

consultations

To assist and inform the diplomatic and consular communities

Social Security Numbers for Diplomats!

OFM Presses Successfully to Resolve Longstanding Dispute

The Office of Foreign Missions is pleased to announce that it has received definitive guidance concerning what diplomats assigned to the United States need to do to obtain a Social Security Number.

Principal Diplomatic Agents:

Individuals who enter the United States on A-1, A-2, G-1, G-4 and certain G-3 visas are eligible to apply for and receive a Social Security Number (SSN). To apply you must present evidence of your age, identity, and lawful admission status (I-94) at a Social Security Office.

Dependents of Diplomatic Agents:

The spouse and other authorized dependents of a diplomatic agent may apply for an SSN only if they are authorized employment by the U.S. Immigration and Naturalization Service (INS) and are issued an employment authorization document by the INS. If a dependent needs a number in a format similar to the Social Security Number for some reason besides employment, he/she may apply for a taxpayer identification number from the U.S. Internal Revenue Service (IRS).

The Social Security Administration advises that anyone who is not a principal diplomatic agent, and who is asked for a Social Security Number in a non-employment context, explain that he/she is not legally entitled to get one and does not need it. Apart from employment matters, no one can be denied



processing or benefits simply because he/she does not have a Social Security Number. For example, if a dependent of a diplomatic agent applies for college admission and/or college financial assistance, that dependent cannot be denied processing for admission or for financial aid just because he/she does not have a Social Security Number.

In cases such as the example above, the diplomatic agent's dependent can request a letter from the Office of Foreign Missions verifying that he/she is unable to obtain a Social Security Number. To ask for such a letter, please contact Edmond A. McGill of the Office of Tax and Customs Programs at OFM in Washington, DC at 202-895-3618.

For utility service and for gas tax-exempt credit cards, it is sufficient for the needs of the diplomatic agent's household if the diplomatic agent alone has a Social Security Number.

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OFM Procedure

The Limits of Diplomatic Tax Exemption

True or false: Diplomats and career consular officers in the U.S. are exempt from paying income taxes? Most members of the diplomatic and consular community are sure they know the answer to this one. But, they would be surprised that the correct answer actually is: "Maybe."

The common — and potentially risky — fallacy that diplomatic and consular personnel are totally exempt from income taxes stems from the following: The two well-known multilateral treaties that govern this area of international relations both contain provisions granting income tax exemption to diplomatic and career consular personnel.

1. Vienna Convention on Diplomatic Relations, Art. 34
2. Vienna Convention on Consular Relations, Art. 49

However, most people tend to overlook the fact that this exemption is expressly, and exclusively, **limited to professional salaries** received from the sending government. Article 34(d) of the Diplomatic Convention, for example, specifies that exemption does not extend to "*dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving state.*" The Consular Convention has the same language in its Article 49(d).

Incidentally, it is important to note that diplomatic and consular tax exemption has other limitations beyond income taxes. Each of the two Conventions has a total of six specific exceptions to the right of exemption. For example, there is no entitlement to exemption from real estate taxes on property that is privately owned in the U.S., or from taxes on property inherited here.

Income taxes, however, remain the most common tax that diplomatic and career consular personnel in the U.S. are likely to have to pay. Examples of income that such personnel would need to file returns and pay taxes on would include any of the following circumstances:

1. Wages earned by dependents who are authorized to work in the U.S. (*Remember: State Department and INS permission to work is always required, and the diplomatic or consular employee himself or herself is never permitted to work outside the mission.*);

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Frequently Asked Questions

Exemption of "Taxes" and Fees Associated with Air Travel

- Q:** Are diplomatic agents and administrative and technical staff accredited to the United States exempt from taxes and fees on air travel tickets?
- A:** They may be, depending on reciprocity and the taxes which apply in a particular case.
- Q:** Which taxes is a diplomatic agent or an administrative and technical staff member exempt from?
- A:** They are exempt from the U.S. Customs fee, which is assessed for travel on tickets issued to passengers arriving from outside the customs territory for travel which originated in a place other than Canada, Mexico, and the Caribbean. They are exempt from the Immigration fee, which is collected for travel from any international point into the United States, Puerto Rico, Guam and the U.S. Virgin Islands. Finally, they are exempt from the Animal and Plant Health Inspection Service (APHIS) fee, which is collected for travel from any international point (except Canada) in the United States and Puerto Rico.
- Q:** Which "taxes" is a diplomatic agent or an administrative and technical staff member NOT exempt from?
- A:** The United States Internal Revenue Service has ruled (Revenue Ruling 72-10) that "taxes" charged under The Airport and Airway Trust Fund are user fees. Therefore, diplomats cannot be exempt from these "taxes." Taxes and fees for which there are no exemptions are the U.S. Domestic Transportation Tax, the Alaska/Hawaii Domestic Transportation Tax, the U.S. International Departure Tax, the Alaska/Hawaii International Departure Tax, the U.S. International Arrival Tax, and Passenger Facility Charges.
- Q:** How do I obtain my air travel tax exemption?
- A:** Diplomats and administrative and technical staff members who wish to obtain exemption from the fees and taxes mentioned in the second question should present their Department of State Protocol identification card and their Department of State Tax Exemption Card to the travel agent when they purchase their airline tickets. They should ask the travel agent to exempt them from the U.S. Customs fee, the Immigration fee, and the Animal and Plant Health Inspection Service (APHIS) fee.
- Q:** What if I have paid for the ticket and the fees and taxes were included?
- A:** There is no possibility of a refund at a later time if the tax and fee exemptions are not obtained when the ticket is purchased.

OFM Regional Office Activities



Ron Young, Senior Special Agent, United States Secret Service, provided a road map and warned against common pitfalls in planning a smooth and secure visit for visiting dignitaries at the LAX Conference in December.

And By The Way, You'll be Managing the Prime Minister's Visit to Los Angeles

Opportunity of a lifetime? Administrative nightmare? Both at the same time? No consular administrative officer could be indifferent to the news that the President or Prime Minister of his home country is coming to town!

Ron Young of the United States Secret Service was the lead speaker at the Los Angeles International Airport (LAX) Conference of December 6, 2001, jointly sponsored by the Office of Foreign Missions (OFM) and the Immigration and Naturalization Service (INS). Seventy-nine officials attended from 41 countries.

Young based his remarks on his practical experience protecting heads of state and heads of government on their visits to Los Angeles, both those that have gone smoothly and those that experienced difficulties. He outlined the mechanisms and options available to trip planners, including what services the Secret Service can provide and what costs must be borne by the foreign government.

Participants also heard presentations by Thomas Graber, INS Port Director at LAX; Olive Kerr, INS Deputy Port Director; David van Valkenburg, OFM Regional Director; Garth Pettijohn, Diplomatic Security Service; Loretta Sanchez, the U.S. Customs Assistant Port Director; Michael Vaccariello, of the Los Angeles International Airport Police; and Thelma Rhone and Roland Knight, of the U.S. Customs Service.

Chicago PD "Locks Up" Consular Notification



The Chicago Police Department (CPD) invited Regional Director Denise Duclon and members of the consular corps to tour their central detention facility. The group observed a demonstration of processing steps for an individual from arrival at the facility to release or transfer to another facility. The program was organized, in part, to inform the Chicago consular community about the Chicago Police Department's enhanced consular notification procedures.

The Chicago Police Department has developed a database of all Chicago mission locations and contact numbers from information provided by the Office of Foreign Missions. When the Police Department arrests a foreign national, part of the processing is to ask the individual if they wish to have their foreign consulate notified. If they request such notification, then written notification is faxed to inform the consulate of the detention or arrest. Notification is made for all countries that have a mandatory requirement. The procedures that the Chicago Police Department has in place for their consular notification program are to be commended.

Florida International Days

Miami Regional Director Terry Daru will represent OFM at the Florida International Days 2002 conference in Tallahassee, March 5-6. The annual event brings together leaders of Florida's international community and provides opportunities to discuss international issues, trade, business, growth and prosperity. This year's theme is "United in Diplomacy, Culture, and Trade." Participants will include consular corps members from Florida and other states, international community leaders, and local, state, and federal officials. Florida Governor Jeb Bush and Secretary of State Katherine Harris plan to host events during the conference. Event registration materials are available on a dedicated state of Florida website: <http://oir.dos.state.fl.us/intdays/Intrndays.html>



OFM Regional Director in Miami, Terry Daru, called on Florida Secretary of State Katherine Harris in Tallahassee December 6 to explain OFM's mission and programs, including an update on plans to open the Miami Regional Office in 2002. Also pictured is Mexican Consul in Orlando, Florida, Martin Torres.



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The Limits of Diplomatic Tax Exemption

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- Dividends, interest, and or capital gains from accounts at banks, stock brokerages, mutual funds, or any other financial institution (if the amount exceeds the earnings threshold under the applicable IRS regulations);
- Gambling, lottery, race track or contest winnings; and
- Gains from sales of real estate in the U.S. It should be emphasized that these are merely illustrations; other tax-generating situations can and do exist. Likewise, if Federal tax liability does arise from any of the above income sources, then state tax liability would also apply, and possibly local tax as well, depending on the state and city of residence.

Diplomatic and consular personnel should be aware that any immunities they may possess does not shield them from serious consequences in the event of tax deficiency or outright evasion.

The Department of State cannot give advice or guidance on any specific tax question. Any member of the diplomatic or consular community who is liable for U.S. taxes by virtue of receiving income from the sources described above bears individual responsibility for obtaining advice from the same sources, and in the same manner as do U.S. citizens and residents, namely from the IRS itself, or from private tax professionals. Both the Internet and Yellow Pages are good places to begin the search.

Expedited Immigration Processing at Dulles

In light of changes which eliminate a special lane for diplomatic personnel at Dulles International Airport since September 11th, OFM wishes to inform the diplomatic community of the new special arrangements implemented by the INS Port Director. Diplomats who do not have a special arrangement for a particular high-level visit may utilize either the U.S. or non-U.S. lines (whichever may be shorter). The diplomat must bear an A or G visa. Any diplomat experiencing trouble using the U.S. line should contact one of the airport's Roving INS Supervisors for assistance. Diplomats bearing Diplomatic Passports, but without A or G visas must use the non-U.S. line for processing.

Outreach

The Office of Foreign Missions extends an offer to provide OFM mission orientation programs to newly arrived members in the diplomatic community at any regular conferences or program briefings that missions may hold in Washington or elsewhere. In this way, we believe we can support diplomats just when documentation is needed the most. Please keep OFM in mind when you are planning such activities; we would be happy to participate. Submit requests to OFMQuestions@state.gov or directly to Managing Director of OFM, John Arndt.



What do you want to know?

Let us know what articles you would enjoy seeing in future editions of *Consultations*. This newsletter is OFM's primary way of informing you — members of the foreign diplomatic and consular community — about the policies and procedures that affect your work and life while you are assigned to the United States: privileges and immunities, local, state, and federal governments, reciprocity, accreditation, motor vehicles, and visas. We want to address all issues that are of interest to you, so please tell our editor what's on your mind.

Send your comments and requests to The Editor, "Consultations" Newsletter, Office of Foreign Missions, 3507 International Place, NW, Washington, DC, 20522-3303, or write us via e-mail at: Consultation@state.gov. You may also fax us at (202) 895-3615. Keep in mind that we are able to respond only to concerns or questions you or your family may have that are likely to be of interest to others in the diplomatic and consular community. We regret that we cannot address questions in *Consultations* regarding individual circumstances.

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