

§ 48.4221-3

case of gasoline) in the manufacture or production of, or as a component part or parts of, any article or articles.

The undersigned, or (Name of manufacturer's vendee if other than undersigned), has in my/its possession proof of tax-free resale of such article or articles in the form of related purchase orders and sales invoices, and proof of tax-free resale will be retained by me or (Name of manufacturer's vendee if other than undersigned), for at least 3 years from the date of this statement, and will be made readily available for inspection by Government officers during such 3-year period.

I have not previously executed a statement in respect of such certificate of resale, and I understand that the fraudulent use of this statement may subject me and all parties making such fraudulent use of this statement to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)
(Address)

(ii) Period covered. Any statement executed and signed by the manufacturer's vendee, as provided in subdivision (i) of this paragraph (c)(2), may be executed with respect to any one or more articles purchased tax free from a manufacturer and resold for use in further manufacture within the 6-month period prescribed in section 4221 (a)(1) and paragraph (c)(1) of this section. Such statement (or other prescribed proof of resale) must be retained for inspection by the district director as provided in section 6001.

(Sec. 4222 (72 Stat. 1284; 26 U.S.C. 422); secs. 4051, 4052, 4061 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 2174, 2175 and 2173; 68A Stat. 917; 26 U.S.C. 4051, 4052, 4061, and 7805) and secs. 522 and 523 of the Highway Revenue Act of 1982 (Pub. L. 97-424, 96 Stat. 2185, 2186))

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 7681, 45 FR 13728, Mar. 3, 1980; T.D. 7753, 46 FR 2999, Jan. 13, 1981; T.D. 7882, 48 FR 14362, Apr. 4, 1983; T.D. 8659, 61 FR 10463, Mar. 14, 1996]

§ 48.4221-3 Tax-free sale of articles for export, or for resale by the purchaser to a second purchaser for export.

(a) In general. (1) An article subject to tax under Chapter 32 of the Code

may be sold tax free by the manufacturer, pursuant to section 4221(a)(2) and this section, for export, or for resale by the purchaser to a second purchaser for export. See paragraph (a)(10) of § 48.0-2 for the meaning of the term "export". An article may be sold tax free by the manufacturer under the provisions of this section only if the person to whom the manufacturer sells the article intends either to export the article or to resell it to a person who intends to export it. An article may not be sold tax free under the provisions of this section by a manufacturer to a purchaser for resale to a second purchaser which does not intend to export the article itself but plans to resell it to a third purchaser for export. See section 6416 (b)(2)(A) and paragraph (b)(1) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available where tax-paid articles are exported from the United States.

(2) If an article, otherwise taxable under Chapter 32 of the Code:

(i) Is sold tax free by the manufacturer pursuant to section 4221(a)(2) and this section, and

(ii) Is returned subsequently to the United States in an unused and undamaged condition,

then the importer is liable for the tax imposed by Chapter 32 on the subsequent sale or use of the article in the United States. The provisions of this paragraph (a)(2) may be illustrated by the following examples:

Example (1). Q, a U.S. motor vehicle manufacturer, previously sold a truck chassis to R, a company in Canada. The sale was tax free under section 4221(a)(2). R mounted a truck body on the truck chassis and sold the completed vehicle to S. Thereafter S sold the completed new vehicle to T who imported the vehicle into the United States and sold it. The sale of the completed truck subjects T to an excise tax liability under section 4061(a)(1) with respect to both the body and the chassis.

Example (2). X, a U.S. manufacturer of trucks, sold a trash collection truck to Y, a company in France. The sale was tax free under section 4221(a)(2). The truck was sold by Y to the City of Nice, France. After initial use, the city determined that the truck was not suited for its needs and resold the truck to X. X returned the truck to the United States where it was resold. The resale of the truck by X does not subject X to an excise tax liability under section 4061(a)(1).

(b) *Sales or resales to a foreign purchaser for export.* In the case of sales or resales to a foreign purchaser for export, where the first purchaser or the second purchaser is located in a foreign country or possession of the United States, such purchaser is not required to register as provided in section 4222(a) and § 48.4222(a)-1. 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 from such purchaser at the time title to the article passes or at the time of shipment, whichever is earlier, either:

(1) A written order or contract of sale showing that the manufacturer is to ship the article to a foreign destination; or

(2) Where delivery by the manufacturer is to be made within the United States, a statement from the purchaser showing:

(i) That the article is purchased either to fill existing or future orders for delivery to a foreign destination or for resale to another person engaged in the business of exporting who will export the article, and

(ii) That such article will be transported to its foreign destination in due course prior to use or further manufacture and prior to any resale except for export.

See section 4221(b) and paragraphs (c) and (d) of this section for requirements as to timely proof of exportation and cessation of the exemption for export unless the evidence to show actual exportation has been received by the manufacturer.

(c) *Cessation of exemption.* The exemption provided in section 4221(a)(2) and paragraph (a) of this section for an article sold by the manufacturer for export or for resale by the purchaser to a second purchaser for export shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of the article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless within the 6-month period the manufacturer receives proof, in the form prescribed by paragraph (d) of this section, that the article was actually ex-

ported. If, on the first day following the close of the 6-month period, the proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the same manner as if the article had been sold by it on such first day at a taxable price equivalent to that at which the article was actually sold.

(d) *Proof of exportation.* (1) Exportation may be evidenced by:

(i) A copy of the export bill of lading issued by the delivering carrier,

(ii) A certificate by the agent or representative of the export carrier showing actual exportation of the article,

(iii) A certificate of landing signed by a customs officer of the foreign country to which the article is exported,

(iv) Where the foreign country has no customs administration, a statement of the foreign consignee showing receipt of the article, or

(v) Where a department or agency of the United States Government is unable to furnish any one of the foregoing four types of proof of exportation, a statement or certification on the department or agency stationery, executed by an authorized officer, that the listed or identified articles have, in fact, been exported.

(2) In any case where the manufacturer is not the exporter, the manufacturer must have in its possession a statement from the vendee to whom the manufacturer sold the article stating that the article was in fact exported in due course by the vendee or was sold to another person who in due course exported the article. The statement must state what evidence is available to establish that the article was in fact exported in due course prior to use or further manufacture and prior to resale in the United States other than for export. Such evidence must be that described in paragraph (d)(1) of this section, and the statement must show where such evidence is readily available for inspection by Government officers, and should be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of taxable articles to a purchaser for export or for resale to a second purchaser for export (section 4221(a)(2) of the Internal Revenue Code).)

§ 48.4221-4

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The undersigned, or the _____ (Name of manufacturer's vendee if other than undersigned) of which I am _____ (Title) holds certificate of registry No. _____, issued by the District Director of Internal Revenue at _____.

The article or articles specified below or on the reverse side hereof were purchased tax free by me or by _____ (Name of manufacturer's vendee if other than undersigned) on _____ (Date), and were thereafter exported.

The undersigned or _____ (Name of manufacturer's vendee if other than undersigned) has in my/its possession proof of exportation in respect of such article or articles. The evidence of export available is _____ and _____ is located at _____ (If other than address below). Such proof of exportation will be retained by _____ (Name of manufacturer's vendee) for at least 3 years from the date of this statement and will be made readily available for inspection by Government officers.

I have not previously executed a statement in respect of the article or articles covered by this statement, and I understand that the fraudulent use of this statement will subject me and all parties making such fraudulent use of this statement to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)

(Address)

(Date)

(3) The statement executed and signed by the manufacturer's vendee, as provided in paragraph (d)(2) of this section, may be executed with respect to any one or more articles purchased tax free from a manufacturer and exported within the 6-month period prescribed in section 4221(b)(2) and paragraph (c) of this section. Such statement shall be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

(e) Vaccines. The exemption provided by section 4221(a)(2) applies after August 10, 1993, to the tax imposed on vaccines by section 4131, but only if—

(1) The vaccine is sold by the manufacturer after August 10, 1993; and

(2) In the case of vaccine sold to, or sold for resale to, the United States or any of its agencies or instrumentalities, the United States or such agency or instrumentality notifies the manufacturer that the vaccine is intended for uses other than the vaccination of persons described in 42 U.S.C. 300aa-11(c)(1)(B)(i)(II) (relating to certain U.S. citizens who are vaccinated outside the United States).

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 7729, 45 FR 72653, Nov. 3, 1980; T.D. 8561, 59 FR 43045, Aug. 22, 1994]

§ 48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.

(a) Supplies for vessels or aircraft—(1) In general. An article subject to tax under Chapter 32 may be sold tax free by the manufacturer, pursuant to section 4221(a)(3) and this section, for use by the purchaser as supplies for vessels or aircraft. See paragraph (b) of this section for the meaning of the term "supplies for vessels or aircraft." An article may be sold tax free under the provisions of this section only in those cases where the sale of an article by the manufacturer is made directly to the owner, officer, charterer, or authorized agent of a vessel or aircraft for use as supplies for the vessel or aircraft. No sale may be made tax free to a dealer for resale for use as supplies for vessels or aircraft, even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(B) and paragraph (b)(2) of §48.6416 (b)-2 for circumstances under which credit or refund of tax is available where tax-paid articles are used, or sold for use, as supplies for vessels or aircraft. An article may not be sold tax free under the provisions of this section by the manufacturer to passengers or members of the crew of a vessel or aircraft.

(2) Civil aircraft of foreign registry. In the case of any article sold by the manufacturer for use by the purchaser as supplies for civil aircraft of foreign registry employed in foreign trade or in trade between the United States and any of its possessions, the provisions of this paragraph apply only if the reciprocity requirements of section