

Internal Revenue Service, Treasury

§ 48.4221-6

made to government employees, or the fact that the article is an item of equipment the employee is required to possess in carrying out his duties. For example, pistols or revolvers may not be sold tax free to a State or local government for resale to its police officers. See section 6416(b)(2)(C), and paragraph (b)(3) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a State or local government.

(b) State or local government. The term "State or local government" includes any State, the District of Columbia, and any political subdivision of any of the foregoing.

(c) Evidence required in support of tax-free sales to States or local governments.

(1) The evidence required in support of a tax-free sale to the State or local government shall, except as provided in paragraph (c)(2) of this section, consist of a certificate, executed and signed by an officer or employee authorized by the State or local government to execute and sign the certificate. If it is impracticable to furnish a separate certificate for each order or contract because of a frequency of purchases, a certificate covering all orders between given dates (such period not to exceed 12 calendar quarters) will be acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained by the manufacturer as provided in section 6001 and the regulations thereunder. The certificate shall be in substantially the following form:

EXEMPTION CERTIFICATE

(For use by States and local governments (section 4221(a)(4) of the Internal Revenue Code))

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

I hereby certify that I am \_\_\_\_\_ (Title of Officer) of \_\_\_\_\_ (State or local government) that I am authorized to execute this certificate; and that:

(CHECK APPLICABLE TYPE OF CERTIFICATE)

\_\_\_\_\_ the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

\_\_\_\_\_ all orders placed by the purchaser for the period commencing \_\_\_\_\_ (Date) and ending \_\_\_\_\_ (Date) (period not to exceed 12 calendar quarters), are, or will be, purchased from

\_\_\_\_\_ (Name of manufacturer) for the exclusive use of \_\_\_\_\_ (Governmental unit) of \_\_\_\_\_ (State or local government).

I understand that the exemption from tax in the case of sales of articles under this exemption certificate to a State, etc., is limited to the sale of articles purchased for its exclusive use. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate 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)

(2) A purchase order, provided that all of the information required by paragraph (c)(1) of this section is included therein, is acceptable in lieu of a separate exemption certificate.

(d) Resale of articles purchased tax free by a State or local government. If articles purchased tax free for the exclusive use of a State or local government are prior to use by the State or local government resold under circumstances that do not amount to an exclusive use by the State or local government (such as tires that are resold by a volunteer fire department to volunteer firemen), the parties responsible in the State or local government are required to inform the manufacturer, producer, or importer from whom the articles were purchased that they were disposed of in a manner that did not amount to an exclusive use by the State or local government. A willful failure to supply the manufacturer, producer, or importer with the information required by this subparagraph will subject responsible parties to the penalties provided by section 7203.

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 8036, 50 FR 29963, July 23, 1985; T.D. 8659, 61 FR 10463, Mar. 14, 1996]

§ 48.4221-6 Tax-free sales of articles to nonprofit educational organizations.

(a) In general. An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section

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4221(a)(5) and this section, to a non-profit educational organization for its exclusive use. See paragraph (b) of this section for the meaning of the term “nonprofit educational organization”. An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale of an article by the manufacturer is made directly to a nonprofit educational organization for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a nonprofit educational organization for its exclusive use 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)(D), and paragraph (b)(4) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a nonprofit educational organization.

(b) *Nonprofit educational organization.* The term “nonprofit educational organization” means an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a). Section 170(b)(1)(A)(ii) describes an “educational organization” as one that 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 regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), provided the primary function of such school is the presentation of formal instruction and provided such school 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 regularly carried on.

(c) *Evidence required in support of tax-free sales to nonprofit educational organizations.* Every nonprofit educational organization purchasing tax free under section 4221(a)(5) must furnish the following information to the seller:

(1) The exempt purpose for which the article or articles are being purchased, and

(2) Its registration number, and the district director’s office that issued the registration number.

Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale “except that a single notification containing the information described in this paragraph may cover all sales by the seller to the purchaser made during a designated period not to exceed 12 successive calendar quarters.” See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption.

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 7686, 45 FR 17574, Mar. 19, 1980; T.D. 8036, 50 FR 29963, July 23, 1985]

**§ 48.4221-7 Tax-free sales of tires and tubes.**

(a) *In general.* A manufacturer of tires or inner tubes that are taxable under section 4071 may sell such articles tax free if the sale meets the conditions prescribed in section 4221(e)(2) and paragraph (a) (1) and (2) of this section. The following are conditions under which articles taxable under section 4071 may be sold tax free:

(1) The tire or tube is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by the purchaser; and

(2) The other article is to be sold in a tax-free sale by the purchaser for export, for use as supplies for vessels or aircraft, to a State or local government for its exclusive use, or to a nonprofit educational organization for its exclusive use, or the other article is to be sold by the purchaser for any of such purposes in a sale which would be tax-free but for the fact that the other article is not subject to tax under Chapter 32 of the Code.

See section 6416(b)(2)(F) and paragraph (b)(6) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available for tax-paid tires or tubes that are resold for the purposes described in this paragraph (a).

(b) *Registration requirements.* In order to effect a tax-free sale under section 4221(e)(2)(A), both the manufacturer and purchaser (except for purchasers