



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

OCT 14 2010

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Inspector General of the Department of Defense Report No. D-2010-086,
"Utility Tax Avoidance Program in Germany," September 29, 2010

In the subject report, we erroneously used "North Atlantic Trade Organization" in Appendix B. We are revising the "North Atlantic Trade Organization" section of Appendix B; the correct wording is "North Atlantic Treaty Organization." Please reference the attached pages as replacement pages for any copies of the subject report in your possession. We have revised only the pages indicated, and no other information in the report has been modified. You can also access a complete revised version on our Web site:

If you have any questions on the revisions, please contact me at (703) 604-8866 or Mr. Donald A. Bloomer at (703) 604-8863.

A handwritten signature in cursive script that reads "Alice F. Carey".

Alice F. Carey
Assistant Inspector General
Readiness, Operations, and Support

Attachments:
As stated

Appendix B. Foreign Tax Relief Criteria

DOD

The DOD Financial Management Regulation, 7000.14-R, vol 10, ch 6, “Federal, State, Local, and Foreign Taxes,” February 1996, states that the U.S. Government’s right to foreign tax exemptions is based on the tax agreements with foreign countries, which are outlined in the Status of Forces or Government tax agreements.

DOD Instruction 5100.64, “DOD Foreign Tax Relief Program,” March 30, 2006, prescribes the policies and procedures of the DOD foreign tax relief program, requiring that DOD secure, to the maximum extent possible, effective relief from all foreign taxes wherever the ultimate economic burden of those taxes would, in absence of such relief, be borne by funds appropriated or allocated to the DOD or under the control of its non-appropriated fund activities. Further, DOD Instruction 5100.64 states that when the cost of effective tax relief outweighs the benefit to be obtained, tax relief should be considered impractical.

U.S. European Command

As an extension to the DOD Instruction, Headquarters U.S. European Command Directive 45-8, “Foreign Tax Relief Program,” May 8, 2007, assigned the Commander, U.S. Army Europe as the designated Military Commander for the purposes of the Foreign Tax Relief Program in Germany.

To provide policy and procedures for administering tax-free purchases of goods and services in Germany, the designated Military Commander in conjunction with the Commander, USAFE issued a joint publication Army in Europe Regulation 215-6/ USAFE Instruction 34-102, “Morale, Welfare, and Recreation Individual Tax Relief Program,” August 3, 2009. The guidance covers only goods and services in the local German communities as provided for by the status of forces agreement to official U.S. forces procurement agencies, but not to individuals. IMCOM-E Community Morale, Welfare, and Recreation Fund and USAFE Services Fund activities, as official procurement agencies, are able to provide exemption from VAT when they act as a purchasing activity on behalf of authorized members of the U.S. Forces and the civilian component. When the German utility company participates in the tax relief program, the goods and services may be procured tax-free through the IMCOM-E Community Morale, Welfare, and Recreation Fund and the USAFE Services Fund operations; provided that the transaction is properly conducted and the purchase is not prohibited.

North Atlantic Treaty Organization

Article 67 of the North Atlantic Treaty Organization Status of Forces Agreement Supplementary Agreement, March 29, 1998, addresses taxation and customs duties for goods and services rendered to foreign forces stationed in the Federal Republic of Germany. Specifically, tax relief shall be granted when goods or services are procured by an official procurement agency of a force or a civilian component for the use of, or consumption by, the force, the civilian component, their members, or dependents. A

letter from the German Federal Ministry of Finance, December 22, 2004, clarified Article 67. The letter states, “Turnover tax/VAT (value added tax) relief pursuant to Article 67, paragraph 3, the North Atlantic Treaty Organization Status of Forces Agreement Supplementary Agreement is also possible for the supply of electricity, gas, water, and heat.”