



REPLY TO
ATTENTION OF

HEADQUARTERS
CENTCOM JOINT THEATER SUPPORT CONTRACTING COMMAND
BAGRAM AIRFIELD
BAGRAM, AFGHANISTAN
APO AE 09354



C-JTSCC-HCA

3 February 2015

MEMORANDUM FOR ALL HEADS OF CONTRACTING ACTIVITIES (HCA)

SUBJECT: HCA Bulletin 15-06, Taxation of Department of Defense (DoD) Contractors Performing in Afghanistan on or after 1 January 2015

1. This HCA bulletin and the attached information paper summarize the tax exemptions for DoD contractors and subcontractors performing in Afghanistan commencing on or after 1 January 2015 and provides templates for seeking exemptions. HCA Bulletin 13-02, dated 21 January 2013, remains in effect and applies to taxation issues on contracts awarded on or before 31 December 2014.
2. Prior to 1 January 2015, DoD contracts performed in Afghanistan were governed by Diplomatic Note 202 between the United States (US) and the Government of Afghanistan. Likewise, North Atlantic Treaty Organization (NATO) and some DoD contracts were governed by the Military Technical Agreement (MTA) between the International Security Assistance Force (ISAF) and the Government of Afghanistan.
3. On 30 September 2014, the US and Government of Afghanistan entered into the Security and Defense Cooperation Agreement (SDCA) (formerly known as the Bilateral Support Agreement). Also on 30 September 2014, the NATO and the Government of Afghanistan entered into a Status of Forces of Agreement (SOFA). Both the SDCA and the SOFA govern tax exemption for US contractors¹ and NATO contractors² and subcontractors in Afghanistan.
4. In general, if a contract is governed exclusively by the SDCA, DoD contractors and subcontractors are exempt from paying taxes assessed by the Government of Afghanistan on activities and associated income, relating to US Forces. Similarly, NATO's SOFA agreement with the Government of Afghanistan exempts NATO military contractors and subcontractors from paying Afghan taxes. Under both the SDCA and the SOFA, contractor and subcontractors that are Afghan legal entities must pay taxes on corporate profits in accordance with Afghan law. In addition, Afghan citizens and residents employed by US or NATO contractors and subcontractors are required to pay taxes in accordance with Afghan law. Employers of these Afghan citizens and residents are required to withhold tax from these employees' wages and remit these amounts to

¹ United States contractors as defined in the SDCA means "persons and legal entities who are supplying goods and services in Afghanistan to or on behalf of United States forces under a contract or subcontract with or in support of United States forces."

² NATO contractors as defined in the SOFA "means persons and legal entities who are supplying goods and services in Afghanistan to or on behalf of NATO forces under a contract or subcontract with or in support of NATO, NATO Member States, or Operational Partners."

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the Afghanistan Revenue Department. The amounts withheld cannot be included in the contract price.

5. The accompanying information paper identifies factors that should be considered in determining which agreement may govern a particular contract. Contracting officers should use the attached templates to help DoD contractors obtain the appropriate tax exemptions from the Government of Afghanistan on contracts awarded on or after 1 January 2015. The templates contained in HCA Bulletin 13-02 remain in effect for contracts awarded prior to 1 January 2014. I encourage you to share this information with your contracting officers and their supporting legal counsel.

6. My points of contact for this action are COL Steven Patoir, Command Judge Advocate, at steven.r.patoir@afghan.swa.army.mil and Ms. Dona Alexander, Director of Policy, at dona.s.alexander@afghan.swa.army.mil

BRETT J. MCMULLEN
Brigadier General, USAF
Head of the Contracting Activity

4 Enclosures:

1. Information Paper
2. Sample Tax Exemption Letter (SDCA)
3. Sample Tax Exemption Letter (NATO)
4. HCA Bulletin 13-02