Subpart 229.1 - GENERAL

Parent topic: Part 229 - TAXES

229.101 Resolving tax problems.

(a) Within DoD, the agency-designated legal counsels are the defense agency General Counsels, the General Counsels of the Navy and Air Force, and for the Army, the Chief, Contract Law Division, Office of the Judge Advocate General. For additional information on the designated legal counsels, see PGI 229.101 (a).

(b) For information on fuel excise taxes, see PGI 229.101 (b).

(c) For guidance on directing a contractor to litigate the applicability of a particular tax, see PGI 229.101 (c).

(d) For information on tax relief agreements between the United States and European foreign governments, see PGI 229.101 (d).

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

229.170-1 Definition.

“Commodities,” as used in this section, means any materials, articles, supplies, goods, or equipment.

229.170-2 Policy.

(a) By law, bilateral agreements with foreign governments must include a provision that commodities acquired under contracts funded by U.S. assistance programs shall be exempt from taxation by the foreign government. If taxes or customs duties nevertheless are imposed, the foreign government must reimburse the amount of such taxes to the U.S. Government (Section 579 of Division E of the Consolidated Appropriations Act, 2003 (Pub. L. 108-7), as amended by Section 506 of Division D of the Consolidated Appropriations Act, 2004 (Pub. L. 108-199), and similar sections in subsequent acts).

(b) This foreign tax exemption—

(1) Applies to a contract or subcontract for commodities when—

(i) The funds are appropriated by the annual foreign operations appropriations act; and

(ii) The value of the contract or subcontract is $500 or more;

(2) Does not apply to the acquisition of services;

(3) Generally is implemented through letters of offer and acceptance, other country-to-country agreements, or Federal interagency agreements; and

(4) Requires reporting of noncompliance for effective implementation.

229.170-3 Reports.

The contracting officer shall submit a report to the designated Security Assistance Office when a foreign government or entity imposes tax or customs duties on commodities acquired under contracts or subcontracts meeting the criteria of 229.170-2 (b)(1). Follow the procedures at PGI 229.170-3 for submission of reports.

229.170-4 Contract clause.

Use the clause at 252.229-7011 , Reporting of Foreign Taxes – U.S. Assistance Programs, in solicitations and contracts funded with U.S. assistance appropriations provided in the annual foreign operations appropriations act.