The Embassy of the United States of America presents its compliments to the Ministry for Foreign Affairs of Finland and has the honor to refer to tax exemption for real property owned by foreign governments and used to house members of the diplomatic mission. The Embassy requests that the Government of Finland provide exemption from the 1.6 percent transfer tax assessed on the United States Government in connection with the purchase of shares (numbered 150-298, 299-506 507-714, 715-904, 1095-1251 and 1252-1500) in a housing corporation (Asunto-Oy Kaunialsten Kavallintie 39-41) which will entitle the United States Government to take possession of six apartment residences to house members of the diplomatic mission.

The Embassy directs the attention of the Ministry to Article XXI of the 1934 bilateral treaty of friendship, commerce, and consular rights (Friendship and Consular Treaty) between the United States and Finland.
Article XXI provides in relevant part: ‘Lands and buildings situated in the territory of either high contracting party, of which the other high contracting party is legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, national, state, provincial and municipal, other than assessments levied for services or local public improvements by which the premises are benefited.’

Article XXI provides an expansive exemption from ‘taxes of every kind’ related to lands and buildings used for governmental purposes. This treaty grant, precluding taxation, would apply to annually recurring real property taxes as well as one-time taxes associated with purchase or sale, such as transfer taxes on an acquisition of a chancery or diplomatic residence. The treaty exemption is not limited to mission premises but rather applies to taxes assessed on the treaty party in connection with all lands and buildings which are used for governmental purposes.

On numerous occasions in the past, the Republic of Finland has sought, and received, property tax exemption under Article XXI of the Friendship and Consular Treaty. In 1962, Finland availed itself of Article XXI to obtain tax exemption for government-owned real property situated in the United States. The residential property is located at 3010 Cleveland Avenue in the District of Columbia. At the time of purchase, the Finnish Ambassador stated its purpose was to provide living quarters for embassy personnel and visitors. After close examination, the District of Columbia acceded to the Department’s treaty argument and granted exemption to the residential property expressly on the basis of the 1934 treaty. Indeed, a 1962 Washington Post headline announced: “Exemption bid granted: ‘34 treaty saves Finland U.S. 1100 annual D.C. tax.” The property enjoys tax exemption through the present.

Similarly, in a judicial action decided in 1966, Republic of Finland v. Town of Pelham, an appellate court in the State of New York upheld Finland’s claim for tax exemption for a residential property under Article XXI of the treaty. The court found that the bilateral friendship and consular treaty served to override state and local law
requiring taxation. Significantly, the United States Government provided active service and ongoing support to the Republic of Finland in the lawsuit, filing a petition to intervene in the court case and also submitting an amicus curiae brief with the court in support of Finland’s claim for tax exemption under Article XXI for the residence of its Consul General.

Additionally, the Government of Finland has received tax exemption under the 1934 treaty for a residential property housing a member of their United Nations Mission (other than the permanent representative). This property, located at 7 Hampton Road, Scarsdale, New York, would not be entitled to tax exemption but for the terms of Article XXI of the 1934 treaty. The request for tax exemption from the permanent mission of Finland, dated April 1986 and seeking retroactive exemption to 1978, was based expressly on the 1934 treaty of friendship and consular rights.

In sum, the practice of a grant by the United States of property tax exemption to the Finnish mission in the United States under Article XXI of the Friendship and Consular Treaty is well established. This practice, together with the express text of the treaty, makes clear that Article XXI requires exemption from “taxation of every kind” related to property. As the Government of Finland has agreed in the past, exemption under the treaty is not limited to taxes on real property but also applies to taxes on other types of property such as personal property transfers.

The Government of Finland is accordingly called upon to reciprocate the treaty grant of property tax exemption historically allowed in the United States and to provide exemption from the 1.6 percent transfer tax otherwise levied on the United States Government in connection with the purchase of six apartment residences.
Further, as the United States Department of State announced in its note number 86-228, dated August 13, 1986, sent to all diplomatic missions in Washington, D.C, the United States Government takes the position that customary international law obligates the receiving state to exempt from real property taxes real property owned by a foreign government and used to house members of the diplomatic mission, on the basis of reciprocity. Tax exemption would apply to annually recurring real property taxes or rates as well as one-time taxes associated with the purchase or sale of property such as transfer or recordation or stamp taxes. Consistent with Article 23 of the Vienna Convention on Diplomatic Relations and customary international law, tax exemption is limited to real property taxes which are the legal responsibility of the foreign government and which are not fees for specific services rendered. The vast majority of states recognize this international law obligation to provide tax exemption to government-owned embassy residences.

In accordance with the treaty obligation of the Government of Finland, the Embassy requests immediate exemption for the United States Government from the 1.6 percent transfer tax associated with the purchase of six Embassy residences. The Embassy understands that under Paragraph 3 of Finland’s Property Transfer Tax Act, international agreements binding upon Finland take precedence over taxing authority.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry for Foreign Affairs of Finland the assurances of its highest consideration.

Embassy of the United States of America
Helsinki, January 18, 2001