



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

NICK A. KHOURI
STATE TREASURER

REVENUE ADMINISTRATIVE BULLETIN 2015-13

Approved: August 6, 2015

EXEMPTION FOR FOREIGN DIPLOMATIC PERSONNEL

(Replaces Revenue Administrative Bulletin 2013-4)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

RAB 2015-13. This bulletin explains the exemption for foreign diplomatic personnel as it relates to Michigan sales tax, use tax, airport parking tax, and convention facility development tax, and reflects changes to the appearance of personal and mission tax exemption cards issued by the U.S. Department of State. For purposes of this bulletin, foreign diplomatic personnel include diplomats, consular officers, administrative and technical employees and service staff.

Exemption from tax is one of the privileges enjoyed by foreign diplomatic and consular personnel under the provisions of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. These treaties have been ratified by the United States Senate and are the supreme law of the land under Article VI of the U.S. Constitution.¹

In 1985, the United States Department of State, Office of Foreign Missions (OFM), instituted a new tax exemption card program for foreign diplomatic and consular personnel in the United States. This program grants exemption only to eligible representatives of countries that extend reciprocal tax exemption to U.S. personnel abroad.

In 2014, this program was extended to the Taipei Economic and Cultural Representative Office in the United States (TECRO), the Taipei Economic and Cultural Offices (TECOs), their designated employees and their qualifying dependents.² Foreign officials entitled to exemption are issued a tax exemption card by either the OFM or the American Institute in Taiwan (AIT)

¹ US Const, art VI, §2. The imposition of sales and use tax on the transactions described herein is prohibited by these treaties, therefore, the imposition is expressly preempted. *Arizona v US*, 132 S Ct 2492 (2012). Additionally, the Use Tax Act statutorily exempts such transactions. MCL 205.94(1)(b).

² See Agreement on Privileges, Exemptions and Immunities between AIT and TECRO, signed February 4, 2013 and Department of State, *Designation and Determination under the Foreign Missions Act*, 79 Fed Reg 16090-01 (March 24, 2014).

(for TECRO, TECO, and eligible employees and dependents). The plastic cards, which are the size of credit cards and have a hologram, are valid nationwide and in the Commonwealth of Puerto Rico. For identification purposes, the individual's name, photograph, mission employed by, expiration date, and protocol identification number are provided on the card. Samples of the cards are attached as Exhibit A.

Levels of Exemption

There are two different types of exemption cards: Personal and Official/Mission. Each card will have one of two different levels of sales and use tax exemption. The level and kind of exemption are designed to match the levels of exemption encountered by American Embassies in foreign countries. For both types of cards, regardless whether the OFM or the AIT issued the card, the level of tax exemption is indicated by the animal displayed on the card and the written explanation of the exemption contained on the card. Tax exemption cards do not allow holders to purchase gasoline or utilities free of tax or to purchase or lease vehicles free of tax.

Cards Displaying an Owl or an Eagle

Cards displaying an owl or an eagle exempt the bearer from all state and local taxes, including, but not limited to: (1) sales tax; (2) use tax (e.g., use tax on telephone bills, hotel rooms, leases of tangible personal property, and purchases from out-of-state vendors that do not remit Michigan sales tax); (3) airport parking tax, and; (4) convention facility development tax.

Cards Displaying a Buffalo or a Deer

Cards displaying a Buffalo or a Deer 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 exclude certain sectors from exemption, with the most common exclusion being hotel taxes. Exclusions from tax exemption are indicated on the card as an exception. The total of all items purchased in a single transaction must exceed the exemption level indicated on the card. Provided the minimum exemption level for a single transaction is reached and the product/service purchased is not listed as an exception on the card, the individual bearing the card displaying a buffalo or a deer is exempt from: (1) sales tax; (2) use tax (e.g., use tax on telephone bills, hotel rooms, leases of tangible personal property, and purchases from out-of-state vendors that do not remit Michigan sales tax); (3) airport parking tax, and; (4) convention facility development tax.

The Personal Tax Exemption Card

The personal card is used at the point of sale for exemption from state sales tax, use tax, airport parking tax, convention facility development tax, and any similar tax 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 not transferable and is only for the personal use of the bearer whose picture appears on the front of the card.

The Mission or Official Tax Exemption Card

The mission or official card is to be used only for the official purchases of a foreign consulate or embassy (including TERCO and TECOs). It 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 and 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). The mission card is not transferable and is not to be used for personal purchases. While the consulate, embassy, or international organization employee whose picture appears on the mission card does not need to be present when official purchases are made, he or she is the mission's point of contact and is responsible for ensuring the accuracy of the exemption.

Documenting the Exemption

Sellers should make and retain a copy of the exemption card, and record other information related to the sale, to document exempt sales.³ The validity of tax exemption cards may be verified at <https://ofmapps.state.gov/tecv/>.

Automobile Purchases

All vehicle purchases/leases by diplomatic personnel must be cleared or denied for tax exemption via the issuance of a Motor Vehicle Tax-Exemption Letter by the OFM before the transactions are completed. Tax exemption cards may not be used in lieu of a tax exemption letter. In instances where the diplomatic personnel are denied tax exemption, the vendor (dealer) should collect any tax that is normally imposed at the time of purchase. Michigan vehicle dealers must follow these guidelines when selling/leasing automobiles to diplomatic personnel:

- Call the appropriate office, the OFM Regional Office at (312) 353-5765 between the hours of 8:00 a.m. and 4:45 p.m., Central Time, Monday through Friday or TECO's Chicago Office at (312) 616-0100 between 9:00 a.m. and 5:00 p.m., Central Time, Monday through Friday, to request a tax exemption letter on an automobile purchase. Dealers must provide OFM or TECO all of the following information:
 1. The seller/lessor's name, mailing address, and telephone and fax numbers;
 2. The vehicle identification number (VIN), color, year, make, and model of the motor vehicle that the mission or accredited mission member intends to acquire; and
 3. For **official** motor vehicles: the name of the foreign mission that is purchasing or leasing a motor vehicle; **or**
 4. For **personal** motor vehicles: the name (as it appears on their current "A series" or "G series" visa) of the accredited mission member or their dependent who is purchasing or leasing a motor vehicle, the name of the foreign mission to which the individual is assigned, and the individual's U.S. Department of State-issued Personal Identification Number (PID).
- The dealer must also retain a copy of the purchaser's valid passport containing their current "A series" or "G series" visa, U.S. Department of State-issued Personal Identification Number (PID), U.S. Department of State-issued driver's license, or U.S. Department of State or TECO issued Diplomatic Tax Exemption Card.
- The tax exemption letter issued by the OFM or TECO will instruct the dealer to send transaction documents directly to the OFM or TECO.
- If the purchaser is not eligible for tax exemption (i.e., the OFM or TECO does not issue a tax exemption letter), the seller shall collect and/or remit the appropriate Michigan tax.

³ MCL 205.62; MCL 205.104b.

Vehicle Registration

All foreign diplomatic personnel must register their automobiles with the U.S. Department of State, and not with the State of Michigan, regardless whether tax exemption is granted.

Registration will occur pursuant to the instructions outlined in each tax exemption letter. See Exhibit B.

EXHIBIT A

AMERICAN INSTITUTE IN TAIWAN

TAX EXEMPTION CARDS

Under U.S. law, the Taipei Economic and Cultural Representative Office (TECRO), Taipei Economic and Cultural Offices (TECOs), their eligible employees and dependents are also eligible for tax exemption privileges. These privileges are authorized by the **American Institute in Taiwan (AIT)** and not the U.S. Department of State.

Please verify the validity of an AIT tax exemption card at <https://ofmapps.state.gov/tec/> or by contacting AIT during business hours at **(703) 525-8474**.

Like the other tax exemption cards, these cards authorize exemption from sales tax, occupancy tax, and similarly imposed taxes at the point of sale.

✓ **YES** *most goods and services, hotel stays, and restaurant meals*

✗ **NO** *motor vehicles, gasoline/diesel fuel, utility services, or property tax (requests must be sent to AIT)*

OFFICIAL PURCHASES

- ▶ Used by TECRO/TECO
- ▶ Payment in TECRO/TECO's name
- ▶ Individual pictured need not be present
- ▶ **OWL:** no restrictions



PERSONAL PURCHASES

- ▶ Not transferable
- ▶ Any form of payment
- ▶ For benefit of individual pictured
- ▶ **EAGLE:** no restrictions





OFM

TAX EXEMPTION CARDS

The U.S. Department of State issues tax exemption cards to eligible foreign missions, accredited members and dependents on the basis of international law and reciprocity. These cards authorize exemption from sales tax, occupancy tax, and similarly imposed taxes at the point of sale.

✓ **YES** *most goods and services, hotel stays, and restaurant meals (subject to restrictions)*

✗ **NO** *motor vehicles, gasoline/diesel fuel, utility services, or property tax (requests must be sent to OFM)*

Please verify the validity of a tax exemption card at <https://ofmapps.state.gov/tecv/> or by contacting the **Office of Foreign Missions (OFM)** during business hours:

Washington, DC
Chicago
Houston
Los Angeles
Miami
New York
San Francisco

(202) 895-3500 x2
(312) 353-5762
(713) 272-2865
(310) 235-6292
(305) 442-4943
(646) 282-2825
(415) 744-2910

For more information, please visit <http://www.state.gov/ofm/tax>.

OFFICIAL PURCHASES

- Used by missions
- Payment in mission's name
- Individual pictured need not be present
- **OWL:** no restrictions
- **BUFFALO:** some restrictions (please read card)



PERSONAL PURCHASES

- Not transferable
- Any form of payment
- For benefit of individual pictured
- **EAGLE:** no restrictions
- **DEER:** some restrictions (please read card)



EXHIBIT B



United States Department of State

Office of Foreign Missions
Washington, D.C. 20520

December 26, 2012

Joe Dealer
Diplomatic Cars Inc
8865 Dobbin Road
Chicago, IL 60604

To Whom It May Concern:

The Department of State's Office of Foreign Missions (OFM) understands that John Diplomat, PID # 12345678, who is a member of the Consulate General of Curipania is planning to acquire a black 2013 Honda Accord. This letter confirms that in accordance with the requirements of the Foreign Missions Act (22 U.S.C. 4301-4316 as amended) and relevant treaties and agreements concerning diplomatic and consular privileges and immunities, that John Diplomat is hereby authorized to receive an exemption from any sales or use taxes, and if applicable luxury tax, imposed on their acquisition of this motor vehicle.

Pursuant to the Foreign Missions Act, all personnel of foreign missions in the United States and their family members who are entitled to claim immunity from legal process are required to register their vehicles, whether owned or leased, with OFM.

Therefore, as a seller or lessor of the vehicle, you are required to directly submit all original ownership documents to OFM, so that this vehicle can be properly registered and titled. Your dealership is advised to treat this transaction as an "out of state registration." Once such documents are received, OFM will issue a registration card and a federally issued diplomatic or consular license plate. Additionally, if necessary, in an effort to protect the interest of the lender, OFM will send the title to the indicated lien holder.

To allow John Diplomat the benefit of driving while this vehicle's registration is being processed by OFM, a state temporary tag may be issued, as long as proof of insurance for third party liability of at least \$300,000 CSL or split limits of \$100,000 per person, \$300,000 per accident and \$100,000 property damage is presented to your dealership.

The appropriate mailing address and contact information for this particular transaction is:

Office of Foreign Missions - Chicago
77 West Jackson Boulevard, Suite 2122
Chicago, IL 60604-1503

Phone: (312) 353-5762

Fax: (312) 353-5768

Email: OFMCGCustomerService@state.gov

Sincerely,

Jane Doe
Program Officer

Letter #: 1000131