

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

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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 order. However, where sales are regularly and frequently made to a purchaser for exempt use, a certificate covering all purchases during the period not to exceed 12 calendar quarters is acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations in Subpart Q.

(d) *Acceptable form of exemption certificate.* The following form of exemption certificate is acceptable for the purposes of this section and must be adhered to in substance:

EXEMPTION CERTIFICATE

(For use by persons who purchase tread rubber from the manufacturer, producer, or importer thereof for use otherwise than in recapping or retreading tires of the type used on highway vehicles (section 4073(c) of the Internal Revenue Code).)

(Date) \_\_\_\_\_, 19\_\_\_\_

I, the undersigned, certify that I am the purchaser, or the (Title) \_\_\_\_\_ of (Name of purchaser if other than the undersigned) \_\_\_\_\_ who is the purchaser of: \_\_\_\_\_ The tread rubber specified in the accompanying order or contract, or \_\_\_\_\_ All tread rubber specified in contracts or orders entered into or placed with (Name of seller) \_\_\_\_\_ for the period commencing \_\_\_\_\_ and ending \_\_\_\_\_ (period not to exceed 12 calendar quarters), and that such tread rubber will not be used in the recapping or retreading of tires of the type used on highway vehicles, but will be used for the following purposes:

\_\_\_\_\_  
\_\_\_\_\_

The undersigned understands that if the tread rubber is used for the recapping or retreading of tires of the type used on highway vehicles, or is sold or otherwise disposed of, such fact must be promptly reported to the manufacturer. The undersigned also understands that the fraudulent use of this certificate for the purpose of securing this exemption will subject the undersigned or any other party making such fraudulent use 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. The purchaser also understands that the purchaser must be prepared to establish by satisfactory

evidence the purpose for which the tread rubber was used.

(Signature) \_\_\_\_\_  
(Address) \_\_\_\_\_

(e) *Exemption certificate not obtained prior to filing of manufacturer's excise tax return.* If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on the sale may be filed, or a credit for the amount may be taken upon a subsequent return, as provided by section 6416(b)(2) and § 48.6416(b)-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]

§ 48.4073-4 Other tax-free sales.

(a) *Cross references.* For provisions relating to tax-free sales of articles referred to in section 4071, see:

(1) Section 4221, relating to certain tax-free sales, and the regulations thereunder in Subpart H;

(2) Section 4222, relating to registration, and the regulations thereunder in Subpart H;

(3) Section 4223, relating to special rules pertaining to further manufacture, and the regulations thereunder in Subpart H; and

(4) 28 FR 348, January 12, 1963, relating to the authorization of an exemption from the tax imposed by section 4071 by the Secretary of the Treasury under section 4293 for sales of certain tires and inner tubes sold to the American Red Cross on or after March 1, 1963.

(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 6008, Feb. 10, 1982]