**DFARS Case 2021-D029**

**Reporting Tax Information on Certain Foreign Procurements**

**Final Rule**

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

**\* \* \* \* \***

**Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(c) \* \* \*

(f) \* \* \*

**[(xiii) *Part 229—Taxes*. Use the clause at 252.229-7014, Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements, as prescribed in 229.402-70, to comply with 26 U.S.C. 5000C.]**

(x~~iii~~**[xiv]**) \* \* \*

*[Remaining sections renumbered accordingly.]*

**\* \* \* \* \***

**PART 213—SIMPLIFIED ACQUISITION PROCEDURES**

**\* \* \* \* \***

**SUBPART 213.3—SIMPLIFIED ACQUISITION METHODS**

**213.301 Governmentwide commercial purchase card.**

**\* \* \* \* \***

**[(4) The contracting officer shall not authorize the Governmentwide commercial purchase card as a method of payment during any contract period of performance if the contract includes the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, unless the contract also includes the clause at 252.229-7014, Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements, indicating that the contractor is fully exempt from the tax.]**

(**[5]**~~4~~) \* \* \*

**\* \* \* \* \***

**PART 229—TAXES**

**\* \* \* \* \***

**[SUBPART 229.2—FEDERAL EXCISE TAXES**

**229.204 Federal excise tax on specific foreign contract payments.**

**The contracting officer shall not authorize the Governmentwide commercial purchase card as a method of payment during any contract period of performance if the contract includes the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, unless the contract also includes the clause at 252.229-7014, Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements, indicating that the contractor is fully exempt from the tax.]**

**\* \* \* \* \***

**SUBPART 229.4—CONTRACT CLAUSES**

**\* \* \* \* \***

**229.402-70 Additional provisions and clauses.**

**\* \* \* \* \***

**[(k) Use the clause at 252.229-7014, Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements, in contracts that include the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, when the contractor has—**

**(1) Represented that it is a foreign person in response to the provision at FAR 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation; and**

**(2) Indicated that it is fully exempt from the tax for reasons cited on their IRS Form W-14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments.]**

**\* \* \* \* \***

**PART 232—CONTRACT FINANCING**

**\* \* \* \* \***

**SUBPART 232.11—ELECTRONIC FUNDS TRANSFER**

**\* \* \* \* \***

**[232.1108 Payment by Governmentwide commercial purchase card.**

**232.1108-70 Prohibition of Governmentwide commercial purchase card as a method of payment when the tax on certain foreign procurements applies.**

**The contracting officer shall not authorize the Governmentwide commercial purchase card as a method of payment during any contract period of performance if the contract includes the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, unless the contract also includes the clause at 252.229-7014, Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements, indicating that the contractor is fully exempt from the tax.]**

**\* \* \* \* \***

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**\* \* \* \* \***

**SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES**

**\* \* \* \* \***

**[252.229-7014 Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements.**

**As prescribed in 229.402-70(k), use the following clause:**

**FULL EXEMPTION FROM TWO-PERCENT EXCISE TAX ON CERTAIN FOREIGN PROCUREMENTS (OCT 2022)**

**(a) As the Contractor represented in its offer, any item, including any item delivered under subcontract; any service; or any combination thereof delivered under this contract is fully exempt from the 2-percent excise tax withholding imposed by 26 U.S.C. 5000C and implemented by Federal Acquisition Regulation (FAR) 52.229-12, Tax on Certain Foreign Procurements.**

**(b) If the full exemption no longer applies due to a change in circumstances during the performance of the contract, causing the Contractor to become subject to the withholding for the 2-percent excise tax as imposed by 26 U.S.C. 5000C, then the Contractor shall immediately comply with the notification and billing requirements of FAR clause 52.229-12.**

**(End of clause)]**

**\* \* \* \* \***