

§ 48.4072-1

26 CFR Ch. I (4-1-01 Edition)

use by a manufacturer or importer considered a sale) do not apply in cases where an individual imports an article having original equipment tires and tubes and on which article no tax is imposed under section 4061 if the article is imported solely for the individual's personal use and is so 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 6006, Feb. 10, 1982]

§ 48.4072-1 Definitions.

For purposes of the regulations in this part, unless otherwise expressly indicated:

(a) *Rubber*. The term "rubber" includes synthetic and substitute rubber.

(b) *Tread rubber*. The term "tread rubber" means any material (1) which is commonly or commercially known as tread rubber or camelback, or (2) which is a substitute for any material commonly or commercially known as tread rubber or camelback and is of a type used in recapping or retreading tires. The term includes, for example, strips of material, wholly or partially of rubber, natural or synthetic, intended to be vulcanized or otherwise affixed to a tire casing to form the outside perimeter of the tire, smooth or treaded. It also includes treading material produced by reprocessing scrap, salvage, or junk rubber and a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing. The term does not include rubber in various forms such as strip, slab, pellet, etc. which is used as raw material for the extrusion process. Tread rubber loses its identity as such when it has been used in the recapping or retreading of a tire of a type used on a highway vehicle (without regard to the actual use ultimately made of the tire) or has deteriorated in quality to the point where it is no longer suitable for use in recapping or retreading of a tire. (In the case of such deterioration, see section 6416(b)(2) and § 48.6416(b)-2 to secure a refund or credit of the tax paid.)

(c) *Tires of the type used on highway vehicles*. (1) The term "tires of the type

used on highway vehicles", for purposes of §§ 48.4071-1 through 48.4073-3 means tires of the type used on:

(i) Motor vehicles that are highway vehicles (within the meaning of § 48.4061(a)-1(d)), or

(ii) Vehicles of the type used in connection with motor vehicles that are highway vehicles (within the meaning of § 48.4061(a)-1(d)).

The term "tires of the type used on highway vehicles" does not include bicycle tires. Bicycle tires, however, are included in the term "other tires" as used in section 4071(a)(2).

(2) For purposes of paragraph (c)(1)(i) of this section, tires of the type used on motor vehicles that are highway vehicles include tires used on motor trucks, buses, passenger automobiles, motor homes, highway tractors, trolley buses or coaches, and motorcycles.

(3) For purposes of paragraph (c)(1)(ii) of this section, tires of the type used on vehicles of the type used in connection with motor vehicles that are highway vehicles include tires used on truck or bus trailers, truck semitrailers, mobile homes, house-trailers, or utility trailers.

(d) *Inner tubes*. The term "inner tubes" includes air containers of all types made wholly or in part of rubber and designed and manufactured for use in pneumatic tires.

(e) *Tires*. The term "tires" includes rubber casings, hoops, and strips or bands of all kinds designed and shaped or built to form the tread of or to fit a vehicle wheel. Tires of either the pneumatic or solid type which fit or form the tread for wheels of any article which is capable of use as a means of transporting a person or burden are taxable as tires. Examples of articles which may be equipped with taxable tires are motor scooters, minibikes, industrial trucks, farm tractors, wheelbarrows, and similar articles. See section 4073(a) and § 48.4073-1 with respect to the exemption of tires of certain sizes, and section 4073(b) and § 48.4073-2 with respect to the exemption for tires with internal wire fastening.

(f) *Laminated tires*. For purposes of the tax imposed by section 4071, the term "laminated tires" means tires (1) which are not "tires of the type used

on highway vehicles” within the meaning of paragraph (c) of this section, and (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 fastened 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