



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
July 24, 2018
Federal Tax ID# 54-1465325

TO WHOM IT MAY CONCERN

Subj: TAX EXEMPTION CERTIFICATE

This is to certify that all tangible personal property and services purchased pursuant to a written Non-Appropriated Fund (NAF) contract by the Business and Support Services Division, Headquarters, U.S. Marine Corps (HQMC MR), conducting business as Marine Corps Community Services (MCCS), are for resale, consumption, or use in support of programs and activities operated by the MCCS. MCCS provides an integrated organization for the development, operation, and delivery of numerous military Morale, Welfare and Recreation (MWR) activities, including a wide variety of resale and services such as the Marine Corps Exchange (MCX). HQMC MR and Marine Corps installation-based MCCS activities are an integral part of the Department of Defense (DoD) and are Nonappropriated Fund Instrumentalities (NAFIs) of the United States established and operated in accordance with Federal laws and U.S. Armed Services regulations. Each MCCS activity retains a unique Federal Tax ID number. The above referenced number is that of HQMC MR.

MCCS contracts are United States Government contracts; however, they do not obligate appropriated funds of the United States except for a judgment or compromise settlement in suits brought under the Contract Disputes Act (41 USC §§ 601-603), in which event MCCS will reimburse the United States Government (31 USC § 1304(c)). NAF procurements are subject to Department of Defense Instruction 4105.71, Secretary of the Navy Instruction 7043.5B, and Marine Corps Order 7010.20. The Federal Acquisition Regulation (FAR) published pursuant to the Office of Federal Procurement Policy Act of 1974 does not apply to NAF procurements except for those FAR provisions administratively adopted in the NAF contract. MCCS is eligible to participate in all General Services Administration contracts and other contracts available for use by U.S. Government agencies and instrumentalities.

It is a well-established principle of Constitutional law that the United States and its' Instrumentalities are immune from direct taxation by State and local governments unless Congress specifically authorizes taxation (See 4 USC §§ 105 et seq. (The Buck Act)). The Supreme Court of the United States first recognized the Constitutional doctrine of sovereign immunity in M'Culloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819); then extended constitutional immunity to federal instrumentalities in Standard Oil v. Johnson, 316 U.S. 481, 485 (1942); and in United States v. Tax Com. of Mississippi, 421 US 599 (1975), held that, viewing the tax in question as a sales tax, when the legal incidence of that tax was applied to instrumentalities of the United States, the taxation was unconstitutional. Several states expressly or generally recognize this immunity from taxation in state statutes and regulations. However, since the basis for such immunity is the United States Constitution and federal statutes, state exemption requirements do not pertain to sales to MCCS; nor is any state retailer's certificate/number required to MCCS to recognize the tax-free status. The United States Congress has not authorized state, territory, or local governments, the District of Columbia, or any subdivisions thereof, to impose a tax directly on MCCS contracts or purchases of goods or services.

Therefore, it is suggested that you retain this certificate as documentation of the tax-free status of your sales of goods or services to MCCS. Please direct questions to the undersigned at (703) 423-0572.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Carlson".

Christopher G. Carlson

Counsel

Business and Support Services Division
Headquarters, U.S. Marine Corps