 4301 et seq.), Tax Exemption Cards are issued to certain official personnel from foreign countries who are stationed in the United States while working as diplomats, consular officers, or staff members at foreign embassies and consulates, and other organizations such as the United Nations.

Tax exemption is a treaty obligation of the United States under Article VI of the Constitution. The United States is a party to various treaties and agreements which recognize diplomats as official, duly accredited representatives of foreign sovereign countries. Under international law, sovereign countries cannot impose certain taxes on accredited diplomats or other representatives of foreign countries.