

FACT SHEET: Tax Exemptions Accorded U.S. Contractors and U.S. Contractor Personnel Under the Agreement regarding the Status of United States Military and Civilian Personnel of the U.S. Department of Defense Present in Afghanistan in connection with Cooperative Efforts in Response to Terrorism, Humanitarian and Civic Assistance, Military Training and Exercises, and Other Activities (U.S.-Afghanistan Status of Forces Agreement (SOFA))

- This fact sheet addresses the tax exemptions afforded to U.S. Government contractors and subcontractors. The U.S.-Afghanistan SOFA entered into force May 28, 2003, and its provisions apply, as specifically indicated therein, to Department of Defense (DoD) “military and civilian personnel, contractors and contractor personnel.” The SOFA provisions applicable to contractors have historically been interpreted to apply to subcontractors and subcontractor personnel as well as contractors and contractor personnel. The U.S.-Afghanistan SOFA includes a broad tax exemption, providing: “The Government of the United States of America, its military and civilian personnel, contractors, and contractor personnel shall not be liable to pay any tax or similar charge assessed within Afghanistan.” It further provides: “Acquisition of articles and services in the republic of Afghanistan by or on behalf of the Government of the United States of America in implementing this agreement shall not be subject to any taxes, customs duties or similar charges in Afghanistan.”
- The U.S.-Afghanistan SOFA’s tax exemption provisions cover DoD contractors, subcontractors, and their U.S. or other non-Afghan employees. Because the SOFA provides that contractors and contractor personnel “shall not be liable to pay any tax or similar charge assessed within Afghanistan,” DoD contractors, subcontractors, and their employees are exempt from any taxes or similar charges imposed under Afghan law, including corporate and personal income taxes. Further, the SOFA provides that any goods or services acquired “on behalf of” the U.S. Government are not subject to any taxes in Afghanistan. DoD contractors, subcontractors, and their employees provide services on behalf of the U.S. Government, regardless of whether they have contracted directly with DoD or provide services under an agreement with a DoD primary contractor. Therefore, DoD contractors, subcontractors, and their U.S. or other non-Afghan employees are not subject to any taxes, customs duties, or other similar charges while present in Afghanistan.
- The U.S.-Afghanistan SOFA was concluded by the exchange of diplomatic notes between the Government of Afghanistan and the U.S. Government, and it constitutes “an [international] agreement between the two governments,” which entered into force upon receipt of the Government of Afghanistan’s reply note indicating acceptance of the terms

proposed in the U.S. Government's note.. Although the reply note was issued by the Islamic Transitional Government of Afghanistan (ITGA), the subsequently elected Government of the Islamic Republic of Afghanistan assumed responsibility for ITGA's legal obligations, and the U.S.-Afghanistan SOFA remains in force. The SOFA is self-executing, and constitutes an enforceable international agreement. No further action is required by any U.S. Government or Afghan Government department, agency, or official in order for the U.S.-Afghanistan SOFA provisions to apply to entities and individuals covered by its terms.

- The U.S.-Afghanistan SOFA does not address contractor registration, and Afghanistan may require companies to register and file returns, although Afghanistan entities may not charge a fee for such registrations or filings. Eligible companies may claim an exemption from tax on the income associated with activities undertaken under contract (or subcontract) with DoD, in accordance with the U.S.-Afghanistan SOFA. Further, income that is exempt from taxation under the U.S.-Afghanistan SOFA is not subject to withholding.