

## § 48.4073

(2) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent.

(g) *Manufacturer.* The term “manufacturer” means manufacturer, producer, or importer. A person who converts, by any process, a new tire taxable under section 4071 at one rate of tax into a tire taxable under section 4071 at a different rate (as for example, an off highway-type tire converted into a highway-type tire) is considered to be a manufacturer of the converted tire. If a conversion results in a reduced rate of tax for the converted tire, see section 6416(b)(2) and § 48.6416(b)-2 to secure a credit or refund of part of the tax paid. The term “manufactured” includes “produced” and “imported”.

(h) *Cross references.* For other definitions, see § 48.0-2.

(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 6007, Feb. 10, 1982]

## § 48.4073 [Reserved]

### § 48.4073-1 Exemption of tires of certain sizes.

The tax does not apply to sales of tires of all-rubber construction (whether hollow center or solid) if they have no fabric or metal reinforcement and do not exceed either of these measurements: (a) 20 inches in diameter measured to the outside circumferences, and (b) 1¾ inches in cross-section. The exemption provided by section 4073(a) is to be determined solely on the measurements of the tire and not on the purpose for which it is designed or used.

(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 6007, Feb. 10, 1982]

### § 48.4073-2 Exemption of tires with internal wire fastening.

The tax does not apply to sales of tires of any size or dimension manufactured from extruded tiring that is fas-

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tened or held together by means of internal wire or other metallic material.

(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 6007, Feb. 10, 1982]

### § 48.4073-3 Exemption of tread rubber used for recapping nonhighway tires.

(a) *Sold direct by manufacturer for nontaxable use.* The tax does not apply to the sale of tread rubber by the manufacturer to any person for use by that person otherwise than in the recapping or retreading of tires of the type used on highway vehicles. In determining whether tread rubber is sold for a taxable or nontaxable use, the type of vehicle on which the recapped or retreaded tire is to be used, or the actual or intended use of the recapped or retreaded tire, is immaterial. The controlling factor is whether the tire resulting from the recapping or retreading is of a type that is used otherwise than on a highway vehicle. For definition of “tires of the type used on highway vehicles”, see paragraph (c) of § 48.4072-1.

(b) *Sales for resale for nontaxable use.* No sale of tread rubber may be made tax free for resale even though it is known at the time of the sale that the tread rubber will be resold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles. However, where the tread rubber is resold for such use, the manufacturer who paid the tax on a sale of the tread rubber may secure a refund or credit in accordance with the provisions of section 6416(b)(2) and § 48.6416(b)-2.

(c) *Evidence required to establish exemption.* (1) To establish the right to sell tread rubber tax free under section 4073(c), the manufacturer must obtain from the purchaser and retain in its possession a properly executed exemption certificate.

(2) Where only occasional sales of tread rubber for exempt use are made to a purchaser, a separate exemption certificate should be furnished for each