

(2) For the period January 1, 1981 to December 31, 1983, inclusive—9.75 cents per pound.

(B) Of the type used on other than highway vehicles:

(1) For the period July 1, 1965, to December 31, 1980, inclusive—5 cents per pound.

(2) For the period January 1, 1981 to December 31, 1983, inclusive—4.875 cents per pound.

(C) Laminated tires for the period July 1, 1965 to December 31, 1983, inclusive—1 cent per pound.

(ii) *Inner tubes:*

For the period July 1, 1965 to December 31, 1983, inclusive—10 cents per pound.

(iii) *Tread Rubber:*

For the period July 1, 1965 to December 31, 1983, inclusive—5 cents per pound.

(2) *Rates of tax on or after January 1, 1984.* Tires of the type used on highway vehicles:

(i) Tires weighing not more than 40 pounds—0 cents.

(ii) Tires weighing more than 40 pounds but not more than 70 pounds—15 cents for each pound in excess of 40 pounds.

(iii) Tires weighing more than 70 pounds but not more than 90 pounds—\$4.50 plus 30 cents for each pound in excess of 70 pounds.

(iv) Tires weighing more than 90 pounds—\$10.50 plus 50 cents for each pound in excess of 90 pounds.

(3) *Computation of tax.* The tax on tires, inner tubes, and tread rubber is computed by applying to the total weight (including a fractional part of a pound) of the article the rate in effect at the time the article is sold. See § 48.4071-2, relating to determination of weight.

(c) *Liability for tax.* The tax imposed by section 4071 is payable by the manufacturer when the manufacturer makes a sale of a taxable article, or as provided in section 4071 (b) and § 48.4071-3 for a manufacturer who sells at retail, when the manufacturer delivers a taxable article to a retail store, or to a retail outlet, of the manufacturer.

(d) *Recapped or retreaded tires.* The recapping or retreading of a tire, whether from shoulder-to-shoulder or bead-to-bead, does not constitute manufacture

of a taxable tire. The tax on tires imposed by section 4071 does not apply to the sale of a recapped or retreaded tire, except that a used tire or carcass not previously sold in the United States that is recapped or retreaded from shoulder-to-shoulder or bead-to-bead in a foreign country and imported into the United States is subject to the tax imposed by section 4071 when such tire is sold or used by the importer. This paragraph (d) is effective for recapped and retreaded tires sold on or after January 1, 1984.

(Secs. 4071(b), 4071(c), 4073(c), and 7805, Internal Revenue Code of 1954. (80 Stat. 331, 26 U.S.C. 4071(b); 68A Stat. 482, 26 U.S.C. 4071(c); 70 Stat. 389, 26 U.S.C. 4073(c); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7809, 47 FR 6005, Feb. 10, 1982, as amended by T.D. 8057, 50 FR 41491, Oct. 11, 1985; T.D. 8152, 52 FR 31618, Aug. 21, 1987]

§ 48.4071-2 Determination of weight.

(a) *In general—(1) Tires.* (i) Metal rims or rim bases are not to be included in determining the total weight of a tire. However, the wire, staples, darts, clips, and other material or fastening devices which form a part of the tire or are required for its use must be included in determining the total weight of the tire. Studs are considered to be part of a tire and are to be included when determining the weight of a tire. In the case of a tubeless tire, the total weight includes the weight of the air valve and stem or any other mechanism that functions as a part of the tire and is used in connection with inflating the tire or maintaining its air pressure.

(ii) When tires are sold with metal rims or rim bases attached, the manufacturer must maintain records that will establish what portion of the total weight of the finished product represents the tire exclusive of the metal rim or rim base.

(2) *Inner tubes.* The total weight of an inner tube includes the weight of the air valve and stem or any other mechanism attached to the inner tube that is used in connection with inflating the tube or maintaining its air pressure.

(b) *Alternative method of determining weight of tires after December 31, 1983.* A

manufacturer who has received permission from the Commissioner may, subject to such conditions as the Commissioner may prescribe, determine total weight of tires manufactured and sold by the manufacturer on the basis of the average weight for each type, size, grade, and classification. The average weights must be established in accordance with the method approved by the Commissioner and apply for such periods as the Commissioner may prescribe. The Commissioner may terminate the approval granted any manufacturer. In the case of the termination of the approval granted any manufacturer, the termination becomes effective 10 days from the date of the receipt by the manufacturer of the notice of termination. A manufacturer may effect termination, as of a specified date, of the privilege to determine total weight in accordance with provisions of this paragraph by giving no less than 10 days written notice of such intention to the Commissioner. The termination of the approval given a manufacturer does not affect a manufacturer's tax liability for tires sold prior to the effective date of the notice of termination.

(Secs. 4071(b), 4071(c), 4073(c), and 7805, Internal Revenue Code of 1954. (80 Stat. 331, 26 U.S.C. 4071(b); 68A Stat. 482, 26 U.S.C. 4071(c); 70 Stat. 389, 26 U.S.C. 4073(c); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7809, 47 FR 6005, Feb. 10, 1982, as amended by T.D. 8152, 52 FR 31618, Aug. 21, 1987]

§ 48.4071-3 Imposition of tax on tires and tubes delivered to manufacturer's retail outlet.

(a) *General rule.* If, on or after October 1, 1966, a tire or inner tube is delivered by the manufacturer thereof to a retail outlet of the manufacturer, the manufacturer is liable for tax in respect of the tire or tube at the rate set forth in section 4071 in the same manner as if the tire or tube had been sold at the time it was delivered to the retail outlet. The amount of tax payable shall be computed in accordance with the provisions of paragraph (b)(2) of § 48.4071-1, and of § 48.4071-2.

(b) *Definition of retail outlet.* For purposes of this section, the term "retail outlet" includes the term "retail

store." A retail outlet is a facility maintained by a manufacturer for selling tires or tubes at retail. A facility may be a retail outlet even though some sales are made at wholesale at such facility; see paragraph (d)(1) of this section. A facility may also be considered to a retail outlet for the purposes of this section notwithstanding that its main activity is in another area than selling tires or inner tubes. For example, if a manufacturer operates a facility for both automotive repair and the selling of tires at retail, the facility is considered a retail outlet for the purposes of this section even if the primary activity of the facility is automotive repair. No facility is considered a retail outlet for the purposes of this section if it is determined that less than 15 percent of the taxable tires and inner tubes removed from such facility are sold at retail by such facility. The determination described in the preceding sentence is made on the basis of the experience of a representative period, of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. See also paragraph (c)(3) of this section, relating to imposition of tax where a retail outlet is maintained as an adjunct to a production facility or distribution center.

(c) *Delivery—(1) In general.* A manufacturer of tires or inner tubes may, at its option, treat either of the following events as constituting delivery to a retail outlet:

(i) Delivery of tires or inner tubes to a common carrier (or, where the tires or tubes are transported by the manufacturer, the placing of the tires or tubes into the manufacturer's over-the-road vehicle) for shipment from the plant in which the tires or tubes are manufactured, or from a regional distribution center of tires and inner tubes, to a retail outlet or to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.