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January 2, 2021

MEMORANDUM

From: Office of Counsel, Navy Exchange Service Command
To: All Interested Parties

Subj: TAX EXEMPT STATUS OF NAVY EXCHANGE SERVICE COMMAND
(Tax ID #11-1644854)

This memorandum discusses the basis for the tax exempt status of Navy Exchange Service Command (NEXCOM).

NEXCOM, a nonappropriated fund instrumentality of the United States, supports the operation of Navy Exchange retail stores on a worldwide basis and, as such, performs governmental functions. See e.g. Champaign-Urbana News Agency Inc. v. J. L. Cummins News Co., Inc., 632 F.2d 680 (7th Cir. 1980). For example, NEXCOM contracts, as well as those issued by its subordinate activities and individual exchanges, are considered United States government contracts. Furthermore, as an instrumentality of the federal government, NEXCOM qualifies for all of the immunities of the government (see e.g., Standard Oil Company of California v. Johnson, 316 U.S. 481 (1942)), including immunity from state and local taxation. See e.g., United States v. State Tax Commission of Mississippi, 421 U.S. 599 (1975).

The NEXCOM tax exemption is based upon federal law and not dependent upon recognition by the individual states. Individual state exemption certificate requirements do not apply to sales to NEXCOM. Neither NEXCOM nor the individual retail exchange stores receives a state retailer's certificate or number. Moreover, all tangible personal property and services purchased pursuant to written contract issued by NEXCOM are either for resale to or consumption by NEXCOM, the individual exchanges or authorized patrons, and not subject to taxation by states or localities.

I trust this memorandum answers any questions you may have regarding the tax exempt status of NEXCOM. You may wish to retain a copy of this memorandum in your files should you receive inquiries from state or local tax officials. Please direct any additional questions on this issue to my point of contact Michael D. Rigg, at michael.rigg@nexweb.org, (757) 631-3611 or (757) 631-3615 (facsimile).

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