

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART M829—TAXES

Subpart M829.1—General

Subpart M829.2—Federal Excise Taxes

- M829.201 General.
- M829.203 Other Federal tax exemptions.
- M829.203-70 Tax exemptions for alcohol products.

Subpart M829.3—State and Local Taxes

- M829.302 Application of State and local taxes to the Government.
- M829.303 Application of State and local taxes to Government contractors and subcontractors.

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SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART M829—TAXES

Subpart M829.1—General

M829.101 Resolving tax problems.

(a) In order to ensure uniformity in VA's treatment of the tax aspects of contracting and ensure effective cooperation with other government agencies on tax matters, the VA Office of General Counsel has the responsibility within VA for handling tax related matters and issues. Therefore, the contracting officer or any other member of the requiring or contracting activity shall not engage in negotiation with any taxing authority for the purpose of determining the validity of any tax.

M829.101-70 Procedures for legal review of tax issues.

(a) When a problem exists which requires referral to legal tax counsel in accordance with FAR 29.101 and M829.101, the contracting officer shall request in writing the assistance of legal counsel by—

- (1) Detailing the problem;
- (2) Attaching appropriate back-up data; and
- (3) Providing copies of the contract, order and modifications.

(b) VA Office of General Counsel (OGC) shall report to the contracting officer as to the necessary disposition of the tax issue.

(c) The contracting officer shall notify the contractor of the outcome of the tax issue.

(d) VA OGC is responsible for communications with the Department of Justice for representation or intervention in proceedings concerning taxes. Any notifications received by the contracting officer shall be promptly referred and provided to OGC.

Subpart M829.2—Federal Excise Taxes

M829.201 General.

(a) See M829.101-70 for VA procedures for legal review of tax issues.

M829.203 Other Federal tax exemptions.

M829.203-70 Tax exemptions for alcohol products.

(a) *General.*

(1) VA is permitted to procure spirits to be used for non-beverage purposes free of tax under Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations. Refer to the Code of Federal Regulations, [Title 27](#) for the limitations and requirements with particular attention to:

(i) [§19.426 Withdrawal of spirits by the United States.](#)

(ii) [§20.241](#) - §20.246 under Subpart N—Use of Specially Denatured Spirits by the United States or Government Agency.

(iii) [§22.171](#) through § 22.176 under Subpart N—Use of Tax-Free Spirits by the United States or Government Agency.

(iv) [§24.293 Wine for Government use.](#)

(v) [§27.181](#)-§27.185 under [Subpart M](#)—Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States.

(b) *Specially denatured spirits or spirits free of tax for nonbeverage purposes.*

(1) The contracting officer may obtain application forms for tax-free purchases by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the TTB National Revenue Center, 550 Main Street, Suite 8002, Cincinnati, Ohio 45202. You can find all TTB forms on TTB's website, www.ttb.gov. Click the "Forms" link under the "Information By Topic" section. The completed forms must be submitted to the TTB officer as provided in the most recent version of the form.

(2) The Executive Director and Chief Operating Officer, National Acquisition Center, and the Head of the Contracting Activity (HCA) may sign application permits on Department of the Treasury-[TTB Form 5150.33](#), Spirits for Use of The United States. This authority may not be delegated.

(3) The accountable officer must ensure that accurate records of all receipts, usage, and destruction of tax-free distilled spirits are maintained at each medical center and must conduct a semi-annual physical inventory of the tax-free alcohol in the possession of the medical center (see 27 CFR 22.161 and 22.162).

Subpart M829.3—State and Local Taxes

M829.302 Application of State and local taxes to the Government.

(a) If a vendor refuses to sell at a price exclusive of the State and local tax, the contracting officer must use Standard Form (SF) 1094, U.S. Tax Exemption Certificate, as a basis for notifying taxing authorities for a refund of taxes paid.

(b) A contracting officer may not furnish an SF 1094 to a vendor or use SF 1094 to claim reimbursement from the taxing authority when the total amount of State and local tax on any one purchase is \$15 or less.

M829.303 Application of State and local taxes to Government contractors and subcontractors.

(c) The contracting officer shall seek review and advice in accordance with M829.101-70, Procedures for legal review of tax issues.

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