09-138

The Secretary of State presents her compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to bring to their attention that the Department of State has extended an exemption from property taxation to real property owned by foreign governments and used to house members of the staff of consular missions who are accredited to the United States.

The Department has determined that foreign governments that own such residences are exempt from real property taxes that may otherwise be assessed by state and local governments in the United States, subject to reciprocity. The Department of State's action was published in the Federal Register on July 2, 2009, a copy of which is enclosed. The Department's action invalidates existing property tax liens with respect to consular residences but does not require local tax authorities to refund property taxes previously paid.

In order for the Department to be able to authorize that the relevant tax authority grant the appropriate exemption, the Chiefs of Mission are requested to

submit to the Office of Foreign Missions (OFM) a list of those residences in the United States which their governments own and which they believe are entitled to this exemption. The list must include the complete address of the property, the name and title of its current occupant, and the next date on which property taxes would otherwise be paid. OFM requests that this submission include confirmation that the government of the submitting State exempts consular residences. OFM will review the information provided, determine eligibility for exemption, and inform the Chief of Mission and the local tax authority whether a specific residence is entitled to exemption from property tax. The Department requests the information be submitted within 30 days of the date of this note.

With regard to future purchases of consular property, the procedure for obtaining exemption from taxation has changed. Missions should no longer directly contact the local tax authority regarding tax exemption, but rather submit all such requests to OFM. OFM will review the request, and if appropriate, direct the relevant tax authority to grant the exemption. Requests should include the complete address of the property, the date of the deed was recorded, and a copy of the Department's prior approval of the purchase.

Inquiries may be directed to the Office of Foreign Missions in Washington, D.C., or to the appropriate OFM Regional Office.

Enclosure:

As stated. JUL 28 2009

Department of State,

Washington,

[Federal Register: July 2, 2009 (Volume 74, Number 126)]
[Notices]
[Page 31788]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr02jy09-106]

==========

DEPARTMENT OF STATE

[Public Notice 6690]

Designation and Determination Under the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State by the laws of the United States, including the Foreign Missions Act, 22 U.S.C. 4301 et seq., and delegated by the Secretary to me as one of the President's principal officers for foreign affairs by Delegation of Authority No. 245-1 of February 13, 2009, and at the direction of the Secretary of State, and after due consideration of the benefits, privileges, and immunities provided to missions of the United States abroad, as well as matters related to the protection of the interests of the United States, and at the request of foreign missions, I hereby designate exemption from real property taxes on property owned by foreign governments and used to house staff of permanent missions to the United Nations or the Organization of American States or of consular posts as a benefit for purposes of the Foreign Missions Act. I further determine that such exemption shall be provided to such foreign missions on such terms and conditions as may be approved by the Office of Foreign Missions and that any state or local laws to the contrary are hereby preempted. Prior inconsistent guidance is hereby rescinded. This action is in accord with the tax treatment of foreign government-owned property in the United States used as residences for staff of bilateral diplomatic missions, see Department of State, Notice: Property Owned by Diplomatic Missions and Used to House the Staff of Those Missions is Exempt from General Property Taxes, 51 FR 27303 (July 30, 1986), and conforms to the general practice abroad of exempting government-owned property used for bilateral or multilateral diplomatic and consular mission housing.

This action is necessary to facilitate relations between the United States and foreign states, to protect the interests of the United States, to allow for a more cost effective approach to obtaining benefits for U.S. missions abroad, and to assist in resolving a dispute affecting U.S. interests and involving foreign governments which assert that international law requires the exemption from taxation of such diplomatic and consular properties. The dispute has become a major irritant in the United States' bilateral relations and threatens to cost the United States hundreds of millions of dollars in reciprocal taxation. As the largest foreign-government property owner overseas, the United States benefits financially much more than other countries from an international practice exempting staff residences from real property taxes, and it stands to lose the most if the practice is undermined. Responsive measures taken against the United States because of the dispute also have impeded significantly the State Department's ability to implement urgent and congressionally mandated security improvements to our Nation's diplomatic and consular facilities abroad, imposing unacceptable risks to the personnel working in those facilities. This action will allow the United States to press forward

with improvements that will protect those who represent the Nation's interests abroad.

The exemption from real property taxes provided by this designation and determination shall apply to taxes that have been or will be assessed against any foreign government with respect to property subject to this determination, and shall operate to nullify any existing tax liens with respect to such property, but shall not operate to require refund of any taxes previously paid by any foreign government regarding such property. These actions are not exclusive and are independent of alternative legal grounds that support the tax exemption afforded herein.

June 23, 2009.

Jacob J. Lew,

Deputy Secretary of State for Management and Resources, Department of State.

[FR Doc. E9-15818 Filed 7-1-09; 8:45 am]

BILLING CODE 4710-43-P