

§ 48.4221-8

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who are exempt from the registration requirement under § 48.4222(b)-1) must be registered with the District Director of Internal Revenue as required in § 48.4222(a)-1. At the time of sale, the registration number assigned to the purchaser by the district director together with the purpose for which the article was purchased must be shown on (or attached to) the invoice, purchase order, or other document used for the sale.

(c) *Proof required in support of tax-free sales of tires and tubes*—(1) *Cessation of exemption.* The exemption allowed under section 4221(e)(2)(A) and this section on the sale of a tire or inner tube shall cease to apply unless, within the 6-month period which begins on the date of the tax-free sale by the manufacturer of such article (or, if earlier, on the date of shipment by such manufacturer), the manufacturer receives proof from the purchaser that such article has been used on or in connection with the sale of another article which has been sold for one of the tax-exempt purposes referred to in paragraph (a)(2) of this section. If the manufacturer has not received the required information within such 6-month period, the temporary suspension of the liability for the payment of the tax ceases, and the manufacturer shall include the tax on the sale of the tire or inner tube in his return for the period in which the 6-month period expires. If the required information is received after the expiration of the 6-month period, the manufacturer may file a claim for credit or refund of tax so paid on his sale of the tire or inner tube.

(2) *Required information.* The information which the manufacturer must receive within the 6-month period, referred to in paragraph (c)(1) of this section, shall be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of tires or inner tubes by the manufacturer thereof for use on or in connection with the sale of another article (section 4221(e)(2) of the Internal Revenue Code))

(Date) _____, 19____.

I certify that I, or the _____, (Name of purchaser if other than undersigned) of which I am _____ (Title) am/is in the business of selling

_____ (Products handled) and hold(s) certificate of registry No. _____ issued by the District Director of Internal Revenue at _____; and that the tires or inner tubes which were purchased or shipped on _____, 19____, as specified on the back hereof, have been used on or in connection with the sale of _____ (Products sold) by such undersigned.

Check one

_____ for export by _____ (Name of carrier) to _____ (Name of foreign country or U.S. possession) and was so exported on _____, 19____ (Date). (A copy of the bill of lading or other proof of exportation is attached.)

_____ for use as supplies on _____ (Name of vessel or aircraft) which is registered in _____ (Name of country in which vessel or aircraft is registered).

_____ to _____ (Name of State or local government).

_____ to _____ (Name and address of the nonprofit educational organization).

I understand that the fraudulent use of this certificate for the purpose of substantiating the tax-free sale will subject me and all parties making such fraudulent use of this certificate to revocation of the privilege of purchasing articles tax free and to a fine of not more than \$10,000 or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

(Signature)

(Address)

§ 48.4221-8 Tax-free sales of tires, tubes, and tread rubber used on intercity, local, and school buses.

(a) *In general.* Under section 4221(e)(5), the taxes imposed by section 4071(a)(1), (3) and (4) shall not apply to sales by a manufacturer, producer, or importer of tires of the type used on highway vehicles or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, or to the sales by a manufacturer, producer, or importer of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus if the requirements of this section are met.

(b) *Meaning of terms*—(1) *Qualified bus.* “Qualified bus” means an intercity, local, or school bus.

(2) *Intercity or local bus.* “Intercity or local bus” means any automobile bus which is used predominantly (more than 50 percent) in furnishing (for compensation) passenger land transportation available to the general public if such transportation is scheduled and along regular routes, or if the seating capacity of the bus is at least 20 adults (not including the driver). In determining predominant use, mileage travelled with passengers as well as mileage travelled incidental to such passenger transportation, such as “deadheading”, is counted. Under the first alternative, the size of the bus is not relevant for purposes of determining whether or not the use of the bus qualifies for the exemption. Under the second alternative, for non-scheduled bus operations, such as that provided by charter buses, the exemption is available only if the bus has a passenger seating capacity of at least 20 adults and the transportation is available to the general public. For purposes of determining whether the bus has a seating capacity of at least 20 adults, the bus driver is not included. Service is available to the general public if bus service is used in a passenger transportation business in which service is offered to more than a limited number of persons, groups, or organizations.

(3) *School bus.* “School bus” means any automobile bus in which “substantially all” (85 percent or more) of the use involves transporting students and employees of a school. Incidental use (deadheading) of the school bus without passengers to or from a point to which students or employees of school are transported is considered to be a use which involves transporting students or employees of schools. A school is any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on. Tax-exempt schools, taxable schools, and a private contractor who operates a bus for tax-exempt or a taxable school may qualify for the tax exemption if all the requirements of this section are met.

(b) *Registration requirements for tires, tubes, and tread rubber; vendees pur-*

chasing tax free. The provisions of section 4221(e)(5) do not apply with respect to any sale unless the manufacturer and the vendee are registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222 (a)-1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)-1. A person’s registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c).1. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.* For credit or refund, see section 6416(b)(2).

(d) *Information; records—(1) Information to be furnished to purchaser.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall indicate to the purchaser that the purchaser is obtaining the tires or tubes tax free for the purpose of use on or in connection with a qualified bus, and that the purchaser is obtaining the tread rubber tax free for use in the recapping or retreading of tires to be used by the purchaser on or in connection with a qualified bus. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the tires, tubes, and tread rubber tax free.

(2) *Records of manufacturer.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the tires, tubes, or tread rubber, and the quantity of tires, tubes, or tread rubber sold tax free to each purchaser.

(3) *Records of purchaser.* A person purchasing tires, tubes, or tread rubber tax free under section 4221(e)(5) must maintain sufficient records to establish that the tires, tubes, or tread rubber purchased tax free has actually been used for that purpose.

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(e) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer is not relieved of liability under the provisions of section 4221(e)(5) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the tires, tubes, or tread rubber sold by it to the purchaser are not intended for use on an intercity, local, or school bus, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(f) *Effective date.* Section 4221(e)(5) (relating to tires, tubes, and tread rubber) applies to sales on or after December 1, 1978. The sale of tires, tubes, or tread rubber sold prior to that date is not exempt from tax under section 4221(e)(5).

[T.D. 7834, 47 FR 42346, Sept. 27, 1982. Redesignated by T.D. 8659, 61 FR 10463, Mar. 14, 1996]

§ 48.4222(a)-1 Registration.

(a) *General rule.* Except as provided in § 48.4222(b)-1, tax-free sales under section 4221 may be made only if the manufacturer, first purchaser, and second purchaser, as the case may be, have been registered by the Internal Revenue Service.

(b) *Application instructions.* Application for registration under section 4222 must be made in accordance with instructions for Form 637 (or such other form as the Commissioner may designate).

(c) *Evidence required in support of tax-free sales.* See subparagraph (1) of § 48.4221-1(c) for evidence required in support of tax-free sales to purchasers who are required to be registered.

(d) *Failure to register.* If either the seller or purchaser is not registered as required by this section of the regulations, tax-free sales may not be made, except as indicated in § 48.4222(b)-1.

(e) *Cross references.* (1) For exceptions to the requirement for registration, see section 4222(b) and § 48.4222(b)-1.

(2) For revocation or suspension of registration, see § 48.4222(c)-1.

(3) For applicability of section 4222 and these regulations to exemptions

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provided by sections 4063(b), 4182(b), and 4293, see § 48.4222(d)-1

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 8659, 61 FR 10463, Mar. 14, 1996]

§ 48.4222(b)-1 Exceptions to the requirement for registration.

(a) *State and local governments.* The Internal Revenue Service will not register State or local governments under section 4222. To establish the right to sell articles tax free to a State or local government, the manufacturer must obtain the information described in § 48.4221-5(c).

(b) *Sales or resales to foreign purchasers for export.* Persons whose principal place of business is not within the United States may, but are not required to, register in order to purchase articles tax free for export. To establish the right to sell articles tax free for export to a purchaser who is not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain the evidence required by paragraph (b) of § 48.4221-3.

(c) *United States.* Except as provided in paragraph (b) of § 48.4222(d)-1 (relating to sales to the American Red Cross) the registration requirements of the regulations in this part do not apply to purchases and sales by the United States or any of its agencies or instrumentalities. The evidence required in support of such tax-free purchases and sales is a notation on the purchase order or other document furnished to the seller clearly indicating that the article or articles are being purchased tax free as authorized by Chapter 32 of the Code.

(d) *Supplies for vessels and aircraft.* An article subject to an excise tax imposed by Chapter 32 of the Code may be sold tax free by the manufacturer under the provisions of § 48.4221-4 for use by the purchaser as supplies for a vessel or aircraft if both the manufacturer and the purchaser are registered under the provisions of § 48.4222(a)-1. The article also may, on or after July 1, 1965, be sold tax free for such use even though neither the manufacturer nor the purchaser is so registered if the provisions