

The Exemption Worksheet (EWS)

Section IV A. Exemption Eligibility: Situational Exemption must include the following:

- The organization name, and if Tier III, why it qualifies as such
- The correct exemption type checked
- If a duress exemption, a description of the duress factors
- If a voluntary medical care exemption, an explanation of how the applicant's activities qualify for the exemption
- If an Iraqi Uprising exemption, an explanation of how the applicant's activities qualify for the exemption
- Whether the applicant qualifies for the exemption in the totality of the circumstances.



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Military-Type Training Under Duress

Additional exemption requirements:

- Must establish that he or she has not received training that poses a risk to the U.S. or U.S. interests (e.g., training on production or use of a weapon of mass destruction, torture, or espionage).

The activity undertaken must fit within the definition of “military-type training.”

This exemption does not apply to combat under duress.



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DRAFT-FOUO 54

Certain Limited Material Support (CLMS) & Insignificant Material Support (IMS) Exemptions

- Exemptions cover limited forms of voluntary material support to Tier III groups.
 - These exemptions are only available for material support to Tier III groups.
- Both require a lack of knowledge that the support could be directly used to engage in violent or terrorist activity



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DRAFT-FOUO 55

Certain Limited Material Support Exemption (CLMS)

1) Routine commercial transactions (RCT)

- Most commonly seen by USCIS: shop and restaurant owners
- Support must be incidental to a routine commercial transaction.
- Applicant must be the provider of services/vendor/seller and not the customer.
- Transaction must occur on substantially the same terms as other transactions and in the course of the applicant's normal business activities (Tier III members cannot receive special treatment)
- Transaction cannot be motivated by the goals/methods of the organization or the applicant's connection to the organization.



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DRAFT-FOUO 56

Let's Practice

Facts of the case:

Applicant, a citizen of Mexico, owned a small grocery store. She regularly sold groceries to persons she knew were members of the Union para el Bienestar Social de la Region Triqui (UBISORT), a Tier III organization.

Analysis:

Is there TRIG?

Which activities constitute TRIG?

Under which ground(s) is the applicant inadmissible?

Are there possible exemptions?

What will you ask during interview?



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Certain Limited Material Support Exemption (CLMS)

2) Routine social transactions (RST)

- Most commonly seen by USCIS: serving food/drinks to Tier III members in one's home
- Support must be incidental to a routine social transaction.
- Support must be motivated by a specific, compelling, and well-established family, social, or cultural obligation or expectation.
- Support cannot have been motivated by the goals/methods of the organization.



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The Exemption Worksheet (EWS)

Section IV C. CLMS Exemption

C. Eligibility for the Certain Limited Material Support (CLMS) Exemption

CERTAIN LIMITED MATERIAL SUPPORT EXEMPTION

Organization Name (if applicable; insert "unramed" if appropriate): Jaish Al Mahdi (JAM)

Tier I Tier II Tier III

Limited Material Support: Select at least one type of limited material support provided. Do not select multiple types for the same instance of material support.

Routine Commercial Transaction Routine Social Transaction Sub-Duress Pressure.

Certain Humanitarian Assistance. Humanitarian Organization Name (if applicable):

HQ Vetting of the Humanitarian Organization has been completed.

Other Criteria:

- Organization was not designated a Tier I or Tier II terrorist organization at the time material support was provided.
- Alien did not know or reasonably should not have known that the support provided could be directly used to engage in terrorist activity.
- Alien did not have the intent to support a terrorist organization.
- Alien warrants an exemption, given the nature, amount, duration and frequency of the support.
- Alien warrants an exemption in the totality of the circumstances.

Description: In this space, briefly describe (1) Activities that qualify an undesignated group as a terrorist organization (as applicable); (2) How each of the CLMS criteria are met; and (3) Any other relevant factors.

On three occasions in 2009, the applicant served tea in her home to two neighbors who were members of JAM. JAM meets the definition of an undesignated terrorist organization because it engaged in terrorist activity by fighting against coalition forces and engaging in sectarian violence against Sunni Arabs throughout Iraq. The applicant did not intend to support JAM by serving the members tea and did not know or reasonably should have known that the tea could be directly used to engage in terrorist activity. The applicant served the JAM members tea because they were her neighbors and it is a well-established cultural norm to serve your neighbors tea when they come to your home. The applicant's actions were in no way motivated by the goals of JAM. Therefore in the totality of the circumstances, a CLMS-RST exemption should be granted.



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The Exemption Worksheet (EWS)

Section IV C. CLMS Exemption

C. Eligibility for the Certain Limited Material Support (CLMS) Exemption

CERTAIN LIMITED MATERIAL SUPPORT EXEMPTION.

Organization Name (if applicable; insert "unnamed" if appropriate): Jaish Al Mahdi (JAM)

Tier I Tier II Tier III

Limited Material Support: Select at least one type of limited material support provided. Do not select multiple types for the same instance of material support.

Routine Commercial Transaction Routine Social Transaction Sub-Duress Pressure.

Certain Humanitarian Assistance. Humanitarian Organization Name (if applicable):

HQ Vetting of the Humanitarian Organization has been completed.

Other Criteria:

- Organization was not designated a Tier I or Tier II terrorist organization at the time material support was provided.
- Alien did not know or reasonably should not have known that the support provided could be directly used to engage in terrorist activity.
- Alien did not have the intent to support a terrorist organization.
- Alien warrants an exemption, given the nature, amount, duration and frequency of the support.
- Alien warrants an exemption in the totality of the circumstances.

Description: In this space, briefly describe (1) Activities that qualify an undesignated group as a terrorist organization (as applicable); (2) How each of the CLMS criteria are met; and (3) Any other relevant factors.

On three occasions in 2009, the applicant served tea in her home to two neighbors who were members of JAM. JAM meets the definition of an undesignated terrorist organization because it engaged in terrorist activity by fighting against coalition forces and engaging in sectarian violence against Sunni Arabs throughout Iraq. The applicant did not intend to support JAM by serving the members tea and did not know or reasonably should have known that the tea could be directly used to engage in terrorist activity. The applicant served the JAM members tea because they were her neighbors and it is a well-established cultural norm to serve your neighbors tea when they come to your home. The applicant's actions were in no way motivated by the goals of JAM. Therefore in the totality of the circumstances, a CLMS-RST exemption should be granted.



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The Exemption Worksheet (EWS)

Section IV C. CLMS Exemption must include the following:

- The organization name and why it qualifies as a Tier III organization
- The type of limited support that was provided (RCT, RST, CHA, or Sub-duress)
- A description of how each of the CLMS criteria are met
- Whether an exemption is warranted in the totality of the circumstances.



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Certain Limited Material Support Exemption (CLMS)

3) Certain Humanitarian Assistance (CHA)

- Most commonly seen by USCIS: assistance during or after an environmental disaster
- Support must be incidental to certain humanitarian assistance.
- Support must be provided to address basic needs (ex. food, water, shelter).
- Support must be short-term and triggered by an emergency situation, not long term due to a protracted conflict/displacement.
- Support must be distinct from ongoing development assistance.
- Support must be provided impartially, and not motivated by the goals/methods of the Tier III organization or as a gesture of affinity to its members,
- If the support is provided on behalf of an organization (e.g. Red\ Cross), the organization must be vetted by HQ pre-adjudication. Pre-vetting is not necessary if the applicant is providing support in an individual capacity.



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Certain Limited Material Support Exemption (CLMS)

4) Sub-Duress

- Most commonly seen by USCIS: paying utilities and paying at checkpoints
- Support must be provided under sub-duress pressure.
- There was a reasonably-perceived (but not necessarily immediate or direct) threat of physical or economic harm, restraint, or serious harassment, leaving little or no reasonable alternative,
- Providing the support the only reasonable means by which the applicant was able to carry out important activities of daily life.



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Insignificant Material Support Exemption (IMS)

- Covers material support that is:
 - Minimal in amount
 - Support must be minimal in amount. Consider local value of support, value to applicant, and value to recipient at time/place it was given/received AND consider the relative value, fungibility, quantity and volume, and duration and frequency of the support.
 - Inconsequential in effect
 - The applicant must reasonably believe that the support would be inconsequential in effect. Look at impact of support and how important/useful to recipients.
- Must not have had intent to support violent or terrorist activity



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The Exemption Worksheet (EWS)

Section IV D. IMS Exemption

D. Eligibility for the Insignificant Material Support (IMS) Exemption

INSIGNIFICANT MATERIAL SUPPORT EXEMPTION.

Organization Name (if applicable; insert "unnamed" if appropriate): Hizb-e Wahdat

Tier I Tier II Tier III

Alien provided material support that was insignificant.

Other Criteria:

- Organization was not designated a Tier I or Tier II terrorist organization at the time the material support was provided.
- Alien did not know or reasonably should not have known that the support provided could be directly used to engage in terrorist activity.
- Alien did not have the intent to further violent or terrorist activity.
- Alien warrants an exemption in the totality of the circumstances.

Description: In this space, briefly describe (1) Activities that qualify an undesignated group as a terrorist organization (as applicable); (2) How each of the IMS criteria are met; and (3) Any other relevant factors.

In 1989, the applicant cooked and served a meal for four Hizb-e Wahdat members who were traveling through the area. Hizb-e Wahdat is an armed resistance movement that participated in multiple coups and therefore meets the definition of an undesignated terrorist organization. The support was insignificant as feeding the members one meal was a minimal amount of support and had an inconsequential effect on the members. The applicant provided the meal because she supported Hizb-e-Wahdat as they protected her area. The applicant did not intend to further violent or terrorist activity by providing the meal and had no knowledge or reasonably should have known that the meal she provided could be directly used to engage in terrorist activity. Therefore in the totality of the circumstances, the applicant should be granted an IMS exemption.



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Section IV D. IMS Exemption must include the following:

- The organization name and why it qualifies as a Tier III organization
- A description of how each of the IMS criteria are met
- Whether an exemption is warranted in the totality of the circumstances.



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DRAFT-FOUO 65

Let's Practice

Facts of the case:

Applicant, a native and citizen of Syria, sympathized with the Free Syrian Army's goal of overthrowing the government of Bashar al-Assad. To show her support, she provided food and assisted in setting up shelter for members of the FSA.

At the time of these activities, the FSA met the definition of a Tier III terrorist organization.

Analysis:

Is there TRIG?

Which activities constitute TRIG?

Under which ground(s) is the applicant inadmissible?

Are there possible exemptions?

What will you ask during interview?



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Voluntary Medical Care Exemption

What does it exempt?

- ▣ Voluntary provisions of medical care to members of Tier I, II, or III terrorist organizations
- ▣ Medical professionals as well as good Samaritans/first-aid givers
- ▣ Medical care provided while working for/on behalf of a Tier III terrorist organization

What does it not exempt?

- ▣ Medical care provided while working for/on behalf of a Tier I or Tier II terrorist organization
- ▣ Transport of an individual or provision of medical supplies alone, without administration of medical care or provision of medical advice



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DRAFT-FOUO 67

Iraqi Uprisings

After the First Gulf War, the Shi'a Iraqis in the south and Kurds in the north of Iraq (and others who may have joined) rebelled against the government of Saddam Hussein, believing that Saddam Hussein and his security forces were vulnerable following their defeat in Kuwait.

Applicants who participated in the 1991 Iraqi Uprisings may be eligible for this exemption based on their participation if the applicant:

- Did not participate in, or knowingly provide material support to, terrorist activities that targeted noncombatant persons not affiliated with Saddam Hussein's regime from March 1 through April 5 of 1991, or U.S. interests;
- Did not engage in terrorist activity, not otherwise exempted, outside the context of resistance activities directed against Saddam Hussein's regime from March 1 through April 5 of 1991.

APPLIES TO ALL ACTIVITIES EXCEPT FUTURE INTENT TO ENGAGE AFTER ENTRY TO THE U.S.



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Limited General Exemption (LGE)

1. Aliens who currently possess lawful status in the U.S. received before 8/10/12

2. Beneficiaries of an I-730 Refugee/Asylee Relative Petition filed at any time by an asylee or refugee who received their status before 8/10/12.

Exempts the following voluntary activities:

- Soliciting funds or other things of value for;
- Soliciting any individuals for membership in;
- Providing material support to; or
- Receiving military-type training from, or on behalf of, a qualified Tier III terrorist organization

Applies only to qualifying Tier III organizations (no use of child soldiers, no torture, no genocide, no targeting of U.S. persons or interests)



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The Exemption Worksheet (EWS)

Section IV B. Exemption Eligibility: LGE

B. Eligibility for the Limited General Exemption (LGE) [Existing Benefits ONLY]

LIMITED GENERAL EXEMPTION. Organization Name: Democratic Union Party (PYD)

- Organization has never been designated a Tier I or Tier II terrorist organization.
- Organization has never been identified on lists by the United Nations pursuant to Resolutions 1267 or 1988 concerning Al Qaeda and the Taliban and associated individuals and entities.
- Organization has at no time targeted U.S. interests or persons.
- Organization has at no time engaged in a pattern or practice of torture, genocide, or use of child soldiers.
- Alien warrants an exemption in the totality of the circumstances.

Description: In this space, briefly describe: (1) Any relevant factors related to the alien; (2) Any relevant factors related to the organization; (3) If applicable, activities that qualify an undesignated group as eligible for the Limited General Exemption; and (4) any other required factors.

The PA is the beneficiary of an I-730 Refugee Relative Petition that was filed by a refugee who received their status in May 2010, therefore before 8/10/12. In March 2012, the PA collected money five times on behalf of the PYD in Syria. The PYD has an armed wing, the People's Protection Unit (YPG), which is the largest armed Kurdish group in Syria, and therefore meets the definition of an undesignated terrorist organization. The PYD has never been designated Tier I or Tier II, has never targeted U.S. persons or interests, and has never engaged in a pattern or practice of torture, genocide, or the use of child soldiers. The PA's activities with the PYD are therefore LGE eligible and an exemption is merited in the totality of the circumstances.



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The Exemption Worksheet (EWS)

Section IV B. Exemption Eligibility: LGE must include the following:

- The organization name and why it qualifies as a Tier III organization
- An explanation of how the applicant qualifies for an LGE exemption (received or was the beneficiary of someone who received asylee or refugee status prior to 8/10/12 AND engaged in a qualifying activity)
- An explanation of the activities that qualify the organization as LGE eligible (no use of child soldiers, no torture, no genocide, no targeting of U.S. persons or interests)
- Whether an exemption is warranted in the totality of the circumstances.



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Group-Based Exemptions



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Group-Based Exemptions

Burma

- Numerous Burmese groups

Iraq

- Patriotic Union of Kurdistan (PUK)
- Kurdistan Democratic Party (KDP)
- Iraqi National Congress (INC)

India

- All India Sikh Students Federation-Bittu (AISSF-Bittu)

Balkans/former Yugoslavia

- Kosovo Liberation Army (KLA)

Cuba

- Alzados

Tibet

- Mustangs

Ethiopia and Eritrea

- Oromo Liberation Front (OLF)
- Tigray People's Liberation Front (TPLF)
- Eritrean Liberation Front (ELF)
- Democratic Movement for the Liberation of Eritrean Kunama (DMLEK)
- Ethiopian People's Revolutionary Party (EPRP)

El Salvador

- Farabundo Marti National Liberation Front (FMLN)
- Nationalist Republican Alliance (ARENA)

Vietnam/Laos

- Hmong groups
- FULRO (Montagnards)



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Group-Based Exemptions

- Group-based exemptions vary in scope (conduct exempted, date restrictions, additional threshold requirements)
- For details on applying group-based exemptions, read the USCIS implementation memos.



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The Exemption Worksheet (EWS)

Section IV. Exemption Eligibility: Group-Based Exemptions

IV. Exemption Eligibility

A. Eligibility for Group-Based, Individual, or Situational Exemptions [For LGE, CLMS & IMS Exemptions, see IV.B.-D.]

- GROUP-BASED EXEMPTION.** Group name: Tigray Peoples Liberation Front (TPLF)
- INDIVIDUAL EXEMPTION AUTHORIZED.** File contains copy of signed Exercise of Authority
- SITUATIONAL EXEMPTION.**

Organization Name (if applicable; insert "unnamed" if appropriate):

Tier I Tier II Tier III

Exemption Type:

Iraqi Uprisings; Material Support under Duress to Tier I/II Organization; Material Support under Duress to Tier III Organization; Medical Care; Receipt of Military-Type Training under Duress; Solicitation of Funds/Other things of Value under Duress; Solicitation of Individuals under Duress; Other, explain:

[For the Limited General Exemption, the Certain Limited Material Support Exemption, and the Insignificant Material Support Exemption, complete Sections IV.B.-D. below, as applicable.]

Description: In this space, briefly describe: (1) Any relevant factors related to the alien, including, if duress factors are at issue, basis for finding that circumstances did or did not rise to duress; (2) If applicable, activities that qualify an undesignated group as a terrorist organization; and (3) Any other required factors, including whether the applicant qualifies for an exemption in the totality of the circumstances.

As a member of the TPLF in 1988, the applicant received training on how to load and shoot guns. The applicant therefore voluntarily received military-type training from the TPLF. The applicant never participated in or knowingly provided material support to activities that targeted noncombatant persons or U.S. interests. Therefore an exemption should be granted in the totality of the circumstances.



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