

M e m o r a n d u m**250.0097**

To: Mr. Al Cade
Compliance Planning and
Evaluation Unit

January 12, 1989

From: Robert J. Stipe
Legal

Subject: Taiwan Diplomats

This is in response to your memorandum of December 16, 1988. You inquire whether the gross receipts from retail sales to Taiwan Diplomats are exempt from tax.

In 1979, the President of the United States terminated governmental relations between the United States and the governing authorities of Taiwan. As a result, Congress passed the "Taiwan Relations Act" in order to promote the continuation of commercial, cultural and other relations between the United States and the people of Taiwan (22 U.S.C. 3301). The "Taiwan Relations Act" established a nonprofit corporation called the American Institute in Taiwan, which functions much like a foreign embassy (22 U.S.C. 3305). Further, the Act exempted the Institute from any taxes imposed by any State or local taxing authority (22 U.S.C. 3307). Finally, pursuant to the Act, the United States Department of State issues a "Tax Exemption Card" to members of the institute. This card states that the holder is exempt from all sales taxes.

Sales and Use Tax Regulation 1619(a), in pertinent part, provides as follows:

"Neither sales nor use tax applies to the sale or use of tangible personal property sold to foreign consular officers, employees, or members of their families, to the extent that such persons have been identified by the U. S. State Department as immune from the tax pursuant to treaties or other diplomatic agreements with the United States. Persons identified as immune from taxation pursuant to treaties or other diplomatic agreements with the United States will be issued a Tax Exemption Card by the U. S. State Department which identifies the bearer as exempt from tax and which specifies the extent of the exemption."

Applying the above, it is our opinion that the sales or use tax does not apply to the sale or use of tangible personal property sold to Taiwan Diplomats holding a "Tax Exemption Card" issued by the United States Department of State, since the State Department has identified these members of the American Institute in Taiwan as immune from state and local taxation pursuant to the Taiwan Relations Act.

RJS:sr