

§ 48.4221-8

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

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of tires or inner tubes by the manufacturer thereof for use on or in connection with the sale of another article (section 4221(e)(2) of the Internal Revenue Code))

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

I certify that I, or the \_\_\_\_\_, (Name of purchaser if other than undersigned) of which I am \_\_\_\_\_ (Title) am/is in the business of selling \_\_\_\_\_ (Products handled) and hold(s) certificate of registry No. \_\_\_\_\_ issued by the District Director of Internal Revenue at \_\_\_\_\_; and that the tires or inner tubes which were purchased or shipped on \_\_\_\_\_, 19 \_\_\_\_, as specified on the back hereof, have been used on or in connection with the sale of \_\_\_\_\_ (Products sold) by such undersigned.

Check one

\_\_\_\_\_ for export by \_\_\_\_\_ (Name of carrier) to \_\_\_\_\_ (Name of foreign country or U.S. possession) and was so exported on \_\_\_\_\_, 19 \_\_\_\_ (Date). (A copy of the bill of lading or other proof of exportation is attached.)

\_\_\_\_\_ for use as supplies on \_\_\_\_\_ (Name of vessel or aircraft) which is registered in \_\_\_\_\_ (Name of country in which vessel or aircraft is registered).

\_\_\_\_\_ to \_\_\_\_\_ (Name of State or local government).

\_\_\_\_\_ to \_\_\_\_\_ (Name and address of the nonprofit educational organization).

I understand that the fraudulent use of this certificate for the purpose of substantiating the tax-free sale will subject me and all parties making such fraudulent use of this certificate to revocation of the privilege of purchasing articles tax free and 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.

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

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

**§ 48.4221-8 Tax-free sales of tires, tubes, and tread rubber used on intercity, local, and school buses.**

(a) *In general.* Under section 4221(e)(5), the taxes imposed by section 4071(a)(1), (3) and (4) shall not apply to sales by a manufacturer, producer, or importer of tires of the type used on highway vehicles or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, or to the sales by a manufacturer, pro-

ducer, or importer of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus if the requirements of this section are met.

(b) *Meaning of terms—(1) Qualified bus.* “Qualified bus” means an intercity, local, or school bus.

(2) *Intercity or local bus.* “Intercity or local bus” means any automobile bus which is used predominantly (more than 50 percent) in furnishing (for compensation) passenger land transportation available to the general public if such transportation is scheduled and along regular routes, or if the seating capacity of the bus is at least 20 adults (not including the driver). In determining predominant use, mileage travelled with passengers as well as mileage travelled incidental to such passenger transportation, such as “deadheading”, is counted. Under the first alternative, the size of the bus is not relevant for purposes of determining whether or not the use of the bus qualifies for the exemption. Under the second alternative, for non-scheduled bus operations, such as that provided by charter buses, the exemption is available only if the bus has a passenger seating capacity of at least 20 adults and the transportation is available to the general public. For purposes of determining whether the bus has a seating capacity of at least 20 adults, the bus driver is not included. Service is available to the general public if bus service is used in a passenger transportation business in which service is offered to more than a limited number of persons, groups, or organizations.

(3) *School bus.* “School bus” means any automobile bus in which “substantially all” (85 percent or more) of the use involves transporting students and employees of a school. Incidental use (deadheading) of the school bus without passengers to or from a point to which students or employees of school are transported is considered to be a use which involves transporting students or employees of schools. A school is any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place

where its educational activities are carried on. Tax-exempt schools, taxable schools, and a private contractor who operates a bus for tax-exempt or a taxable school may qualify for the tax exemption if all the requirements of this section are met.

(b) *Registration requirements for tires, tubes, and tread rubber; vendees purchasing tax free.* The provisions of section 4221(e)(5) do not apply with respect to any sale unless the manufacturer and the vendee are registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222 (a)-1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)-1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c).1. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.* For credit or refund, see section 6416(b)(2).

(d) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall indicate to the purchaser that the purchaser is obtaining the tires or tubes tax free for the purpose of use on or in connection with a qualified bus, and that the purchaser is obtaining the tread rubber tax free for use in the recapping or retreading of tires to be used by the purchaser on or in connection with a qualified bus. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the tires, tubes, and tread rubber tax free.

(2) *Records of manufacturer.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the tires, tubes, or tread rubber, and the quantity of tires, tubes, or

tread rubber sold tax free to each purchaser.

(3) *Records of purchaser.* A person purchasing tires, tubes, or tread rubber tax free under section 4221(e)(5) must maintain sufficient records to establish that the tires, tubes, or tread rubber purchased tax free has actually been used for that purpose.

(e) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer is not relieved of liability under the provisions of section 4221(e)(5) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the tires, tubes, or tread rubber sold by it to the purchaser are not intended for use on an intercity, local, or school bus, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(f) *Effective date.* Section 4221(e)(5) (relating to tires, tubes, and tread rubber) applies to sales on or after December 1, 1978. The sale of tires, tubes, or tread rubber sold prior to that date is not exempt from tax under section 4221(e)(5).

[T.D. 7834, 47 FR 42346, Sept. 27, 1982. Redesignated by T.D. 8659, 61 FR 10463, Mar. 14, 1996]

#### § 48.4222(a)-1 Registration.

(a) *General rule.* Except as provided in § 48.4222(b)-1, tax-free sales under section 4221 may be made only if the manufacturer, first purchaser, and second purchaser, as the case may be, have been registered by the Internal Revenue Service.

(b) *Application instructions.* Application for registration under section 4222 must be made in accordance with instructions for Form 637 (or such other form as the Commissioner may designate).

(c) *Evidence required in support of tax-free sales.* See subparagraph (1) of § 48.4221-1(c) for evidence required in support of tax-free sales to purchasers who are required to be registered.

(d) *Failure to register.* If either the seller or purchaser is not registered as required by this section of the regulations, tax-free sales may not be made, except as indicated in § 48.4222(b)-1.