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The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and refers to the Department's diplomatic note No. 91-322, dated November 8, 1991, regarding employment in the United States and the associated use of motor vehicles registered with the Department's Office of Foreign Missions (OFM) and bearing Department of State license plates for such employment. The Department wishes to inform the Chiefs of Mission that OFM has decided to revise its policy, enunciated in note No. 91-332, with respect to employment in the United States and the associated commercial use of motor vehicles bearing Department of State license plates in the course of such employment. The Department in particular refers to the use of such vehicles for commercial purposes to provide "for hire" transport of passengers (*e.g.*, Uber, Lyft, etc.) as well as home delivery of various items such as prepared foods.

Chiefs of Missions are reminded of the general prohibition on commercial activity or employment by persons admitted to the United States for the purpose of performing diplomatic or consular functions. In the case

of diplomatic agents, Article 42 of the Vienna Convention on Diplomatic Relations prohibits practice in the receiving State of “any professional or commercial activity” for personal profit. The same holds true for career consular officers pursuant to Article 57 of the Vienna Convention on Consular Relations. Additionally, such activity by diplomatic agents, members of the administrative and technical staff of diplomatic missions, consular officers and employees, or any other individuals who have been admitted to the United States as principal aliens on diplomatic (“A”) visas is inconsistent with the immigration status of such individuals and the immigration laws of the United States. The Department holds missions responsible for ensuring that their personnel do not violate these rules.

It should be emphasized that, should such persons nonetheless engage in commercial or professional activity for profit in the United States, notwithstanding the consequences for such persons, certain results automatically follow.

Specifically, such persons would not enjoy, in connection with civil actions related to the employment, any otherwise available immunity from the civil jurisdiction of the courts in the United States. Additionally, such persons would be liable for the payment of income taxes on the income resulting from such activity or employment.

A different situation exists with respect to the dependents of the classes of persons specified above. While as a general rule these dependents enjoy no right under international law to be commercially employed in the host State, and they too are in the first instance not to engage in employment in the United States pursuant to the U.S. immigration laws, U.S. law permits dependent employment (country-by-country) on the basis of reciprocity and in accordance with procedures prescribed by the Department of State and U.S. Citizenship and Immigration Services.

Under the dependent employment program, on the basis of reciprocity, certain dependents are permitted to engage in employment in the United States. All such employed dependents would, however, as a consequence of taking up such employment, lose their civil immunity and exemption from income taxation in connection with such employment under international law (*see e.g.*, Articles 31(1) (c) and 34(d) of the Vienna Convention on Diplomatic Relations and, in some cases, as a consequence of express provisions in bilateral agreements).

The issue of the permissible commercial use of vehicles bearing U.S. Department of State diplomatic or consular license plates only arises in connection with the relatively small class of dependents identified in the preceding paragraph.

The Department wishes to take this opportunity to inform the Chiefs of Mission that dependents employed under the reciprocity-based employment program may continue to use motor vehicles bearing Department of State license plates in the course of employment, for example, to drive to and from a place of employment, as long as the vehicle's use is not essential to the conduct of the employment. However, the Chiefs of Missions are informed that, effective immediately, the commercial use of motor vehicles bearing Department of State license plates, particularly in those work situations where vehicle use is essential to the job, *e.g.*, Uber, Lyft, road side assistance, etc., as well as home delivery of various items such as prepared foods, is strictly prohibited.

Inquiries regarding this policy may be directed to the Office of Foreign Missions at 202-895-3682 or at OFMDMVIInfo@state.gov.

Department of State,

Washington, December 7, 2016.

