

Guide # 07 – Applying for an exemption from taxation, using a Bilateral or Multilateral Agreement

The Islamic Republic of Afghanistan from time to time has and will continue to enter into agreements with other countries or Military authorities that may impact the taxability of certain types of income derived from certain activities. In addition, there are a variety of multilateral agreements, which allow certain organizations to claim an exemption from some types of taxation. The purpose of this guide is to inform Governmental organizations, their Agencies, their Contractors and their Sub-Contractors who believe they are exempt according to a Bilateral or Multilateral agreement, how to apply to the Ministry of Finance in order to receive a private ruling in relation to the taxability of their business activities in Afghanistan.

The process to make an application to the Ministry of Finance for tax exemption using a Multilateral, Bilateral or Military agreement involves three steps:

Step 1) Obtain photocopies of the complete Agreement(s) which apply to your organization/business

Step 2) Send a photocopy of the complete relevant Agreement(s) to the Ministry of Finance, accompanied by the following information:

- The name of your Organization or Business
- Your Taxpayer Identification Number (TIN)
- Your nominated contact name within your Organization or Business whom we should contact if we require more information, and to whom we should direct our reply
- Your interpretation of the applicability of the International Agreement to your Organization or Business' activities in Afghanistan. Specify:
 - o Which project agreements / funding arrangements are governed by the International Agreement
 - o Which specific tax types you interpret as being exempted by this agreement
- Attach copies of supporting documentation to your Ministry of Finance submission, such as copies of Project agreements or funding arrangements.

This letter and supporting documents should be addressed and delivered to: The President of Revenue, Ministry of Finance HQ, Kabul, Afghanistan

Step 3) The Ministry of Finance will issue a written ruling in response to this submission within 21 calendar days of receipt of all relevant information. This private ruling will state clearly which activities are exempt (if any) and will also specify which tax types are exempt (if any). The ruling will also stipulate any reporting requirements that may exist, in order for your Organization or Business to be in compliance with the Income Tax Law of Afghanistan.

Example: Joe's Construction Company performs work as a sub-contractor to the Fictitious Global Council of Nations Development Programme (FGCNDP), and also does private contracting work for other businesses located in Afghanistan. The CFO for Joe's Construction Company contacts FGCNDP and requests copies of relevant Multilateral agreements and Bilateral Agreements between the FGCNDP and Afghanistan that discuss the taxability of FGCNDP projects. The CFO then drafts a letter to the Afghanistan Ministry of Finance which states the name of the Business (Joe's Construction Company), the TIN of the Business (123456789) and the name, Email address and telephone number for contact (Joe Bloggs, jbloggs@joe.com, 077 123 456). The letter then requests that the Ministry provides a private ruling on an exemption for their FGCNDP project activity from the Corporate Income Tax (Articles 3 & 13-24 of the Income Tax Law), the Business Receipts Tax (Articles 72-77 of the Income Tax Law), and the Rental Services Withholding Tax (Article 65 & 66 of the Income Tax Law) For supporting documentation, attached to the letter are complete copies of all Agreements provided by FGCNDP, and the Project Agreement between Joe's Construction and FGCNDP.

The Ministry of Finance responds in writing and within 21 calendar days of receipt of the submission to the specified contact and states:

- The revenues derived from the FGCNDP project as specified in the original submission are exempted from Corporate Income Tax and Business Receipts Tax. Article xyz of the Country Agreement between FGCNDP and the Government of Afghanistan exempts these revenues from taxation. The Ministry of Finance does not require these revenues to be reported in the Annual Income Tax filing for Joe's Construction Company, but will maintain a copy of the project agreement on the taxpayer's file.
- Joe's Construction Company is still liable to withhold the Rental Withholding Tax and to remit amounts withheld in accordance with articles 65 & 66 of the Income Tax Law of Afghanistan. Since Joe's Construction Company is merely withholding the Rental Services Tax on behalf of a landlord, this is not a direct tax on Joe's Construction Company. As such, the Country Agreement between FGCNDP and the Government of Afghanistan does not exempt the company from this responsibility.
- All other income earned by Joe's Construction Company from activities within Afghanistan which are not governed by the FGCNDP Project Agreement are subject to the Income Tax Law of Afghanistan, and the payment & reporting provisions contained therein.

Tax Forms and Information

Tax forms and guides are available at the Ministry of Finance, General Presidency of Revenue, Taxpayer Assistance Team. For more information or assistance visit the General Presidency of Revenue, Taxpayer Assistance Team, or call 079 209 884 or 079 406 050. Publications are also available for viewing/downloading at our website www.mof.gov.af/tax