

Richard O’Keeffe Discusses Final Rule Exempting Contractors from Afghan Taxes

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Richard B. O’Keeffe, Jr., of counsel in Wiley Rein’s Government Contracts Practice, was quoted in a December 31 *Bloomberg BNA* article about a U.S. Department of Defense rule that exempts contractors from paying Afghan taxes related to U.S. military contracts in Afghanistan.

The final rule, issued December 30, gives contractors in Afghanistan “much-needed clarity” that they are exempt from that country’s taxation, Mr. O’Keeffe told BNA’s *Federal Contracts Report*. The rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate tax exemptions set by the September 2014 Bilateral Security Agreement between the United States and Afghanistan.

Contractors had been exempt from Afghan taxes in the past, but Afghan officials and ministries did not always recognize the exemptions, and contracting officers took a hands-off approach to enforcing them, Mr. O’Keeffe said. He explained that the new rule will provide certainty, especially for contracting officers.

“It’s more comforting for contracting officers to have something to point to” in the DFARS, Mr. O’Keeffe said. He added that for the rule to succeed, contracting officers will need to give their strong support to uniform protection of contractors in tax disputes with the Afghan government.

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