

MEMORANDUM D21-2-7

Ottawa, July 1, 1982

SUBJECT

REVENUE EXEMPTIONS AND PRIVILEGES GRANTED TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

This Memorandum outlines and explains the revenue exemptions and privileges granted to the International Civil Aviation Organization (I.C.A.O.) pursuant to the Privileges and Immunities (International Organizations) Act.

Regulations

ORDER ENSURING THE PRIVILEGES AND IMMUNITIES ACCORDED TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Short Title

1. This Order may be cited as the **International Civil Aviation Organization Privileges and Immunities Order**.

Privileges and Immunities

2. Notwithstanding any other section of this Order, the International Civil Aviation Organization shall, in Canada, have the privileges and immunities set forth in Articles II and III of the Convention on the Privileges and Immunities of the United Nations, hereinafter referred to as the "Convention", to the extent that these privileges and immunities are contained in the Agreement between the International Civil Aviation Organization and the Government of Canada regarding the Headquarters of the International Civil Aviation Organization, signed at Montreal on April 14, 1951, hereinafter referred to as the "Agreement".

3. The International Civil Aviation Organization shall have the legal capacities of a body corporate.

Representatives

4. (1) For the purposes of this section, the expression "representatives" shall have the meaning accorded by the Agreement to the expression "Representatives of Members" and shall include representatives of states and governments that are members of the International Civil Aviation Organization and representatives of states attending conferences convened by the International Civil Aviation Organization.

(2) Representatives shall have in Canada the privileges and immunities set forth for Representatives of Members in Article IV of the Convention, to the extent that these privileges and immunities are extended to Representatives of Members by the Agreement, and subject to any terms or conditions set out in the Agreement.

(3) Representatives shall continue to have the immunities set forth in Article IV of the Convention to the extent that these are specified in paragraph 12(a) of the Agreement notwithstanding that they are no longer the representatives of members.

(4) Where the incidence of any form of taxation depends upon residence, periods during which representatives are present in Canada for the discharge of their duties shall not be considered as periods of residence.

Privileges and Immunities Granted to Officials

5. The President of the Council, the Secretary-General, the Deputy Secretary-General and all Assistant Secretaries-General shall in Canada have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations to the extent that these are set forth in the Agreement, as applicable to senior officials of the International Civil Aviation Organization, and without restricting any other privileges or immunities accorded under this section, the President of the Council and the Secretary-General of the International Civil Aviation Organization shall be accorded in respect of themselves, their spouses and minor children the same privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law.

6. Officials of the International Civil Aviation Organization whose names are included in the categories specified by the Secretary-General of the Organization in accordance with section 26 of the Agreement shall in Canada have the privileges and immunities set forth in Article V of the Convention for officials of the United Nations, to the extent that these are set forth in the Agreement, and such officials shall be deemed to have been designated by the Governor in Council pursuant to paragraph 3(2)(d) of the Privileges and Immunities (International Organizations) Act.

7. Nothing in this Order shall be construed as exempting a Canadian citizen residing or ordinarily resident in Canada, from liability for any taxes or duties imposed by any law in Canada.

8. For greater certainty, it is hereby declared that the foregoing privileges and immunities shall be deemed to have been provided by the Governor in Council by Order in Council P.C. 1774 of April 11, 1991, and to have become effective on May 1, 1991, in accordance with the provisions of the Exchange of Notes between the President of the Council and L. B. Pearson as representative of the Government of Canada.

GUIDELINES AND GENERAL INFORMATION

1. The International Civil Aviation Organization is a specialized agency of the United Nations, the head office of which is located in Montreal. Pursuant to the International Civil Aviation Organization Privileges and Immunities Order and the Agreement between the I.C.A.O. and the Government of Canada signed April 14, 1951, the I.C.A.O. is to be granted the Customs privileges and immunities as outlined in this Memorandum.
I.C.A.O.

2. The privileges and immunities granted to the office of the I.C.A.O. by virtue of section 2 of the Order are:

(a) the exemption from Customs duties, excise duty, sales and excise taxes and prohibitions and restrictions on imports and exports in respect to articles imported or exported by the I.C.A.O. for its official use. It is understood that articles imported under such exemption will not be sold in Canada except under conditions agreed with the Government of Canada;

(b) the exemption from Customs duties, excise duty, sales and excise taxes and prohibitions and restrictions on imports and exports in respect to its publications;

(c) the right to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Representatives of I.C.A.O. Members

3. The privileges and immunities granted to representatives of members of the I.C.A.O. by virtue of section 4(2) of the Order are:

(a) inviolability for all papers and documents;

(b) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(c) exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions;

(d) the privilege of exemption (in respect of themselves and their families) from examination of baggage and other effects and admission thereof free of duties;

(e) the privilege of admission of articles for their personal or family use free of duties at all times, provided that any article which was exempted from duties shall be subject thereto at the existing rates if sold or otherwise disposed of in Canada within a period of one year in the case of articles other than motor vehicles, and two years in the case of motor vehicles, from the date of acquisition and the vendor shall be liable for such duties;

(f) the privilege of exemption from excise duty imposed under the Excise Act on domestic spirits and tobacco purchased from licensed manufacturers in Canada;

(g) the privilege of exemption from excise or sales tax on domestic spirits, wine and tobacco products when purchased direct from licensed manufacturers for the personal use of the applicant, and on automobiles, ale, beer and stout when purchased under appropriate certificate from licensed manufacturers, provided that any article which was exempted from these taxes shall be subject thereto at the existing rates if sold or otherwise disposed of within a period of one year from the date of purchase and the vendor shall be liable for such tax.

Senior Officials of I.C.A.O.

4. The privileges and immunities granted to senior officials of the I.C.A.O. by section 5 of the Order are:

(a) immunity, together with their spouses and relatives dependent on them, from immigration restrictions;

(b) exemption in respect of themselves and their families from examination of baggage and other effects and admission thereof free of duties;

(c) admission of articles for their personal or family use free of duties at all times, provided that any article which was exempted from duties shall be subject thereto at the existing rates if sold or otherwise disposed of in Canada within a period of one year in the case of articles other than motor vehicles, and two years in the case of motor vehicles, from the date of acquisition and the vendor shall be liable for such duties;

(d) eligibility to claim for the exemption from excise duty imposed under the Excise Act on domestic spirits and tobacco purchased from licensed manufacturers in Canada;

(e) eligibility to claim exemption from excise or sales tax on domestic spirits, wine and tobacco products when purchased direct from licensed manufacturers for the personal use of the applicant, and on automobiles, ale, beer and stout when purchased under appropriate certificate from licensed manufacturers provided that any article which was exempted from these existing rates if sold or otherwise disposed of within a period of one year from the date of purchase and the vendor shall be liable for such tax.

Other Officials of I.C.A.O.

5. The privileges and immunities granted by section 6 of the Order to officials deemed to have been designated by the Governor in Council are:

(a) immunity, together with their spouses and relatives dependent on them, from immigration restrictions;

(b) the right to import free of Customs duties, sales and excise taxes their furniture and effects, including motor vehicles but not including spirituous liquors, at the time of first taking up their post in Canada.

6. Application for Customs duty, sales and Excise Tax remission form E 207, a facsimile of which is contained in Memorandum D21-1-1, Customs Diplomatic Privileges, is the standard application form used for duties, sales and excise tax remission on vehicles purchased in Canada or imported into Canada by representatives of member states of the I.C.A.O. and by Senior Officials of the I.C.A.O.

REFERENCES

EFFECTIVE DATE —

May 1, 1951

ISSUING OFFICE —

Tariff Programs (Classification)

LEGISLATIVE REFERENCES —

C.R.C., c. 1313

HEADQUARTERS FILE —

4582-1, 4583-1

SUPERSEDED MEMORANDA "D" —

D52-7E

OTHER REFERENCES —

D21-1-1, D21-2-1

Privileges and Immunities (International Organizations) Act

SERVICES PROVIDED BY THE DEPARTMENT ARE AVAILABLE IN BOTH
OFFICIAL LANGUAGES.

THIS MEMORANDUM IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY
MINISTER OF NATIONAL REVENUE, CUSTOMS AND EXCISE.