

return or repossession of the nontaxable article or its covering or container, or by a bona fide discount, rebate, allowance, or other factor. The application of this subparagraph may be illustrated by the following example:

Example. A manufacturer of a nontaxable washer-drier combination produces and uses an electric clothes drier taxable under section 4121 in the manufacture of the combination article. The lowest established wholesale price of the manufacturer for the washer-drier combination at the time of the taxable use is \$150 with respect to identical combinations after including and excluding applicable charges and readjustments. The manufacturer does not regularly sell such drier separately. In the manufacture of the washer-drier the two units are integrated to the extent that certain component parts function both in the operation of the washer and of the drier. The parts used exclusively in the operation of the washer cost \$30 and those used exclusively in the operation of the drier cost \$20. The taxable cost ratio in this instance is 20/50, or 40 percent. Applying 40 percent to the manufacturer's lowest established wholesale price of \$150 for the washer-drier results in \$60 as the constructive price for the taxable article in the combination at the time tax liability is incurred. No additional charges or readjustments in connection with, or subsequent to, the sale of the washer-drier combination may affect the tax liability incurred at the time of use.

(d) *Tax based on weight or volume.* Where liability for tax is incurred on the use of an article subject, if sold, to a tax based on:

- (1) The weight of the article (such as a tire), or
 - (2) The volume of the article (such as gasoline or lubricating oil),
- the tax due shall be computed on the basis which would be applicable if such article were sold.

[T.D. 6687, 28 FR 11781, Nov. 5, 1963]

APPLICATION OF TAX IN CASE OF SALES BY OTHER THAN MANUFACTURER OR IMPORTER

§48.4219-1 Sales of taxable articles by a person other than the manufacturer, producer, or importer.

(a) *General rule.* If the title to, or ownership of, an article taxable under Chapter 32 of the Code is transferred from the manufacturer, producer, or importer thereof, and, under the law,

no tax attaches to such transfer, the subsequent sale, lease, or use of such article by the transferee is subject to tax to the same extent and in the same manner as if such transferee were the manufacturer, producer, or importer of the article. The following examples illustrate this rule:

(1) The surviving spouse, child or children, executors or administrators, or other legal representatives, as the case may be, of a deceased manufacturer, producer, or importer of taxable articles, incur liability for tax on all such articles sold by them.

(2) A receiver or trustee in bankruptcy who under a court order conducts or liquidates the business of a manufacturer, producer, or importer of taxable articles, incurs liability for tax on all taxable articles sold by him, regardless of whether the articles were manufactured, produced, or imported before or after he took charge of the business.

(3) An assignee for the benefit of creditors of a manufacturer, producer, or importer incurs liability for tax with respect to all taxable articles sold by him as such assignee.

(4) If one or more members of a partnership withdraw, or if new partners are admitted, the new partnership so constituted incurs liability for tax on all taxable articles sold by it regardless of when such articles were manufactured, produced, or imported.

(5) A person who acquires title to taxable articles as a result of default of the manufacturer, producer, or importer pursuant to an agreement under the terms of which the articles were pledged as collateral incurs liability for tax with respect to his sale of the articles so acquired.

(6) A person who succeeds to the business of a manufacturer, producer, or importer of taxable articles, such as:

- (i) A corporation which results from a consolidation, merger, or reorganization;
- (ii) A corporation which acquires the business of an individual or partnership; or
- (iii) A stockholder in a corporation who, after its dissolution, continues the business;

incurs liability for tax on all taxable articles sold by such person. However,

where a manufacturer, producer, or importer sells only his assets, rather than ownership of his business, he incurs liability for tax on the sale of any taxable articles included in such assets.

(b) *Transfer of title to damaged articles.* If title to a damaged taxable article is transferred by the manufacturer, producer, or importer thereof to a carrier or insurance company in adjustment of a damage claim, such transfer is not considered a taxable sale of the article. If the article is usable, even though damaged, the carrier or insurance company incurs liability for tax on its sale, lease, or use of the article. Where the article has been damaged to the extent that its only value is as scrap, and it is not restored to usable condition, sale thereof by the carrier or insurance company is not subject to tax.

[T.D. 6687, 28 FR 11782, Nov. 5, 1963]

Subpart N—Exemptions, Registration, Etc.

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§ 48.4221-1 Tax-free sales; general rule.

(a) *Application of regulations under section 4221—(1) In general.* The regulations under section 4221 provide rules under which the manufacturer, producer, or importer of an article subject to tax under chapter 32 (or the retailer of an article subject to tax under subchapter A or C of chapter 31) may sell the article tax free under section 4221.

(2) *Limitations.* The following restrictions must be taken into account in applying the regulations under section 4221:

(i) The exemptions under section 4221 (a)(4) and (a)(5) do not apply to the tax imposed by section 4064 (gas guzzler tax).

(ii) The exemptions under section 4221 do not apply to the tax imposed by section 4081 (taxable fuel tax).

(iii) The exemptions under section 4221 do not apply to the tax imposed by section 4091 (aviation fuel tax). For rules relating to tax-free sales of aviation fuel, see section 4092 and the regulations thereunder.

(iv) The exemptions under section 4221 do not apply to the tax imposed by section 4121 (coal tax).

(v) The exemptions under section 4221 (a)(3) through (a)(5) do not apply to the tax imposed by section 4131 (vaccine tax). In addition, the exemption under section 4221(a)(2) applies to the vaccine tax only to the extent provided in § 48.4221-3(e) (relating to tax-free sales of vaccine for export).

(vi) The exemptions under section 4221(a) apply only in those cases where the exportation or use referred to is to occur before any other use.

(b) *Manufacturer relieved of liability in certain cases—(1) General rule.* Under the provisions of section 4221(c), if an article subject to tax under Chapter 32 of the Code is sold free of tax by the manufacturer of the article for an exempt purpose referred to in section 4221(c) and paragraph (b)(2) of this section, the manufacturer shall be relieved of any tax liability under Chapter 32 with respect to such sale if the manufacturer in good faith accepts a proper certification by the purchaser that the article or articles will be used by the purchaser in the stated exempt manner. See paragraph (b)(2) of this section for a list of the exempt purposes referred to in section 4221(c).

(2) The following are situations wherein section 4221(c) is applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales:

(i) Section 4221(a)(1), to the extent that it relates to sales for further manufacture by a first purchaser (see § 48.4221-2),

(ii) Section 4221(a)(3), relating to supplies for vessels and aircraft (see § 48.4221-4),

(iii) Section 4221(a)(4), relating to sales to State or local governments (see § 48.4221-5),

(iv) Section 4221(a)(5), relating to sales to nonprofit educational organizations (see § 48.4221-6), and

(v) Section 4221(e)(3) relating to the sale of tires used on intercity, local, or school buses (see § 48.4221-8).

(3) *Duty of seller to ascertain validity of tax-free sale.* If the manufacturer at the time of its sale has reason to believe