

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN REGARDING THE PROVISION OF TAX EXEMPTIONS FOR ASSISTANCE

The Government of the United States of America and the Government of the Islamic Republic of Afghanistan:

Recognizing the interests of the Government of the United States of America (“United States”) and the Government of the Islamic Republic of Afghanistan (“Afghanistan”) (collectively the “Parties”) in cooperating to facilitate the provision of economic, technical, and humanitarian assistance to benefit the people of Afghanistan;

Have agreed as follows:

Article I — Scope

1. Except as provided herein, this Agreement covers economic, technical, and humanitarian assistance, as well as other related assistance as may be decided by the Parties, that may be furnished by the United States in Afghanistan. The furnishing of such assistance shall be subject to applicable United States laws and regulations. Such assistance may be made available in accordance with specific arrangements agreed upon by representatives of the appropriate agency or agencies of Afghanistan and representatives of the agency designated by the United States. The assistance made available by the United States may be implemented by non-governmental organizations, individuals, private firms, public international organizations or other entities.
2. None of the terms of this Agreement shall eliminate, restrict or otherwise diminish the rights and exemptions provided in existing agreements between the United States and Afghanistan. This Agreement shall not apply to assistance provided under (a) any program or project agreement under the Point Four General Agreement for Technical Cooperation Between the Royal Afghan Government and the Government of the United States of America, signed at Kabul on February 7, 1951, such as the Strategic Objective Grant Agreement between the United States of America and the Islamic Republic of Afghanistan, signed on September 19, 2005, or (b) any letter of agreement on police, criminal justice, and counternarcotics support programs between the Parties.
3. The terms “assistance” and “United States assistance” as used herein refer to all assistance covered by paragraph 1 of this Article I.
4. The term “contractor” as used herein includes a subcontractor, and the term “grantee” as used herein includes a subgrantee, but in each case only with respect to the subcontractor or subgrantee’s activities that are carried out in connection with United States assistance.
5. For purposes of this Agreement, “nationals” are citizens or permanent residents of Afghanistan who are not citizens or permanent residents of the United States.

Article II — Exemptions

In order to ensure the maximum benefits to the people of Afghanistan from the assistance furnished by the United States:

1. Any goods, supplies, materials, equipment, property, services, or funds financed by the United States and introduced into, acquired, used or disposed of in, or exported from, Afghanistan by the United States, or by any person or entity (including but not limited to contractors and grantees and their employees) as part of, or in conjunction with, United States assistance shall be exempt from any and all taxes, including value-added taxes or other similar charges related to the use of such goods, supplies, materials, equipment, property, services or funds. Such goods, supplies, materials, equipment, property, services or funds imported into Afghanistan shall also be exempt from any and all tariffs, dues, fees, including demurrage and storage fees, customs duties, profit, import or export taxes, investment or deposit requirements or other similar taxes, dues, fees, or charges and from currency controls. Such goods, supplies, materials, equipment, property, services, or funds may be exported or re-exported from Afghanistan or sold or transferred to another person or entity in Afghanistan that is exempt from taxation and shall be exempt from any and all taxes, including value-added taxes or other similar dues, fees, charges, tariffs and customs duties on such export, re-export, sale or transfer. The foregoing exemption does not include charges for specific services provided.

2. No tax (whether in the nature of an income, profit, business, value-added, gross receipts, sales or other tax, duty, dues or fee of any kind) shall be imposed upon any person or entity (including but not limited to contractors and grantees) in connection with income, revenues, profits or receipts received in connection with activities carried out as part of United States assistance; provided, however, that this will not preclude the imposition of income or profit taxes on nationals or national entities of Afghanistan for activities financed by United States assistance.

3. All personnel (and family members forming part of their households), except nationals, whom the United States employs (whether by contract or other arrangement) or finances (whether by contract, grant or otherwise with any person or entity, including employees of contractors and grantees) and who are present in Afghanistan to perform work in connection with United States assistance, shall be exempt from:

(a) Income taxes, social security taxes, or other taxes levied, imposed, or assessed under the laws of Afghanistan or any subdivision thereof with respect to income derived from United States assistance activities;

(b) Taxes (including, but not limited to, sales or value-added taxes) on the acquisition, ownership, use, or disposition of personal movable property (including vehicles) intended for their own use; and

(c) Customs, import, and export duties on all personal effects (including vehicles), goods, equipment, supplies, services, or funds imported into Afghanistan for their own use, and from all other duties and fees of whatever nature, except charges for specific goods or services rendered.

4. The access and movement of aircraft operated by or for the United States in connection with United States assistance in Afghanistan shall be exempt from landing fees, tolls and similar charges by Afghanistan or any subdivision thereof, except for specific services provided.

5. The exemptions provided in this Article shall apply to all activities described in this Article that occur on or after the effective date of this Agreement, regardless of when the assistance furnished by the United States was initiated.

Article III

If a tax has been levied and paid contrary to the provisions of an exemption, the United States may, in its discretion, pursue appropriate remedies, such as

(a) require Afghanistan to refund to the United States or to others as the United States may direct the amount of such tax with funds other than those provided by the United States, or

(b) other remedies consistent with applicable law.

Article IV

In the event of a disagreement about the application of an exemption, the Parties agree to meet promptly and resolve such matters, guided by the principle that the assistance furnished by the United States is free from direct taxation.

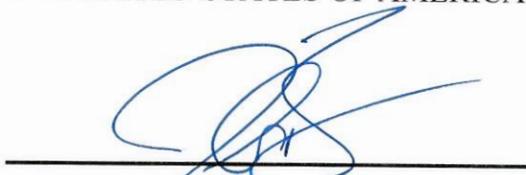
Article V

This agreement may be amended by written consent of the Parties.

This agreement shall enter into force upon signature by both Parties, with effect from June 1, 2018. It shall remain in force unless terminated by either Party with six months' advance written notice to the other Party.

Done at Kabul, Afghanistan this 27th day of July, 2018 in duplicate, in the English and Dari languages. In case of dispute, the English text shall take precedence.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:



John R. Bass

United States Ambassador
to the Islamic Republic of Afghanistan

July 28, 2018

FOR THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF
AFGHANISTAN:



Professor Mohammad Humanyon Qayoumi

Acting Minister of Finance