

HEADQUARTERS
UNITED STATES EUROPEAN COMMAND
UNIT 30400, BOX 1000
APO, AE 09128

DIRECTIVE
NUMBER 45-8

15 May 2000

LEGAL

FOREIGN TAX RELIEF PROGRAM

1. **Summary.** This Directive prescribes policies and procedures to implement the DoD Foreign Tax Relief Program, as established by reference a, within the USEUCOM Area of Responsibility (AOR). The purpose of this Program is to obtain relief from taxes imposed by host nation governmental authorities on U.S. Forces, individual members and employees thereof, and contractors serving U.S. Forces overseas.
2. **Applicability.** This Directive applies to all USEUCOM subordinate commands and organizations, as well as all HQ USEUCOM directorates and staff offices. In addition, non-USEUCOM agencies located or operating within the USEUCOM AOR should bring foreign tax issues and problems they are unable to resolve locally to the attention of the cognizant Designated Military Commander (DMC), or HQ USEUCOM (ECJA) for countries in which there is no DMC. Additionally, U.S. Defense Representatives (USDRs), as listed in reference b, are requested to assist U.S. Forces obtain relief from foreign taxes, particularly in those countries in which there is no DMC.
3. **Internal Control Systems.** This Directive does not contain internal control provisions and is not subject to the requirements of the internal management control program. For USEUCOM and subordinate joint activities, the applicable internal control directive is ED 50-8, Internal Management Control Program.
4. **Suggested Improvements.** The proponent for this Directive is the Office of the Judge Advocate. Suggested improvements should be forwarded to HQ USEUCOM/ECJA, Unit 30400, Box 1000, APO, AE 09128.
5. **References.**
 - a. DoD Directive 5100.64, DoD Foreign Tax Relief Program, 12 Jun 79.
 - b. USEUCOM Directive 56-9, Procedures for the U.S. Defense Representative (USDR), 23 Jun 98.

This Directive supercedes ED 45-8, dated 02 Feb 1994 and Change 1, dated 09 Dec 1996

6. Explanation of Terms.

a. Tax. Regardless of how a charge is denominated in foreign law or regulation, the words “tax” and “taxes” include all direct or indirect foreign customs duties, import and export taxes, excises, fees, and other charges imposed at the national, local, or intermediate level of a foreign country, other than charges for services rendered or for other consideration received.

b. Relief. The word “relief” includes any method, technique, or procedure by which the ultimate economic burden of a tax on DoD funds may be avoided or otherwise remedied, such as by exemption, refund, or drawback.

7. Policy. It is the policy of the Department of Defense to secure, to the maximum extent practicable, effective relief from all foreign taxes wherever the ultimate economic burden of those taxes would, in the absence of such relief, be borne by funds appropriated or allocated to the Department of Defense, or which are under the control of its nonappropriated fund activities. In those cases in which the total economic burden of a tax is not readily identifiable in the normal course of business, or where it is so small that it may be considered a de minimus matter, or in which the administrative burden of securing effective relief from a tax in a particular instance would be out of proportion to the amount of relief obtained, tax relief shall be considered impracticable.

8. Responsibilities.

a. Designated Military Commander (DMC). The following are appointed as Designated Military Commanders for purposes of the Foreign Tax Relief Program for the countries indicated:

(1) CG, USAREUR for Belgium, The Netherlands, and the Federal Republic of Germany.

(2) CINCUSNAVEUR for Italy, Greece, Spain, and Portugal.

(3) COMUSAFE for Denmark, France, Luxembourg, Norway, Turkey, and the United Kingdom.

b. Country Representatives. The DMC may appoint, for each country for which he is responsible, a senior U.S. officer as his Country Representative for the purposes of administering the Foreign Tax Relief Program in that country. The DMC shall notify HQ USEUCOM (ECJA), the other DMCs, and the appropriate USDR (listed in reference b), of the appointment, or change, of a Country Representative. The DMC shall promulgate and periodically update the mailing and e-mail addresses, as well as the duty phone numbers, of his Country Representatives.

c. Responsibilities of Designated Military Commanders and Country Representatives.

(1) The DMC is responsible for preparing and maintaining, for each of the countries for which he has responsibility:

(a) A current country tax law study containing the information specified in paragraph 6 of reference a.

(b) A current country tax chart that provides a summary of the above tax information in tabular format.

(2) The DMC may assign the appropriate Country Representative(s) responsibility for preparing and maintaining the above country tax law studies and tax charts.

(3) The DMC or Country Representative, as appropriate, shall serve as the single point of contact for U.S. contracting officers and other DoD activities with respect to the investigation and resolution of specific issues or problems that may arise relative to the Foreign Tax Relief Program in their respective countries. Country Representatives shall refer significant problems affecting foreign tax relief to the DMC for resolution.

(4) The DMC or Country Representative, as appropriate, shall serve as the primary liaison with the U.S. Embassy and host nation tax authorities in those countries for which he is responsible. Contact with these officials regarding foreign tax relief may be carried out through, or in coordination with, the cognizant U.S. Defense Representative (USDR) listed in reference a. New or revised foreign tax law studies and charts should be coordinated through the appropriate embassy or USDR as necessary.

(5) The DMC shall keep HQ USEUCOM (ECJA) apprised of instances in which local efforts to obtain foreign tax relief have proven unsuccessful, and of significant issues concerning foreign tax relief.

(6) Foreign tax relief problems and issues that require resolution at the OSD level, including questions of interpretation and issues that the DMC and U.S. Embassy are unable to resolve through negotiation with representatives of the host government, shall be forwarded to the Office of General Counsel, Department of Defense, through HQ USEUCOM (ECJA).

d. Countries in Which There is no Designated Military Commander. USEUCOM Component Commands and subordinate offices are responsible for reporting and attempting to resolve foreign tax relief issues arising in countries in which there is no DMC. Attempts should be made to minimize the payment of foreign taxes to host nation government authorities either through the enforcement of any existing international agreements, or through local arrangements made with host nation authorities. Requests to enter into formal tax relief agreements with host nations, or to establish a new DMC for a particular country, should be forwarded to HQ USEUCOM (ECJA). Requests to name a DMC shall be forwarded to the DoD General Counsel to determine whether the country satisfies the criteria of subparagraph 2.2.2.2 of reference a.

9. Procedures.

a. Country Tax Law Studies and Country Tax Charts.

(1) New and revised country tax law studies and charts shall be forwarded to:

- (a) General Counsel, Department of Defense.
- (b) HQ USEUCOM (2 copies) (ECJA) (ECJ4-MA).
- (c) Office of the Judge Advocate General, Department of the Army.
- (d) Office of the Judge Advocate General, Department of the Air Force.
- (e) General Counsel, Department of the Navy.
- (f) General Counsel, Defense Contract Audit Agency.
- (g) General Counsel, Defense Communications Agency.
- (h) General Counsel, Defense Logistics Agency.
- (i) Office of the Judge Advocate, HQ USAREUR.
- (j) Office of the Judge Advocate, HQ USAFE.
- (k) General Counsel, CINCUSNAVEUR.
- (l) Other commands and agencies as determined by the DMC.

(2) Country tax law studies and charts should be periodically revised, amended, or supplemented to reflect changes in tax laws or agreements. Tax law studies and charts should be revalidated, and if necessary republished, at least once every three years. Copies of revisions, amendments, supplements, and new tax law studies and charts should be distributed as specified in subparagraph (1), above.

(3) When a new DMC is established in a country that did not previously have a DMC, the new DMC should ensure a tax law study and chart is prepared within one year from the date of his designation.

(4) DMCs should also disseminate country tax law studies and charts to contracting officers and activities that undertake acquisitions in the countries concerned.

b. Annual Report of Significant Activities. Not later than 31 December each year, DMCs shall provide HQ USEUCOM (ECJA) with a summary of significant activities during the preceding year in implementation of the DoD Foreign Tax Relief Program within each of the countries for which they are responsible. Annual reports shall include the following items and information:

- (1) Country tax law studies and charts completed or revised during the year.

(2) The date(s) that their country tax law studies and charts were last revalidated, revised, or updated, and the date(s) by which further revision or updates will be accomplished.

(3) A country-by-country summary of major accomplishments and problems affecting the DoD Foreign Tax Relief Program, along with actions taken to correct these problems, and current status of unresolved problems and issues.

(4) Names and addresses of Country Representatives appointed pursuant to this Directive, with mailing and e-mail addresses, and duty telephone numbers.

FOR THE COMMANDER IN CHIEF:

OFFICIAL:

MICHAEL A. CANAVAN
Lieutenant General, USA
Chief of Staff

DAVID R. ELLIS
LTC, USA
Adjutant General

DISTRIBUTION
P+

General Counsel
Department of Defense
The Pentagon
Washington, D.C. 20301

HQ USAFE
ATTN: JA
UNIT 3050 BOX 1
APO AE 09094-0501

HQ USAREUR
ATTN: AEAJA
UNIT 29351
APO AE 09014

CINCUSNAVEUR
ATTN: GENERAL COUNSEL
PSC 802 BOX 2
APO AE 09499-0151