

## 12.0 Miscellaneous

This chapter briefly defines various miscellaneous aspects of the U.S. defence market:

1. Military Assistance Program
2. Foreign Military Sales
3. Canadian Federal Sales Tax
4. Provincial Sales Tax

### 12.1 Military Assistance Program (MAP)

Statutory regulations normally preclude U.S. Military Assistance Program (MAP) acquisition outside the U.S.; however, there are exceptions (DoD FAR SUPP 25-72). Only United States end products are normally delivered in the U.S. Military Assistance Program, but such an end product means "an end product manufactured in the United States if the cost of the components thereof, which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components". (DoD FAR SUPP 52-225-7016). This means that Canadian firms could be subcontractors under this program.

### 12.2 Foreign Military Sales

Generally, Canadian firms may supply items for U.S. Foreign Military Sales. There are, however, exceptions to this rule. This may be particularly important to Canadian firms because the foreign customers may stipulate the source of the item (DOD FAR SUPP 25.7307). Where a Canadian firm has been a partial supplier to the U.S., it has proven possible to influence the customer to stipulate the Canadian supplier as his designated source.

### 12.3 Canadian Federal Sales Tax

Federal Sales Tax does not apply to goods exported from Canada to the United States, provided the goods have not been used in Canada. This applies to goods for both civilian and military use, and is provided for in the Excise Tax Act, which statute imposes the sales tax.

Canadian firms are entitled to a refund of the sales tax previously paid on unused goods sold to the U.S. government.

Department of National Revenue Memorandum D-17-17, dated October 25, 1978 provides for the remission of sales taxes (in addition to customs duties and excise taxes) in cases where Canadian manufactured goods are shipped to the U.S. Military Services at sites in Canada. This applies even though the goods remain permanently or temporarily in Canada as long as the title or ownership is vested in the U.S. government.

Certificates, stating that the goods in question are or will become the property of the U.S. government, and are to be used solely and exclusively in joint Canada/United States projects or U.S. establishments in Canada, and signed by an authorized representative, are required.

NOTE: If goods are delivered through the U.S. to a third nation, an export licence may be required (see CH 10.2)

If the sale of the goods is by a Canadian manufacturer, licensed as such, or by a wholesaler holding a federal sales tax licence, it will not be necessary to pay the tax and then claim a refund. The sale may be effected without the application of sales tax provided the conditions outlined in the above paragraph are observed. If during the completion of a prime or subcontract for the U.S. Services, inventory is used on which sales tax has already been paid, refund may be claimed provided it can be proved that the goods were used under exempt conditions as outlined above, and provided further that the claim is submitted within two years of the time the claimant sold the goods to the U.S. government.

### 12.4 Canadian Provincial Sales Taxes

Most provinces levy sales tax established by provincial legislation and regulations. It is therefore impossible to give a general ruling on the applicability of provincial sales tax on Canadian goods sold directly or by subcontracting to the U.S. government.