



**UNITED STATES MISSION TO THE UNITED NATIONS NEW YORK**

October 20, 2009

HC-132-09

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honor to refer to its circular note verbale number HC-86-09 which announced that the host country extended an exemption from property taxation to real property owned by foreign governments and used to house members of the staff of the Permanent Missions.

The United States Mission also wishes to refer to an October 7, 2009 "Notice to All Foreign Governments" addressed to certain Missions by the Law Department of the City of New York, which suggests that the foreign governments that own such property remain responsible for continuing to pay the real property taxes that have been and will be assessed by the City on those properties. In this regard, the United States Mission wishes to inform the Permanent Missions that the Secretary of State has clear authority under United States law to exempt from taxation properties owned by foreign states and used as residences for staff of Permanent Missions to the United Nations. The Department of State's June 23, 2009 Determination (a copy of which was attached to note HC-86-09) provided that exemption; the June 23 Determination is a valid exercise of United States federal authority; and the June 23 Determination preempts inconsistent New York State law.

**DIPLOMATIC NOTE**

The City of New York, however, has challenged the validity of the June 23 Determination in federal court and the court will resolve this dispute. The United States Department of State believes that the law is on its side, and although it cannot guarantee the outcome of the litigation, it is confident that the court will uphold the Determination.

The City of New York's October 7 Notice states that the property tax exemption is not effective until the Department of State approves specific property as exempt from taxation. ~~rhi~~ is incorrect. When issued, the June 23 Determination made all covered property exempt, although the Department of State reserved the right to impose conditions, as appropriate, in specific cases. The United States Mission subsequently requested that the Permanent Missions identify 10 the Department of State those properties that they believed to be exempt so that the Department might confirm the property's eligibility for tax exemption. The June 23 determination nonetheless exempted foreign states from taxes assessed on covered property prior to the Department's confirmation of eligibility.

Accordingly, pending the outcome of the litigation, each Permanent Mission may wish to consult with its legal counsel concerning the proper course of action in light of the United States Government's actions, including this note verbale, and the actions of the City of New York, including matters raised in its October 7 notice.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.

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