

# **3 FAM 3320 OFFICERS EXEMPTED FROM LEAVE ACT**

## **3 FAM 3321 AUTHORITY**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

—5 U.S.C. 6301;

—5 U.S.C. 6305(b);

—Executive Order No. 10471 dated July 5, 1953, and amended by Executive Order No. 12292, dated February 23, 1981 (State only); and

—Department of State Delegation of Authority No. 104, as amended (USAID only).

## **3 FAM 3322 PRESIDENTIAL APPOINTMENTS**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

a. Those members of the Senior Foreign Service (SFS) and Foreign Service Officers serving under Presidential appointments (e.g., chiefs of mission, Executive Schedule positions, and in rare instances, certain statutory rate or administratively determined positions) effective after October 21, 1991 are required to make an election whether they will serve during the period of this Presidential appointment in Presidential Appointee (PA) pay and leave status, or in Senior Foreign Service (SFS) status.

b. Those individuals opting for Presidential appointee (PA) pay and leave status are not covered by the various statutory and regulatory provisions governing annual, sick and home leave as of the effective date of their appointment (i.e., oath of office). Thus, time taken off from the job while in Presidential pay and leave status is not charged under a leave system. In other words, members do not accrue nor use leave. The current balance of these leave categories is frozen until an SFS member returns to FS status, terminates employment or retires.

## **3 FAM 3323 ABSENCES OF EXEMPT OFFICERS**

### **3 FAM 3323.1 Leave of Absence in the United States**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

The Secretary of State, or the Administrator of USAID, or his/her designee, as appropriate, may grant leave of absence with pay to exempt officers (except career ambassadors not serving as chief of mission) for use in the United States and its territories and possessions, with travel at Government expense, after at least 18 months of continuous service abroad (see section 3 FAM 3431).

### **3 FAM 3323.2 Other Absences**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

Chiefs of mission, and USAID principal officers are on duty at all times, including periods of vacation or sickness. Subject to the requirements of 2 FAM 160 or USAID Handbook 27, Chapter 9, a chief of mission, or USAID principal officer may be absent from post as follows:

- (1) For travel to other posts to which concurrently assigned or to an alternate seat of government established by the country to which assigned.
- (2) For other periods of absence abroad from time to time, within the responsibility and needs of the office, and for vacation, sickness or other purposes.
- (3) When authorized by the Secretary of State or by Assistant Administrator of the respective USAID Bureau, as appropriate, periods of absence to visit the United States, U. S. Commonwealths or possessions, with travel at personal expense. Any such periods spent in the United States, U. S. Commonwealths or possessions, shall be deducted in computing continuous service abroad in connection with 3 FAM 3430.

### **3 FAM 3323.3 Notification to Headquarters**

#### **3 FAM 3323.3-1 Request for Authorization to Visit United States**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

An exempt officer desiring to visit the United States, a U. S. Commonwealth, or the possessions of the United States, shall request permission from the Secretary of State, or the Assistant Administrator of the respective USAID bureau, as appropriate, before departure. The procedures in 3 FAH-1 H-3320 will be followed.

#### **3 FAM 3323.3-2 Notification Required for Other Absences**

*(TL:PER-256; 4-17-95)*

*(State only --for USAID, see HB 27, Ch. 9)*

*(Applies to Foreign Service Employees Only)*

In accordance with 2 FAM 164.4-3, a chief of mission desiring to be absent from the country (countries) of assignment will request permission from headquarters reasonably in advance of proposed departure. In addition, absence from the capital by a chief of mission traveling within the country (countries) of assignment which places the chief of mission beyond easy, rapid communication with the Department and/or the post, should under the provisions of 2 FAM be reported to the Department. The procedures in 3 FAH-1 H-3320 will be followed.

#### **3 FAM 3323.3-3 Report of Return to Capital**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

Whenever the chief of mission returns to the capital after a reported absence, the date of arrival and the effective date of any transfer of office are reported to the Department.

#### **3 FAM 3323.3-4 Chief of Mission Not Returning to the Post**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

a. Chiefs of mission who, during their absence from the post, are reassigned to another post should follow the reporting procedures in 3 FAH-1 H-3320 upon arrival at their new post.

b. Chiefs of mission who leave the Service or retire without returning to their post of assignment should, upon completion of their travel to their place of residence, furnish the data required in 3 FAH-1 H-3320 directly to the Department, Attention: PER/RCT/RET.

## **3 FAM 3324 DISPOSITION OF LEAVE CREDITS**

### **3 FAM 3324.1 Balances of Leave in Suspended Status**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

a. Any annual and sick leave balances to the credit of an exempt officer on the date on which the officer's exempted service begins, remains in a suspended status and shall be held to the officer's credit until:

(1) The officer is separated from Federal service for any reason, while serving as an exempt officer at which time a lump-sum payment for such annual leave shall be made at the rate of compensation being received by such officer immediately before the officer's exemption; or

(2) The officer transfers to a position under a statutory leave system other than the leave system provided by 5 U.S.C. 6301-6312, at which time the annual and sick leave to which such officer was entitled immediately before the beginning of the officer's exempted service will be transferred on an adjusted basis in accordance with 3 FAM 3330; or

(3) The officer transfers to a position subject to the leave laws without a break in service, at which time the annual and sick leave balances to the officer's credit immediately before the date on which such officer's exempted service began, will be transferred to credit.

b. In the event a chief of mission reverts to a position subject to the leave laws, even for short periods, this action shall constitute a transfer to a position subject to the leave laws. If such officer is again appointed to an exempt position, the officer's leave balance which was recredited at time of conversion is adjusted to reflect subsequent accruals and charges and is again placed in a suspended status. In the event of the officer's separation from Federal service without returning to a position under the leave laws, the leave balance would become payable at the basic salary rate such officer was receiving on the date on which the officer was last subject to the leave laws.

### **3 FAM 3324.2 Recredit of Leave Balances**

*(TL:PER-256; 4-17-95)*

*(Uniform State/USAID/USIA/Commerce/Foreign Service Corp-USDA)*

*(Applies to Foreign Service Employees Only)*

An exempt officer who is transferred to a position subject to the leave laws shall have the annual and sick leave to the officer's credit as of the date on which the officer's exempted service began, recredited.

### **3 FAM 3325 THROUGH 3329 UNASSIGNED**