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[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 41, 48, and 145

[REG-103380-05]

RIN 1545-BE31

Excise Tax; Tractors, Trailers, Trucks, and Tires; Definition of Highway Vehicle

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the excise taxes imposed on the sale of highway tractors, trailers, trucks, and tires; the use of heavy vehicles on the highway; and the definition of highway vehicle related to these and other taxes. These proposed regulations reflect legislative changes and court decisions regarding these topics. These proposed regulations affect manufacturers, producers, importers, dealers, retailers, and users of certain highway tractors, trailers, trucks, and tires.

DATES: Written and electronic comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-103380-05), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand-delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-103380-05),

Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-1103380-05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Celia Gabrysh, at (202) 317-6855; concerning submissions of comments or a request for a hearing Regina Johnson at (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### **Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by **INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER**. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collections of information in these proposed regulations are in §48.4051-1(e)(8), describing the certificate the seller of an incomplete chassis cab must have to substantiate a tax-free sale; §48.4051-1(f)(3)(ii), describing the record of gross vehicle weight (GVW) a seller of a truck, trailer, or tractor must maintain to substantiate taxable and nontaxable sales; §48.4051-1(f)(4)(ii), describing the record of gross combination weight (GCW) a seller of a tractor must maintain to substantiate taxable and nontaxable sales; §48.4052-1(c), describing the certificate a seller of a truck, trailer, or tractor for resale or long term leasing must have to substantiate a tax-free sale; §48.4052-2(b), describing the certificate a seller of a trailer must have to avoid the four percent price markup for resale within six months; §48.4073-1(c), describing the certificate a taxable tire manufacturer must have to make a tax-free sale to the Department of Defense or the Coast Guard; §48.4221-7(c), describing the certificate a manufacturer must have to make a tax-free sale of a taxable tire when sold for use or in connection with the sale of another article manufactured by the purchaser and sold by the purchaser in a sale that meets the requirements of section 4221(e)(2); and §48.4221-8(c), describing the certificate a taxable tire manufacturer must have to make a tax-free sale of taxable tires

for intercity, local and school buses. This information is required to obtain a tax benefit and meet a taxpayer's recordkeeping obligations under section 6001. This information will be used by the IRS to substantiate claims for tax benefits. The likely recordkeepers are businesses.

Estimated total annual reporting and/or recordkeeping burden: 750 hours.

Estimated average annual burden hours per respondent and/or recordkeeper varies from .10 hour to .40 hours, depending on individual circumstances, with an estimated average of .25 hours.

Estimated number respondents and/or recordkeepers: 3,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

## **Background**

This document contains proposed amendments to the Highway Use Tax Regulations (26 CFR part 41), the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48), and the Temporary Excise Tax Regulations Under The Highway Revenue Act of 1982 (Pub. L. 97-424) (26 CFR part 145).

### Tractors, Trailers, and Trucks

Before April 1, 1983, section 4061 imposed a tax on the manufacturer's sale of

certain highway-type tractors, chassis, and bodies for highway-type trailers and trucks, and related parts and accessories for these articles. The Highway Revenue Act of 1982, Pub. L. 97-424 (96 Stat. 2097) (the 1982 Act), changed this tax to a 12 percent tax under section 4051(a)(1) on the first retail sale of certain highway-type tractors and chassis and bodies for highway-type trailers and trucks. In addition, the 1982 Act replaced the tax on the manufacturer's sale of related parts and accessories with a tax on the installation of parts and accessories on a vehicle containing a taxable article within six months after the vehicle was first placed in service (unless the aggregate price of the parts and the cost of installation was less than \$200). Section 4051(a)(5) provides that the sale of a truck, truck trailer, or semitrailer is to be considered as the sale of a chassis and of a body.

Under the 1982 Act, a chassis or body suitable for use with (1) a truck with a GVW of 33,000 pounds or less or (2) a trailer with a GVW of 26,000 pounds or less is generally exempt from tax. All tractors of the kind chiefly used for highway transportation in connection with trailers and semitrailers were taxable under the 1982 Act regardless of their GVW.

On April 4, 1983, temporary regulations were published in the **Federal Register** (48 FR 14361; TD 7882) to implement this new retail tax. Subsequent amendments to these regulations were published in the **Federal Register** on September 13, 1985 (50 FR 37350; TD 8050); May 12, 1988 (53 FR 16867; TD 8200); and July 1, 1998 (63 FR 35799; TD 8774). Collectively, these regulations are referred to in this preamble as "the temporary regulations."

One provision in the temporary regulations provided that tax was not imposed on

tractors, chassis, and bodies when they were sold for resale or long-term lease if the buyer was registered by the IRS. Section 1434(b)(2) of the Taxpayer Relief Act of 1997, Pub. L. 105-34 (111 Stat. 788) (the 1997 Act), provided that IRS registration could not be a prerequisite for these tax-free sales. Subsequently, the temporary regulations were amended to reflect this statutory provision on March 31, 2000 (65 FR 17149; TD 8879). The 1997 Act also increased from \$200 to \$1,000 the aggregate dollar value of parts and accessories that may be installed on section 4051 articles without incurring a tax liability.

Section 11112 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA), Pub. L. 109-59 (119 Stat. 1144), added new section 4051(a)(4), that provides an exemption for small tractors from the tax on tractors.

### Tires

Before January 1, 1984, section 4071 imposed a tax on the manufacturer's sale of highway and nonhighway tires, tubes, and tread rubber. Effective that date, the 1982 Act repealed most of these taxes but retained a tax on certain heavy highway-type tires based on the weight of the tires.

Section 869 of the American Jobs Creation Act of 2004, Pub. L. 108-357 (118 Stat. 1418) (2004 Act), changed section 4071 from a tax based on the weight of a tire to a tax based on the maximum rated load capacity of a tire in excess of 3,500 pounds. A special rate of tax was provided for super single tires. A super single tire was defined as a single tire greater than 13 inches in cross-section width designed to replace two tires in a dual fitment.

Section 1364(a) of the Energy Policy Act of 2005, Pub. L. 109-58 (119 Stat. 594), amended the definition of a super single tire to exclude any tire designed for steering.

#### Definition of Highway Vehicle

Generally, section 4051 imposes a tax only on components of highway vehicles. Similarly, the tax imposed by section 4481 on the use of certain heavy vehicles applies only to highway vehicles. Sections 6421 and 6427 allow a credit or payment related to the tax imposed on fuel (including gasoline or diesel fuel) in many cases if the fuel is used other than as a fuel in a highway vehicle.

Existing regulations define highway vehicle with exceptions provided for (1) certain specially-designed mobile machinery for nontransportation functions, (2) certain vehicles specially designed for off-highway transportation, and (3) certain trailers and semitrailers specially designed to perform nontransportation functions off the public highway. Section 851 of the 2004 Act generally codified the regulatory exception for item (1) and codified, with substantial changes, the regulatory definitions of items (2) and (3).

#### **Reason for these regulations**

Many of the existing regulations relating to tractors, trailers, trucks, and tires do not reflect current law. These proposed regulations reflect changes to the Internal Revenue Code since 1982, address several court decisions, remove numerous obsolete regulations, and also afford the public the opportunity to comment on those provisions of the temporary regulations that are restated and unchanged.

#### **Explanation of Provisions**

##### Definition of Highway Vehicle

Proposed §48.0-5 defines a highway vehicle as any self-propelled vehicle, or any truck trailer or semitrailer, designed to perform a function of transporting a load over public highways. This proposed section also provides exceptions for specified mobile machinery, off-highway vehicles, and non-transportation trailers and semitrailers for purposes of the tax on the sale of heavy vehicles (section 4051), the highway use tax (section 4481), and the credits and payments allowed for certain nontaxable uses (sections 6421 and 6427). The exception for mobile machinery restates section 4053(8) (as added by the 2004 Act) and the exceptions for off-highway vehicles and non-transportation trailers and semitrailers restate section 7701(a)(48)(A) and (B) (as added by the 2004 Act). Also, Notice 2005-4, 2005-1 C.B. 289, announced that existing regulations regarding certain vehicles specially designed for off-highway transportation would be revised so that they will not apply to calendar quarters beginning after October 22, 2004. These proposed regulations make that change.

The proposed regulations provide two examples that illustrate the definition of highway vehicle. The first example concerns the off-highway vehicle exception and characterizes an asphalt semitrailer similar to the trailers and semitrailers described in Flow Boy, Inc. v. United States, 83-1 U.S.T.C. ¶16,395, aff'd, 54 A.F.T.R.2d 84-6545, 84-1 U.S.T.C. ¶16,418 (10<sup>th</sup> Cir. 1984), and Gateway Equip. Corp. v. United States, 247 F. Supp. 2d 299 (W.D.N.Y. 2003), as a highway vehicle. Relying on the then-existing regulations, the Flow Boy and Gateway courts held that the asphalt trailers and semitrailers in question were not highway vehicles. In 2004, Congress added section 7701(a)(48) to the Code, which provides a statutory definition of the term “off-highway vehicles.” Under section 7701(a)(48)(A), a vehicle is not treated as a highway vehicle if

such vehicle is specially designed for the primary function of transporting a particular type of load over the public highway and because of this special design, such vehicle's capability to transport a load over the public highway is substantially limited or impaired. The enactment of section 7701(a)(48) effectively disqualified an asphalt semitrailer similar to the ones described in Flow Boy and Gateway from the off-highway exception because its special design does not substantially limit or impair its capability to transport a load over a public highway. The example in the proposed regulations illustrates the analysis of whether a vehicle is a highway vehicle under section 7701(a)(48).

The second example concerns the mobile machinery exception and reflects the decision in Florida Power & Light Co. v. United States, 375 F.3d 1119 (Fed. Cir. 2004), which holds that a vehicle that can perform more than one transportation function is not specially designed to serve "only" as a mobile carriage and mount. See also Schlumberger Technology Corp. and Subsidiaries v. United States, 55 Fed. Cl. 203 (2003).

#### Retail Tax on Tractors, Trailers, and Trucks

The proposed regulations reorganize and partially restate the temporary regulations that address the retail tax on tractors, trailers, and trucks. Proposed §48.4051-1(e) revises the definitions of tractor and truck and provides a model certificate for a seller to establish the tax status of an incomplete chassis cab. If the buyer of an incomplete chassis cab certifies to the seller that the buyer will not complete the incomplete chassis cab as a taxable tractor, the seller may treat the sale of the incomplete chassis cab as the sale of a truck or small tractor. Consequently, no tax is imposed on the sale of an incomplete chassis cab when accompanied by a qualifying

certificate. In the absence of this certificate, the seller must treat the sale of an incomplete chassis cab as the sale of a taxable tractor. This rule generally restates §145.4051-1(e)(1) and is consistent with the interpretation of the existing rule in Freightliner of Grand Rapids, Inc. v. United States, 351 F. Supp. 2d 718, 723 (2004).

Consistent with the temporary regulations, the proposed regulations define the terms tractor and truck by reference to the primary design of a vehicle. For purposes of determining whether a vehicle is “primarily designed” as a tractor or a truck, proposed §48.4051-1(g) also includes an example and reflects Rev. Rul. 2004-80 (2004-2 CB 164), which applied the primarily designed test to determine whether a vehicle was a tractor or a truck.

The definition of truck trailer in proposed §48.4051-1(e)(4)(ii) would include any manufactured home on a frame that has axles and wheels. This definition classifies a manufactured home of the type at issue in Horton Homes, Inc. v. United States, 357 F.3d 1209 (11<sup>th</sup> Cir. 2004), as a truck trailer because all of its load and weight is carried on its own chassis and it is designed to be towed. A consequence of this characterization is that the vehicle that tows this manufactured home is a tractor as defined in section 4051(a)(1)(E). Thus, under the proposed regulations, toters, as the vehicles that tow these manufactured homes are known in the industry, would be taxable as tractors. While this result is different from the decision in Horton Homes, which held that toters are not taxable tractors, that decision expressly noted that “Congress did not define ‘trailers or semitrailers,’ [in the statute] nor has the Treasury promulgated regulations defining those terms” and thus applied a dictionary definition of the term “trailer” to determine whether toters are taxable. Id. at 1212 n.6. These

proposed regulations fill in the regulatory gap faced by the Eleventh Circuit by providing a definition of “trailer” that will clarify the determination of whether a vehicle is a taxable tractor.

Proposed §48.4051-1(f) provides exclusions from the tax imposed by section 4051 for certain trucks and trailers that are below a certain GVW and tractors that are below a certain GVW and a certain GCW. Proposed §48.4051-1(f) defines GVW and GCW and also provides the related recordkeeping requirements to support these exclusions.

Proposed §48.4051-2 modifies the temporary regulations to reflect the statutory increase in the aggregate dollar value of parts and accessories that may be installed on a taxable article without incurring a tax liability.

Proposed §48.4052-1 supplements the existing definition of taxable sale to include the resale of an unused article that had been previously sold tax-free.

#### Chassis Characterization

The proposed regulations provide that if a chassis is a component part of a highway vehicle, the taxability of the chassis is determined independent of, and without regard to, the body that is installed on the chassis. Likewise, if a body is a component part of a highway vehicle, the taxability of the body is determined independent of, and without regard to, the chassis on which the body is installed. This proposed rule is contrary to the result in Rev. Rul. 69-205 (1969-1 CB 277), which holds that an otherwise taxable chassis is not taxable if a motorhome body is installed on the chassis. This revenue ruling predates and is inconsistent with the language in section 4051(a)(1), which lists a chassis and a body as separate taxable articles. This revenue

ruling will be obsoleted after publication of the final regulations.

### Taxable Tires

Effective January 1, 2005, section 4071 imposes a tax on taxable tires for each ten pounds of the maximum rated load capacity that exceeds 3,500 pounds. The proposed regulations reflect this change and remove references in existing regulations to tread rubber, inner tubes, and the determination of a tire's weight. The proposed regulations also define rated load capacity and super single tire, and address multiple load ratings and the consequences of tampering with a tire's maximum load rating. The proposed regulations also provide rules under section 4073 for making tax-free sales of tires for the exclusive use of the Department of Defense and the Coast Guard. In addition, the proposed regulations provide model certificates to support these sales, as well as sales of tires by manufacturers for use on or in connection with the sale of another article manufactured by the purchaser and sold by the purchaser in a sale that meets the requirements of section 4221(e)(2) and sales of taxable tires to be used on intercity, local, and school buses (section 4221(e)(3)).

### **Proposed Applicability Date**

The regulations generally are proposed to apply on and after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

### Availability of IRS documents

The IRS revenue rulings and the notice cited in this preamble are published in the Internal Revenue Cumulative Bulletin and are available at [www.irs.gov](http://www.irs.gov).

### **Special Analyses**

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory flexibility assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the time required to secure and maintain the required information is minimal (estimated at an average of 15 minutes) and taxpayers would ordinarily already collect and retain much of this information for other business purposes such as accounting, insurance, and marketing. Also, truck manufacturers presently provide the GVW and gross combined weight to truck dealers for purposes unrelated to federal excise tax. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the "Addresses" heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing may be scheduled if requested in writing by any person that timely submits written

comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal author of these regulations is Celia Gabrysh, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

### **List of Subjects**

#### 26 CFR Part 41

Excise taxes, Motor vehicles, Reporting and recordkeeping requirements.

#### 26 CFR Parts 48 and 145

Excise taxes, Reporting and recordkeeping requirements.

### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR parts 41, 48, and 145 are proposed to be amended as follows:

#### **PART 41--EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES**

Paragraph 1. The authority citation for part 41 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

#### **§41.4482(a)-1 [Amended]**

Par. 2. Section 41.4482(a)-1(a)(2) is amended by removing the language “§48.4061(a)-1(d)” and adding “§48.0-5” in its place.

#### **PART 48--MANUFACTURERS AND RETAILERS EXCISE TAXES**

Par. 3. The authority citation for part 48 is amended by adding entries in

numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Section 48.4051-1 also issued under 26 U.S.C. 4051(a).

Section 48.4051-2 also issued under 26 U.S.C. 4051(b).

\* \* \* \* \*

Section 48.4052-2 also issued under 26 U.S.C. 4052(b).

\* \* \* \* \*

Section 48.4071-3 also issued under 26 U.S.C. 4071(b).

\* \* \* \* \*

#### **§48.0-1 [Amended]**

Par. 4. Section 48.0-1, fourth sentence, is amended by removing the language “highway-type tires” and adding “taxable tires” in its place.

#### **§48.0-2 [Amended]**

Par. 5. In §48.0-2, paragraph (b)(5), first sentence, is amended by removing the language “In the case of a lease,” and adding “Except as provided in §48.4052-1(e), in the case of a lease,” in its place.

Par. 6. Section 48.0-4 is added to subpart A to read as follows:

#### **§48.0-4 Highway vehicle and mobile machinery.**

(a) Overview. (1) The definitions of highway vehicle and mobile machinery in this section apply for purposes of this part and part 41 of this chapter. See §41.4482(a)-1(a)(2) of this chapter.

(2) The taxes imposed by sections 4051 and 4481 do not apply to mobile machinery (as defined in paragraph (b)(3)(iii) of this section), and the tax imposed by section 4071 does not apply to tires of a type used exclusively on such mobile machinery. In addition, for purposes of determining whether use of a vehicle qualifies as off-highway business use under section 6421(e)(2)(C) (relating to uses in mobile

machinery), mobile machinery (as defined in this section) satisfies the design-based test of section 6421(e)(2)(C)(iii). To qualify as off-highway business use, however, the use of the vehicle must also satisfy the use-based test of section 6421(e)(2)(C)(iv).

(b) Highway vehicle--(1) In general. Except as otherwise provided in paragraph (b)(3) of this section, highway vehicle means any self-propelled vehicle, or any truck trailer or semitrailer, designed to perform a function of transporting a load over public highways.

(2) Explanation. (i) A vehicle consists of a chassis, or a chassis and a body if the vehicle has a body, but does not include the vehicle's load.

(ii) Except as otherwise provided in paragraph (b)(3) of this section, in determining whether a vehicle is a highway vehicle, it is immaterial whether--

(A) The vehicle can perform functions other than transporting a load over the public highways;

(B) The vehicle is designed to perform a highway transportation function for only a particular kind of load, such as passengers, furnishings and personal effects (as in a house, office, or utility trailer), a special type of cargo, goods, supplies, or materials, or machinery or equipment specially designed to perform some off-highway task unrelated to highway transportation; and

(C) In the case of a vehicle specially designed to transport machinery or equipment, such machinery or equipment is permanently mounted on the vehicle.

(iii) Examples of vehicles that are designed to perform a function of transporting a load over the public highways are passenger automobiles, motorcycles, buses, motor homes, and highway-type trucks, truck tractors, trailers, and semitrailers.

(iv) Examples of vehicles that are not designed to perform a function of transporting a load over the public highways are farm tractors, bulldozers, road graders, and forklifts.

(v) The term public highway includes any road (whether a federal highway, state highway, city street, or otherwise) in the United States that is not a private roadway.

(vi) The term transport includes tow.

(3) Exceptions--(i) Certain vehicles specially designed for off-highway transportation--(A) In general. The term highway vehicle does not include a vehicle if the vehicle is specially designed for the primary function of transporting a particular type of load other than over a public highway and because of this special design such vehicle's capability to transport a load over a public highway is substantially limited or impaired.

(B) Determination of vehicle's design. For purposes of paragraph (c)(3)(i)(A) of this section, a vehicle's design is determined solely on the basis of its physical characteristics.

(C) Determination of substantial limitation or impairment. For purposes of paragraph (c)(3)(i)(A) of this section, in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether the vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether the vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than the vehicle is permitted to transport over the public highway.

(ii) Nontransportation truck trailers and semitrailers. The term highway vehicle

does not include a truck trailer or semitrailer if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.

(iii) Mobile machinery. The term highway vehicle does not include any vehicle that consists of a chassis--

(A) To which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways;

(B) That has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation; and

(C) That, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

(c) Examples. The following examples illustrate the rules of this section:

Example 1; Off-highway transportation. (1) Facts. (i) A tri-axle semitrailer that is used in highway construction, maintenance, and repair work also hauls highway construction and repair materials to job sites. The semitrailer's floor is equipped with a continuous rubber belt attached to a steel slatted roller chain that carries payload to the rear tailgate at a controllable discharge rate. The semitrailer has insulated double sidewalls and a baffled hopper. This equipment enables the semitrailer to transport and unload hot-mix asphalt, asphalt-related materials, and low-slump concrete for highway construction and repair. When used as an asphalt transporter, the semitrailer unloads the asphalt at the job site through the rear tailgate into a trailing asphalt paving machine. The semitrailer is designed to perform a function of transporting a load over public highways.

(ii) A highway tractor tows the semitrailer at normal highway speeds. The semitrailer complies with all federal and state regulations governing highway use, may be legally operated on the public highways when loaded within legal weight limits (80,000 pounds), and does not exceed state maximum highway length, width, or height limitations. Loaded to its capacity with asphalt, the combined weight of the semitrailer, the asphalt, and the tractor exceeds 100,000 pounds. Special state permits may be purchased to operate the tractor/semitrailer combination above the legal weight limit on public highways.

(2) Analysis. For purposes of the exception provided by paragraph (b)(3)(i) of this section for vehicles specially designed for off-highway transportation, paragraph (b)(3)(i)(B) of this section provides that a vehicle's design is determined solely on the basis of its physical characteristics. The physical characteristics of this semitrailer include insulated double sidewalls, a baffled hopper, and an unloading mechanism on the floor of the trailer that moves hot road building materials to the back of the trailer and delivers these materials into a paving machine at controlled rates. Examples of the type of machinery or equipment that contribute to the highway transportation function are unloading equipment and machinery that contribute to the preservation of the cargo. The semitrailer's conveyor discharge system and insulated walls are designed to contribute to the highway transportation functions of unloading (discharge conveyor system) and preserving (insulated sidewalls) the load. This equipment is not designed for the job-site function of applying asphalt or low-slump concrete.

(3) Conclusion. The semitrailer is not a vehicle described in paragraph (b)(3)(i)(A) of this section. The semitrailer's physical characteristics, such as sidewalls, a hopper, and the unloading mechanism, demonstrate that this semitrailer is capable of transporting asphalt or low-slump concrete over a public highway without substantial limitation or impairment.

Example 2: Mobile machinery. (1) Facts. A chassis manufacturer built a truck chassis with a reinforced chassis frame, a heavy-duty engine, and a structure to accommodate the manufacturer's mounting of drilling equipment on the chassis and the use of that drilling equipment off the highways. The manufacturer also bolted a pintle-type trailer hitch to a beam that is welded to, and operates as a rear cross member of, the chassis frame rails. The truck is designed to perform a function of transporting a load over public highways.

(2) Analysis. This chassis can perform two functions. First, the chassis serves as a mobile carriage and mount for the drilling equipment installed on its bed. Second, the chassis can tow a trailer because it has a pintle-type trailer hitch. These dual capabilities demonstrate that the chassis was not specially designed to serve only as a mobile carriage and mount for its machinery.

(3) Conclusion. The chassis fails to meet the test in paragraph (c)(3)(iii) of this section for treatment as mobile machinery because the chassis is not specially designed to serve only as a mobile carriage and mount for the drilling equipment. A

similar conclusion would apply if the manufacturer reinforced the chassis to make the chassis capable of towing a trailer, but the manufacturer did not install the pintle hook.

(d) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 7. Section 48.4041-8 is amended as follows:

1. Paragraph (b)(2)(ii), first sentence, is amended by removing the language “A self-propelled” and adding “Before January 1, 2005, a self-propelled” in its place.
2. Paragraph (b)(2)(iv) is added.

The addition reads as follows:

§48.4041-8 Definitions.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) Off-highway transportation vehicles after December 31, 2004. For a description of certain vehicles that are not treated as highway vehicles after December 31, 2004, see §48.0-5(b)(3).

\* \* \* \* \*

Par. 8. The heading for subpart H is revised to read as follows:

SUBPART H—MOTOR VEHICLES, TIRES, AND TAXABLE FUEL

Par. 9. New §§48.4051-0, 48.4051-1, and 48.4051-2 are added to subpart H to read as follows:

§48.4051-0 Overview; Heavy trucks, tractors, and trailers sold at retail.

Sections 48.4051-1, 48.4051-2, and 48.4052-1 provide guidance under sections 4051 and 4052 relating to the tax on the first retail sale of certain truck and trailer

chassis and bodies and certain tractors. This guidance includes rules relating to the imposition of tax, liability for tax, exclusions, and definitions. For rules under sections 4051 and 4052 on the treatment of leases, uses treated as sales, and the determination of price for which an article is sold, see §145.4052-1 of this chapter.

§48.4051-1 Imposition of tax; Heavy trucks, tractors, and trailers sold at retail.

(a) Imposition of tax. Section 4051 imposes a tax on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection with the article or with the sale of the article):

(1) Automobile truck chassis and bodies.

(2) Truck trailer and semitrailer chassis and bodies.

(3) Tractors of the kind chiefly used for highway transportation in combination with a truck trailer or semitrailer.

(b) Tax base and rate of tax. The tax is the applicable percentage of the price for which the article is sold. The applicable percentage is prescribed in section 4051(a)(1). For rules for the determination of price, see paragraph (d)(4) of this section and §145.4052-1(d) of this chapter.

(c) Liability for tax--(1) In general. Except as provided in paragraph (c)(2) of this section, the person that makes the first retail sale (as defined in §48.4052-1(a)) of a taxable article listed in paragraph (a) of this section is liable for the tax imposed by section 4051. This person is referred to as the retailer in this section and §48.4051-2.

(2) Exceptions; cross references. For cases in which a person other than the retailer is liable for the tax imposed under paragraph (a) of this section, see §§48.4051-1(d)(2)(ii) and (iii) (relating to chassis and bodies sold for use as a component part of a

highway vehicle) and §48.4051-1(e)(6)(ii) (relating to certain chassis completed as tractors).

(d) Special rules--(1) Separate taxation of chassis and body. If a chassis is a component part of a highway vehicle, the taxability of the chassis is determined independently of, and without regard to, the body that is installed on the chassis. If a body is a component part of a highway vehicle, the taxability of the body is determined independently of, and without regard to, the chassis on which the body is installed.

(2) Chassis and bodies sold for use as a component part of a highway vehicle--  
(i) In general. A chassis or body listed in paragraph (a) of this section is taxable under section 4051 only if such chassis or body is sold for use as a component part of a highway vehicle that is an automobile truck, truck trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. A chassis or body that is not listed in paragraph (a) of this section (for example, a chassis or body of a passenger automobile) is not taxable under section 4051 even though such chassis or body is used as a component part of a highway vehicle.

(ii) Retailer; conditions for avoidance of liability. The retailer is not liable for tax on a chassis or body if, at the time of the first retail sale, the retailer--

(A) Has obtained from the buyer a certificate described in paragraph (d)(2)(iv) of this section stating, among other things, that the buyer will use the chassis or body as a component part of a vehicle that is not a highway vehicle;

(B) Has no reason to believe that any information in the certificate is false; and

(C) Has not received a notification from the IRS under paragraph (d)(2)(iv) of this section with respect to the buyer or the type of chassis or body.

(iii) Liability of buyer. If a buyer that provides a certificate described in paragraph (d)(2)(iv) of this section uses the chassis or body to which the certificate relates as a component part of a highway vehicle, the buyer is liable for the tax imposed on the first retail sale of such chassis or body.

(iv) Form of certificate. The certificate described in this paragraph (d)(2)(iv) consists of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate in paragraph (d)(2)(v) of this section, and includes all the information necessary to complete the model certificate. The IRS may withdraw the right of a buyer to provide a certificate under this section if the buyer uses the chassis or body to which a certificate relates other than as stated in the certificate. The IRS may notify any retailer that the buyer's right to provide a certificate has been withdrawn. The IRS may also notify a retailer that sales of a specified type or types of chassis or bodies may not be made tax-free under this paragraph (d)(2) until further notification. The certificate may be included as part of any business records used to document a sale.

(v) Model Certificate.

Certificate

(To support the tax-free sale of a chassis or body that is to be used as a component part of a non-highway vehicle)

The undersigned buyer of a chassis or body listed in section 4051 ("Buyer") hereby certifies the following under penalties of perjury:

1. \_\_\_\_\_  
\_\_\_\_\_

Seller's name, address, and employer identification number

2. \_\_\_\_\_  
\_\_\_\_\_

Buyer's name, address, and employer identification number

3. \_\_\_\_\_  
Date and location of sale to Buyer

4. The article(s) listed below will not be used as a component part of a highway vehicle. If the article is a chassis, Buyer has listed the chassis Vehicle Identification Number. If the article is a body, Buyer has listed the body's identification number.


5. Buyer understands that it must be prepared to establish, by evidence satisfactory to an examining agent, how Buyer used the article.

6. Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

7. Buyer understands that if it uses a chassis or body listed in this certificate as a component part of a highway vehicle, Buyer is liable for the tax imposed by section 4051 of the Internal Revenue Code.

8. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

9. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Printed or typed name of person signing this certificate

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Signature and date signed

(3) Sale of a completed unit. A sale of an automobile truck, truck trailer, or semitrailer is considered a sale of a chassis and of a body listed in paragraph (a) of this section.

(4) Equipment installed on chassis or bodies. For purposes of section 4051, the sale price of a chassis or body includes any amount paid for equipment or machinery that is installed on and is an integral part of the chassis or body. Equipment or machinery is an integral part of a chassis or body if the equipment or machinery

contributes to the highway transportation function of the chassis or body. Examples of machinery or equipment that contributes to the highway transportation function of a chassis or body are loading and unloading equipment; towing winches; and all other machinery or equipment that contributes to the maintenance or safety of the vehicle, the preservation of cargo (other than refrigeration units), or the comfort or convenience of the driver or passengers.

(5) Vehicle use. In determining whether a tractor, a truck body or chassis, or a truck trailer or semitrailer chassis or body is subject to the tax imposed by section 4051, the use (whether commercial, personal, recreational, or otherwise) of an article is immaterial.

(e) Explanation of terms and exclusions; tractors, trucks, trailers--(1) Tractor. The term tractor means a highway vehicle primarily designed to tow a vehicle, such as a truck trailer or semitrailer. A vehicle equipped with air brakes and/or a towing package will be presumed to be a tractor unless it is established, based on all the vehicle's characteristics, that the vehicle is not primarily designed to tow a vehicle. However, a vehicle that is not equipped with air brakes and/or a towing package is a tractor if the vehicle is primarily designed to tow a vehicle.

(2) Truck. The term truck means a highway vehicle primarily designed to transport its load on the same chassis as the engine even if it is also equipped to tow a vehicle, such as a trailer or semitrailer.

(3) Primarily designed. The term primarily means principally or of first importance. Primarily does not mean exclusively. The function for which a vehicle is primarily designed is evidenced by physical characteristics such as the vehicle's

capacity to tow a vehicle, carry cargo, and operate (including brake) safely when towing or carrying cargo. Towing capacity depends on the vehicle's gross vehicle weight (GVW) rating and gross combination weight (GCW) rating and whether the vehicle is configured to tow a trailer or semitrailer. Cargo carrying capacity depends on the vehicle's GVW rating and the configuration of the vehicle's bed or platform. If a vehicle is capable of more than one function, such as towing a vehicle and carrying cargo on the same chassis as the engine, the physical characteristics of the vehicle determine the purpose for which the vehicle is primarily designed. A vehicle that can both carry cargo on its chassis and tow a trailer is either a truck or tractor depending on which function is of greater importance.

(4) Trailer--(i) In general. The term trailer means a non-self-propelled vehicle hauled, towed, or drawn by a separate truck or tractor. A trailer consists of a chassis and a body. A chassis is the frame that supports the trailer's suspension, axles, wheels, tires, and brakes. A body is the structure usually installed on the trailer chassis to accommodate the intended load of the trailer. In some instances, the body may itself constitute all or part of the intended load.

(ii) Truck trailer. The term truck trailer means a trailer that carries all of its weight and the weight of its load on its own chassis.

(iii) Semitrailer. The term semitrailer means a trailer, the front end of which is designed to be attached to, and rest upon, the vehicle that tows it. A portion of the semitrailer's weight and load also rests upon the towing vehicle.

(5) Incomplete chassis cab; classification as a truck. An incomplete chassis cab is classified as a truck at the time of its sale if, at such time--

(i) The incomplete chassis cab is not equipped with any of the features listed in paragraph (e)(7) of this section; and

(ii) The seller--

(A) Has obtained from the buyer a certificate described in paragraph (e)(8) of this section stating, among other things, that the buyer will equip the incomplete chassis cab as a truck;

(B) Has no reason to believe that any information in the certificate is false; and

(C) Has not received a notification under paragraph (e)(8) of this section with respect to the buyer.

(6) Incomplete chassis cab; classification as a tractor--(i) In general. An incomplete chassis cab is classified as a tractor at the time of its sale if, at such time--

(A) The incomplete chassis cab is equipped with any of the features listed in paragraph (e)(7) of this section; or

(B) The seller fails to satisfy one or more of the conditions set forth in paragraph (e)(5)(ii) of this section.

(ii) Completion as a tractor. If no tax is imposed under section 4051(a)(1) on the sale of an incomplete chassis cab classified as a truck under paragraph (e)(5) of this section and the purchaser completes the incomplete chassis cab as a taxable tractor, the purchaser is liable for tax under section 4051(a)(1) on the purchaser's sale or use of the taxable tractor.

(7) Incomplete chassis cab; features. The features referred to in paragraphs (e)(5)(i) and (e)(6)(i)(A) of this section are the following:

(i) A device for supplying air or hydraulic pressure or electric or other power from

the incomplete chassis cab to the brake system of a towed vehicle.

(ii) A mechanism for protecting the incomplete chassis cab brake system from the effects of a loss of pressure in the brake system of a towed vehicle.

(iii) A control linking the brake system of the incomplete chassis cab to the brake system of a towed vehicle.

(iv) A control in the incomplete chassis cab for operating a towed vehicle's brakes independently of the incomplete chassis cab's brakes.

(v) Any other equipment designed to establish or enhance the incomplete chassis cab's use as a tractor.

(8) Incomplete chassis cab; certificate--(i) In general. The certificate described in this paragraph (e)(8) consists of a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate in paragraph (e)(8(ii) of this section, and includes all the information necessary to complete the model certificate. The IRS may withdraw the right of a buyer of vehicles to provide a certificate under this section if the buyer uses the vehicles to which a certificate relates other than as stated in the certificate. The IRS may notify any seller that the buyer's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(ii) Model Certificate.

Certificate

(To support the completion of an incomplete chassis cab as a truck)

The undersigned buyer of articles listed in section 4051 ("Buyer") hereby certifies the following under penalties of perjury:

1. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Seller's name, address, and employer identification number

2. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Buyer's name, address, and employer identification number

3. \_\_\_\_\_

Date and location of sale to Buyer

4. Buyer certifies that Buyer will complete these incomplete chassis cabs listed below as trucks:

<u>VIN:</u>	<u>VIN:</u>

5. Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

6. Buyer understands that if Buyer completes an incomplete chassis cab listed in this certificate as a taxable tractor described in section 4051(a)(1)(E) and then uses it or sells it, Buyer may be liable for the tax imposed by section 4051 on this sale or use. See 26 CFR 48.4051-1(e)(6)(ii) and 145.4052-1(c).

7. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

8. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
 Printed or typed name of person signing this certificate

\_\_\_\_\_  
 Title of person signing

\_\_\_\_\_  
 Signature and date signed

(f) Exclusions--(1) In general. Tax is not imposed by section 4051 on the first retail sale of the following articles:

(i) Automobile truck chassis or bodies that have practical and commercial fitness for use with a vehicle that has a GVW of 33,000 pounds or less.

(ii) Truck trailer and semitrailer chassis or bodies that have practical and commercial fitness for use with a truck trailer or semitrailer that has a GVW of 26,000 pounds or less.

(iii) Tractors that have--

(A) A GVW of 19,500 pounds or less; and

(B) A GCW of 33,000 pounds or less.

(2) Practical and commercial fitness. A chassis or body possesses practical fitness for use with a vehicle if it performs its intended function up to a generally acceptable standard of efficiency with the vehicle, and a chassis or body possesses commercial fitness for use with a vehicle if it is generally available for use with the vehicle at a price that is reasonably competitive with other articles that may be used for the same purpose. A truck chassis that has practical and commercial fitness for use with a vehicle having a GVW of 33,000 pounds or less is not subject to the tax imposed by section 4051 regardless of the body actually mounted on the chassis. A truck trailer or semitrailer chassis that has practical and commercial fitness for use with a vehicle having a GVW of 26,000 pounds or less is not subject to tax regardless of the body actually mounted on the chassis. A taxable chassis or body, as the case may be, remains subject to tax—

(i) Even if an exempt body is mounted on a taxable chassis or a taxable body is mounted on an exempt chassis; and

(ii) The resulting vehicle is a highway vehicle.

(3) Gross vehicle weight. (i) The term gross vehicle weight means the maximum total weight of a loaded vehicle. Except as otherwise provided in this paragraph (f)(3), the maximum total weight is the GVW rating of the article as specified by the manufacturer on the Manufacturer's Statement of Origin (or comparable document) or by the retailer of the completed article on a comparable document. In determining the

GVW, the following rules apply:

(A) The GVW rating must take into account, among other things, the strength of the chassis frame, the axle capacity and placement, and, if an article is specially equipped to the buyer's specifications, those specifications.

(B) The manufacturer or retailer of an article listed in paragraph (a) of this section must specify the article's GVW rating at the time the article requires no additional manufacture other than--

(1) The addition of readily attachable articles, such as tire or rim assemblies or minor accessories;

(2) The performance of minor finishing operations, such as painting; or

(3) In the case of a chassis, the addition of a body.

(C) If the IRS finds that a GVW rating by the manufacturer or a later seller is unreasonable in light of the facts and circumstances in a particular case, that GVW rating will not be used for purposes of section 4051.

(D) The IRS may exclude from a GVW rating any readily attachable parts to the extent the IRS finds that the use of such parts in computing the GVW rating results in an inaccurate GVW rating.

(E) If the following or similar ratings are inconsistent, the highest of these ratings is the GVW rating:

(1) The rating indicated in a label or identifying device affixed to an article.

(2) The rating set forth in sales invoice or warranty agreement.

(3) The advertised rating for that article (or identical articles).

(ii) The retailer must keep a record of the GVW rating for each chassis, body, or

vehicle it sells. For this purpose, a record of the serial number of each such article is treated as a record of the GVW rating of the article if such rating is indicated by the serial number. The GVW rating must be retained as part of the retailer's records for each of its chassis, bodies, or vehicles.

(4) Gross combination weight. (i) The term gross combination weight means the GVW of the tractor plus the GVW of any trailer or semitrailer that the tractor may safely tow. Unless a particular rating is unreasonable in light of the facts and circumstances in a particular case, the IRS will consider the GCW of a tractor to be the highest GCW rating specified on any of the following documents:

(A) The Manufacturer's Statement of Origin (or comparable document) or a comparable document of a seller of the completed tractor.

(B) A label or identifying device affixed to the completed tractor by the manufacturer or the seller.

(C) A sales invoice or warranty agreement.

(D) An advertisement for the tractor (or identical tractors).

(ii) The retailer must keep a record of the GCW rating for each tractor it sells.

The GCW rating must be retained as part of the retailer's records for each of its tractors.

(g) Example. The following example illustrates the application of paragraphs (e)(1), (2), (3), and (4) of this section:

Example. (1) Facts. (i) A vehicle has the capacity to tow truck trailers and semitrailers (trailers) that have a GVW of 20,000 pounds. The vehicle has a standard chassis cab (4-door with crew cab), accommodating five passengers, and is outfitted with certain luxury features. The cab has an electric trailer brake control that connects to the brakes of a towed trailer and to a hook up for trailer lights. The vehicle has two storage boxes behind the cab that can accommodate incidental items such as small

tools and vehicle repair equipment.

(ii) The vehicle has a GVW rating of 23,000 pounds and a GCW rating of 43,000 pounds. The vehicle is equipped with hydraulic disc brakes with a four wheel automatic braking system, a 300 horsepower engine, and a six-speed automatic transmission. The front axle of the vehicle has an 8,000 pound rating and the rear axle has a 15,000 pound rating.

(iii) The vehicle has three types of hitching devices: a removable ball gooseneck hitch, a fifth wheel hitch, and a heavy duty trailer receiver hitch. The vehicle's platform, which is approximately 139 inches long, is designed with a rectangular well to accommodate the gooseneck and fifth wheel hitches (bed hitches). This platform slopes at the rear of the rectangular well and has tie down hooks. Optional removable steel stake rails can be placed around the platform.

(2) Analysis. (i) Some characteristics of the vehicle such as its chassis cab with a GVW rating of 23,000 pounds, a 300 horsepower engine, a front axle with an 8,000 pound rating, and a rear axle with a 15,000 pound rating are consistent with either a cargo carrying or a towing function. In this case, however, the vehicle also has a GCW rating of 43,000 pounds and its engine, brakes, transmission, axle ratings, electric trailer brake control, trailer hook up lights, and hitches enable it to tow a trailer that has a GVW rating of 20,000 pounds.

(ii) When the vehicle's bed hitches are used to tow, the cargo carrying capacity of the vehicle is limited to the storage boxes behind the cab and is minimal in comparison to the GVW rating of the towed truck trailer or semitrailer. Neither the steel stake bed rails nor the tie down hooks significantly increase cargo carrying capacity when either of the bed hitches is used. Even if neither of the vehicle's two bed hitches is used, the design of the vehicle significantly reduces its cargo carrying capacity when compared to the cargo carrying capacity of a pickup truck body or a flatbed truck body installed on a comparable chassis. The significant reduction in cargo carrying capacity resulting from the vehicle's platform with its rectangular well and sloping platform at the rear of the rectangular well is evidence that the vehicle is not primarily designed to carry cargo. By accommodating the bed hitches, however, this platform configuration increases the vehicle's towing capacity and, in conjunction with the other features described above, makes it possible to safely tow a trailer with a GVW rating of 20,000 pounds.

(3) Conclusion. The vehicle's physical characteristics, which maximize towing capacity at the expense of carrying capacity, establish that the vehicle is primarily designed to tow a vehicle, such as a truck trailer or semitrailer, rather than to carry cargo on its chassis. Thus, the vehicle is a tractor.

(h) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

§48.4051-2 Imposition of tax; parts and accessories.

(a) Parts or accessories sold on or in connection with the sale of chassis, bodies, and tractors--(1) In general. (i) The tax imposed by section 4051 applies to parts or accessories sold on or in connection with, or with the sale of, any article specified in §48.4051-1(a). The tax applies whether or not the parts or accessories are separately billed by the retailer.

(ii) If a taxable chassis or body is sold by the retailer without parts or accessories that are considered equipment essential for the operation or appearance of the taxable article, the sale of these parts or accessories by the retailer to the buyer of the taxable article will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the taxable article even though they are shipped separately, whether at the same time or on a different date.

(iii) Parts and accessories that are spares or replacements are not subject to the tax described in paragraph (a)(1)(i) of this section.

(2) Example. The following example illustrates the application of this paragraph (a):

Example. X buys from Retailer a chassis in a sale subject to the tax imposed by section 4051. At the time of the sale, bumpers were not attached to the chassis; rather, they had been ordered from Retailer and delivered to X at a later date. For purposes of the tax imposed by section 4051, the price of the chassis includes the price of the bumpers, regardless of when the Retailer delivered the bumpers or billed X for the bumpers.

(b) Parts or accessories not sold on or in connection with the sale of chassis, bodies, and tractors--(1) In general. Section 4051(b)(1) imposes a tax on the installation of a part or accessory on a taxable article specified in §48.4051-1(a) within six months after the article was first placed in service. However, the tax imposed by

section 4051(b)(1) does not apply if--

(i) The part or accessory is a replacement part or accessory; or

(ii) The aggregate price of non-replacement parts and accessories (and their installation) for any vehicle does not exceed \$1,000.

(2) Application and rate of tax. The tax is the applicable percentage of the price of the part or accessory and its installation. The applicable percentage is prescribed in section 4051(b)(1).

(3) Liability for tax. The owner, lessee, or operator of the vehicle on which the parts or accessories are installed is liable for this tax. The owner(s) of the trade or business that installs the parts or accessories is secondarily liable for this tax.

(4) Definitions--(i) First placed in service. For purposes of this section, a vehicle is first placed in service on the date on which the owner of the vehicle took actual possession of the vehicle. This date can be established by the delivery ticket signed by the owner or other comparable document indicating delivery to, and acceptance by, the owner.

(ii) Replacement part. The term replacement part means an item that is substantially similar to and intended to take the place of a vehicle part that has worn out or broken down, regardless of when it is ordered.

(5) Example. The following example illustrates the application of this paragraph (b). Assume that during the periods described, the rate of tax is 12 percent of the price of the part or accessory and its installation.

Example. X bought a vehicle in a sale that was subject to the tax imposed by section 4051 and first placed it in service on September 1, 2013. On October 1, 2013, X purchases and has installed non-replacement parts at a cost of \$750. On November 1, 2013, X purchases and has installed additional non-replacement parts at a cost of

\$450. On December 1, 2013, X purchases and has installed additional non-replacement parts and accessories at a cost of \$900. Although the price of each separate purchase and installation is less than \$1,000, the aggregate price exceeds the \$1,000 limit on November 1, 2013. Accordingly, on November 1, 2013, X is liable for tax of \$144 (12 percent x (\$750 + \$450)) on account of the installations on October 1, and November 1, 2013. On December 1, 2013, X is liable for a tax of \$108 (12 percent x \$900) on account of the installation on that date. To report its liability X must file Form 720, Quarterly Federal Excise Tax Return, for the fourth calendar quarter of 2013 by January 31, 2014.

(c) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 10. Section 48.4052-1 is revised to read as follows:

§48.4052-1 Definition; first retail sale.

(a) In general. For purposes of the tax imposed by section 4051, first retail sale means a taxable sale defined in paragraph (b) of this section.

(b) Taxable sale; in general. A sale of an article described in §48.4051-1(a) is a taxable sale except in the following cases:

(1) The sale is an exempt sale. A sale is an exempt sale if--

(i) The sale is a tax-free sale under section 4221;

(ii) The sale is of a used article that had previously been sold tax-free under section 4221; or

(iii) The article is sold for resale or leasing in a long-term lease and, at the time of sale, the seller--

(A) Has obtained from the buyer a certificate described in paragraph (d) of this section stating, among other things, that the buyer will either resell the vehicle or lease it in a long-term lease;

(B) Has no reason to believe that any information in the certificate is false; and

(C) Has not received a notification from the IRS under paragraph (d)(1) of this section with respect to the buyer.

(2) There has been a prior sale of the article that is not an exempt sale. The previous sentence does not apply if the prior sale is described in paragraph (c)(1) of this section.

(c) Special rule for trailers and semitrailers--(1) In general. A sale is described in this paragraph (c)(1) if the sale--

(i) Is a sale of a chassis or body of a truck trailer or semitrailer (“trailer or semitrailer”);

(ii) Is not an exempt sale; and

(iii) Occurs less than six months after the first sale of the trailer or semitrailer that is not an exempt sale.

(2) Credit. In the case of a sale described in paragraph (c)(1) of this section, any tax paid by the prior seller on account of its sale (and not at any time refunded to or credited against any other liability of the prior seller) is treated as a payment on behalf of the person (the subsequent seller) liable for the tax on the sale described in paragraph (c)(1) of this section. The subsequent seller may claim such payment as a credit against its liability for tax on the sale described in paragraph (c)(1) of this section if the following conditions are met:

(i) The claim is made on Form 720, “Quarterly Federal Excise Tax Return” (or such other form as the IRS may designate) in accordance with the instructions for that form.

(ii) The subsequent seller has not been repaid any portion of the tax by the prior

seller and has not provided the prior seller with a written consent to the allowance of a credit or refund.

(iii) The subsequent seller has records substantiating the amount of tax paid by the prior seller on its sale of the truck trailer or semitrailer.

(d) Certificate--(1) In general. The certificate referred to in paragraph (b)(1)(iii) of this section is a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (d)(3) of this section, and contains all information necessary to complete the model certificate. The IRS may withdraw the right of a buyer of vehicles to provide a certificate under this section if the buyer uses the vehicles to which a certificate relates other than as stated in the certificate. The IRS may notify any seller that the buyer's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(2) Effect of use other than as stated in certificate. If a buyer that provides a certificate described in paragraph (b)(1)(iii)(A) of this section uses or leases (in a short term lease) an article listed in the certificate, the sale of such article to the buyer is treated as the first retail sale of the article and the buyer is liable for the tax imposed on such sale. If the conditions of paragraph (b)(1)(iii)(A), (B), and (C) of this section are satisfied, the seller will not be liable for the tax imposed on such sale.

(3) Model certificate.

Certificate

(To support nontaxable sale of articles listed in section 4051 for resale or long term lease under section 4052 of the Internal Revenue Code)

The undersigned buyer of articles listed in section 4051 ("Buyer") hereby certifies the following under penalties of perjury:

1. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Seller's name, address, and employer identification number

2. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Buyer's name, address, and employer identification number

3. \_\_\_\_\_

Date and location of sale to Buyer

4. The articles listed below will be either resold by Buyer or leased on a long term basis by Buyer. If the article is a chassis, Buyer has listed the chassis Vehicle Identification Number. If the article is a body, Buyer has listed the body's identification number.


5. Buyer understands that it must be prepared to establish, by evidence satisfactory to an examining agent, how each article bought under this certificate was used.

6. Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

7. Buyer understands that if it uses or leases (in a short term lease) an article listed in this certificate, Buyer will be liable for the tax imposed by section 4051(a)(1) on the article. See 26 CFR 48.4051-1 and 145.4052-1(c).

8. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

9. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Printed or typed name of person signing this certificate

\_\_\_\_\_  
Title of person signing

\_\_\_\_\_  
Signature and date signed

(e) No installment payment of tax. If a lease is a taxable sale under §145.4052-1(b) of this chapter or an installment sale (or another form of sale under which the sales price is paid in installments), then the liability for the entire tax arises at the time of the lease or installment sale. No portion of the tax is deferred by reason of the fact that the

sales price is paid in installments.

(f) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 11. Section 48.4061(a)-1 is amended as follows:

1. Paragraph (d)(2)(ii), first sentence, is amended by removing the language “A self-propelled” and adding “Before January 1, 2005, a self-propelled” in its place.

2. Paragraph (d)(2)(iv) is added.

The addition reads as follows:

§48.4061(a)-1 Imposition of tax; exclusion for light-duty trucks, etc.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iv) Off-highway transportation vehicles after October 21, 2004. For a description of certain vehicles that are not treated as highway vehicles after October 21, 2004, see §48.0-5(b)(3).

\* \* \* \* \*

Subpart H [Amended]

Par. 12. Subpart H is amended by revising the undesignated center heading reading “Tires, Tubes, and Tread Rubber” to read “Tires”.

Par. 13. Section 48.4071-1 is revised to read as follows:

§48.4071-1 Tires; imposition of tax.

(a) In general. (1) Tax is imposed by section 4071 on the sale by the manufacturer of a taxable tire with a maximum rated load capacity greater than 3,500

pounds.

(2) See §48.4072-1(b) for the definition of the term taxable tire.

(b) Tax base and computation of tax. The tax base is equal to the number of 10–pound increments, rounded down to the nearest ten pounds, by which the maximum rated load capacity exceeds 3,500 pounds. The tax is determined by multiplying this tax base by the rate of tax specified in section 4071(a). Thus, for example, a taxable tire with a maximum rated load capacity of 4,005 pounds is treated as having a maximum rated load capacity of 4,000 pounds and a tax base of 50  $((4000 - 3,500) \div 10)$ . The tax imposed on the tire is the rate of tax under section 4071(a) times 50.

(c) Liability for tax. The manufacturer of a taxable tire is liable for the tax imposed by section 4071.

(d) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 14. Section 48.4071-2 is revised to read as follows:

§48.4071-2 Determination of maximum rated load capacity.

(a) In general. For purposes of the tax imposed by section 4071, the maximum rated load capacity is the maximum rated load rating inscribed on a taxable tire's sidewall provided the inscription meets the standards prescribed by the National Highway Traffic Safety Administration in its regulations. If a taxable tire has multiple maximum load ratings, the taxable tire's highest maximum load rating is the taxable tire's maximum rated load capacity for purposes of the tax.

(b) Tampering. In the event of any tampering with, or the appearance of tampering with, the inscription of a taxable tire's maximum rated load capacity as

described in paragraph (a) of this section, the tire's maximum rated load capacity is the maximum rated load capacity of a comparable tire.

(c) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 15. Section 48.4071-3 is amended by:

1. Revising the section heading and paragraph (a).
2. Revising paragraph (c)(1).
3. Adding paragraph (e).
4. Removing the undesignated authority citation at the end of the section.

The revisions and addition read as follows:

§48.4071-3 Imposition of tax on tires delivered to manufacturer's retail outlet.

(a) General rule. If a tire manufacturer delivers a taxable tire it manufactured to one of its retail outlets, the manufacturer is liable for the tax imposed by section 4071 on this tire in the same manner as if the tire had been sold upon delivery to the retail outlet.

The amount of tax is computed under §48.4071-1.

\* \* \* \* \*

(c) \* \* \*

(1) Delivery. (i) Delivery options. A manufacturer of taxable tires may, at its option, treat either of the following events as constituting delivery to a retail outlet:

(A) Delivery of taxable tires to a common carrier (or, where the taxable tires are transported by the manufacturer, the placing of the taxable tires into the manufacturer's highway vehicle) for shipment from the plant in which the taxable tires are manufactured, or from a regional distribution center of taxable tires, to a retail outlet or

to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.

(B) Arrival of the taxable tires at the retail outlet, or, where shipment is to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet, the arrival of the taxable tires at such location.

(ii) Delivery election. A manufacturer that has elected to treat one of the events listed in paragraph (c)(1)(i)(A) or (B) of this section as constituting delivery to a retail outlet may not use a different criterion for a later return period unless the manufacturer obtains permission from the IRS in advance.

\* \* \* \* \*

(e) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

#### **§48.4071-4 [Removed]**

Par. 16. Section 48.4071-4 is removed.

Par. 17. Section 48.4072-1 is amended by:

1. Revising paragraphs (b), (c), and (d).
2. Amending paragraph (e) by removing the second, third, and fourth sentences.
3. Revising paragraphs (f), (g), and (h).
4. Removing the undesignated authority citation at the end of the section.

The revisions and addition read as follows:

#### §48.4072-1 Definitions.

\* \* \* \* \*

(b) Taxable tire--(1) In general. The term taxable tire means a tire--

- (i) Of the type used on highway vehicles;
- (ii) That is wholly or in part made of rubber; and
- (iii) That is marked pursuant to federal regulations for for highway use.

(2) Recapped and retreaded tires. The term taxable tire includes a used tire that is recapped or retreaded (whether from shoulder-to-shoulder or bead-to-bead) only if--

- (i) The used tire had not previously been sold in the United States;
- (ii) The used tire is recapped or retreaded outside the United States; and
- (iii) When imported into the United States, the recapped or retreaded tire meets

the requirements of section (b)(1) of this section.

(c) Tires of the type used on highway vehicles. The term tires of the type used on highway vehicles means tires (other than tires of a type used exclusively on mobile machinery (within the meaning of §48.0-5(c))) of the type used on--

- (1) Highway vehicles; or
- (2) Vehicles of the type used in connection with highway vehicles.

(d) Rated load capacity. The term rated load capacity means the maximum load a tire is rated to carry at a specified inflation pressure.

\* \* \* \* \*

(f) Super single tire. The term super single tire means a single tire greater than 13 inches in cross section width designed to replace two tires in a dual fitment. The term does not include any tire designed for steering or an all position tire.

(g) Examples. The following examples illustrate the application of this section.

Example 1. (1) Facts. (i) A foreign tire manufacturer manufactures a tire that meets the Federal Motor Vehicle Safety Standard for truck tires prescribed by the DOT. The tire is not of a type used exclusively on mobile machinery (within the meaning of §48.0-5(c)). This tire is partially made of rubber. The foreign manufacturer marks this

tire for highway use pursuant to DOT regulations. The foreign manufacturer sells the tire for use in the foreign country.

(ii) After use in the foreign country, a tire importer buys the tire and imports it into the United States. At the time of importation, the tread on this tire's casing meets the criteria for minimal tread on trucks used in interstate commerce as prescribed by the DOT.

(2) Analysis. The imported tire is a taxable tire because the tire is of the type used on a highway vehicle and is not of a type used exclusively on mobile machinery, the tire is wholly or in part made of rubber, and the tire is marked pursuant to federal regulations for highway use.

Example 2. (1) Facts. A tire manufacturer pays the tax imposed by section 4071(a) when it sells a tire that is (1) of the type used on highway vehicles; (2) wholly or in part made of rubber; and (3) marked pursuant to federal regulations for highway use. The tire does not have any design features to indicate that it is a tire of a type used exclusively on mobile machinery (within the meaning of §48.0-5(b)(3)(iii)). The purchaser of this tire puts the tire on mobile machinery described in §48.0-5(b)(3)(iii).

(2) Analysis. A tire that is “of the type used on highway vehicles” and “not of a type used exclusively on mobile machinery” retains those characteristics regardless of how the tire is actually used. Therefore, the characterization of a tire as a taxable tire is not changed because the tire is actually used on a vehicle that is mobile machinery.

(h) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

#### **§48.4073 [Removed]**

Par. 18. Reserved § 48.4073 is removed.

Par. 19. Section 48.4073-1 is revised to read as follows:

§48.4073-1 Exemption for tires sold for the exclusive use of the Department of Defense or the Coast Guard.

(a) In general. Tax is not imposed by section 4071 on the sale of a taxable tire if--

(1) The manufacturer of the taxable tire meets the registration requirements of section 4222; and

(2) The sale of the taxable tire is to the Department of Defense or the Coast Guard for the exclusive use of the Department of Defense or the Coast Guard,

(b) Sales for resale. A manufacturer may sell a taxable tire tax-free under section 4073 and this section only if the sale is directly made to either the Department of Defense or the Coast Guard for such agency's exclusive use. Accordingly, a sale may not be made taxfree to a dealer for resale to the Department of Defense or the Coast Guard for its exclusive use, even though it is known at the time of sale by the manufacturer that the article will be so resold.

(c) Certificate--(1) Effect of certificate. A manufacturer will not be liable for tax on the sale of a taxable tire if, at the time of the sale, the manufacturer has obtained from the buyer an unexpired certificate described in paragraph (c)(2) of this section and has no reason to believe any information in the certificate is false. A buyer that provides an erroneous certificate described in paragraph (c)(2) of this section is liable for any tax imposed on the sale to which the certificate relates.

(2) Form of certificate. The certificate described in this paragraph (c)(2) is a statement by the Department of Defense or the Coast Guard that is signed under penalties of perjury by a person with authority to bind the Department of Defense or the Coast Guard, is in substantially the same form as the model certificate provided in paragraph (c)(3) of this section, and contains all information necessary to complete the model certificate. A new certificate or notice that the current certificate is invalid must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale.

(3) Model Certificate.

Certificate

(To support the tax-free sales of tires to the Department of Defense or the Coast Guard under section 4073 of the Internal Revenue Code)

The undersigned buyer of taxable tires ("Buyer") hereby certifies the following under penalties of perjury:

1. \_\_\_\_\_  
\_\_\_\_\_

Manufacturer's name, address, and employer identification number  
2. \_\_\_\_\_  
\_\_\_\_\_

Buyer's name, address, and employer identification number  
3. \_\_\_\_\_

Date and location of sale to Buyer

4. The tire(s) to which this certificate applies will be for the exclusive use of Buyer (that is, the Department of Defense or the Coast Guard).

5. This certificate applies to Buyer's purchases from Manufacturer as follows (complete as applicable):

a. A single purchase on invoice or delivery ticket number \_\_\_\_\_.

b. All purchases between \_\_\_\_\_ (effective date) and \_\_\_\_\_ (expiration date), a period not exceeding 12 calendar quarters after the effective date, under account or order number(s) \_\_\_\_\_. If this certificate applies only to Buyer's purchases for certain locations, check here \_\_\_\_\_ and list the locations.  
\_\_\_\_\_  
\_\_\_\_\_

6. Buyer will provide a new certificate to the Manufacturer if any information in this certificate changes.

7. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

8. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.  
\_\_\_\_\_

Printed or typed name of person signing this certificate  
\_\_\_\_\_

Title of person signing  
\_\_\_\_\_

Signature and date signed  
\_\_\_\_\_

(d) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 20. Section 48.4073-2 is revised to read as follows:

§48.4073-2 American National Red Cross.

(a) For the exemption allowed to the American National Red Cross from the tax imposed by section 4071, see the Secretary's Authorization, 1979-1 C.B. 478 (See §601.601(d)(2)(ii)(b) of this chapter.)

(b) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

**§§48.4073-3 and 48.4073-4 [Removed]**

Par. 21. Sections 48.4073-3 and 48.4073-4 are removed.

**§48.4081-1 [Amended]**

Par. 22. Section 48.4081-1(b) is amended by removing the language "§48.4061(a)-1(d)" in the definition of Diesel-powered highway vehicle and adding "§48.0-5" in its place.

Par. 23. Section 48.4221-7 is amended by:

1. Revising the section heading and paragraph (a).
2. Removing paragraph (b) and redesignating paragraph (c) as paragraph (b).
3. Revising redesignated paragraph (b)(2).
4. Adding new paragraph (c).

The revisions and addition read as follows:

§48.4221-7 Tax-free sale of tires for use on other articles.

(a) In general. Under section 4221(e)(2), tax is not imposed by section 4071 on the sale of a taxable tire if--

- (1) The taxable tire 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;

(2) The other article is to be sold by the purchaser--

(i) In a tax-free sale 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

(ii) For any of such purposes in a sale that would be tax-free but for the fact that the other article is not subject to tax under section 4051 or 4064;

(3) The registration requirements of section 4222 and the regulations thereunder are met; and

(4) The proof, described in paragraph (b) of this section, of the disposition of the other article, is timely received by the manufacturer.

(b) \* \* \*

(2) Required information--(i) In general. The information referred to in paragraph (b)(1) of this section is a statement that is signed under penalties of perjury by a person with authority to bind the purchaser, is in substantially the same form as the model certificate provided in paragraph (b)(2)(ii) of this section, and contains all information necessary to complete the model certificate. For purchasers that are not required to be registered under section 4222, the IRS may withdraw the right of a purchaser of a taxable tire to provide a certificate under this section if the purchaser uses the tire to which a certificate relates other than as stated in the certificate. The IRS may notify any manufacturer to whom such purchaser has provided a certificate that the purchaser's right to provide a certificate has been withdrawn. The certificate may be included as part of any business records normally used to document a sale.

(ii) Model certificate.

Certificate

(To support the nontaxable sale of taxable tires by the manufacturer when sold for use on or in connection with the sale of another article manufactured or produced by the buyer and sold by the buyer in a sale that meets the requirements of section 4221(e)(2))

The undersigned buyer of taxable tires ("Buyer") hereby certifies the following under penalties of perjury:

1. \_\_\_\_\_  
 \_\_\_\_\_

Manufacturer's name, address, employer identification number, and registration number  
 2. \_\_\_\_\_  
 \_\_\_\_\_

Buyer's name, address, employer identification number, and registration number (if required)  
 3. \_\_\_\_\_

Date and location of sale to Buyer

4. The taxable tire(s) listed below, by its (their) United States Department of Transportation identification number(s), are covered by this certificate


5. The taxable tire(s) listed in this certificate that were purchased or shipped on the date specified in entry 3 have been used on or in connection with the sale of \_\_\_\_\_ (describe product sold by Buyer) by Buyer and such sale was--  
*(complete line (i), (ii), (iii), or (iv), whichever is applicable)*

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

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

(iii) to \_\_\_\_\_ (Name of state or local government).

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

6. Buyer understands that it must be prepared to establish, by evidence satisfactory to

an examining agent, how each tire bought under this certificate was used..

7. Check here \_\_\_\_ if Buyer is not required to be registered with the Internal Revenue Service because Buyer is a state or local government, a foreign person buying for export, or the United States.

8. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

9. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

---

Printed or typed name of person signing this certificate

---

Title of person signing

---

Signature and date signed

(c) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

Par. 24. Section 48.4221-8 is amended by:

1. Revising the section heading and paragraph (a).

2. Removing the second paragraph (b), Registration requirements for tires, tubes, and tread rubber; vendees purchasing tax-free.

3. Revising paragraphs (c) and (d).

4. Removing paragraphs (e) and (f).

The revisions read as follows:

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

(a) In general. Under section 4221(e)(3), tax is not imposed by section 4071 on the sale of a taxable tire for use by the buyer on or in connection with a qualified bus, as defined in paragraph (b) of this section, if--

(1) The registration requirements of section 4222 and the regulations thereunder are met;

(2) At the time of sale, the manufacturer of the taxable tire--

(i) Possesses a certificate (in the form described in paragraph (c)(2) of this section) from the buyer of a taxable tire, in which, among other things, the buyer certifies that the buyer will use the taxable tire on or in connection with a qualified bus;

(ii) Has no reason to believe that any information in the certificate described in paragraph (c) of this section is false; and

(iii) Has not received a notification from the IRS under paragraph (c)(2) of this section with respect to the buyer.

\* \* \* \* \*

(c) Certificate--(1) Effect of certificate. A manufacturer will not be liable for tax on the sale of a taxable tire if the conditions of paragraph (a)(2) of this section are satisfied. In such a case, a buyer that provides an erroneous certificate described in paragraph (c)(2) of this section is liable for any tax imposed on the sale to which the certificate relates.

(2) In general. The certificate referred to in paragraph (a)(2) of this section is a statement that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (c)(3) of this section, and contains all information necessary to complete the model certificate. For purchasers that are not required to be registered under section 4222, the IRS may withdraw the right of a buyer of a taxable tire to provide a certificate under this section if the buyer uses the tires to which a certificate relates other than as stated in the certificate. The IRS may notify any manufacturer to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn. The

certificate may be included as part of any business records normally used to document a sale.

(3) Model certificate.

Certificate

(To support the nontaxable sale of taxable tires used on intercity, local, and school buses)

The undersigned buyer of taxable tires ("Buyer") hereby certifies the following under penalties of perjury:

1. \_\_\_\_\_  
\_\_\_\_\_

Manufacturer's name, address, employer identification number, and registration number

2. \_\_\_\_\_  
\_\_\_\_\_

Buyer's name, address, employer identification number, and registration number

3. \_\_\_\_\_

Date and location of sale to Buyer

4. The taxable tire(s) listed below, by its (their) United States Department of Transportation identification number(s), will be used on intercity, local, and school buses.


5. Buyer understands that it must be prepared to establish, by evidence satisfactory to an examining agent, how each tire bought under this certificate was used.

6. Check here  if Buyer is not required to be registered with the Internal Revenue Service because Purchaser is a state or local government or the United States.

7. Buyer understands that Buyer may be liable for the section 6701 penalty (relating to aiding and abetting an understatement of tax liability) if this is an erroneous certification.

8. Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this statement to a fine or imprisonment, or both, together with the costs of prosecution.

\_\_\_\_\_  
Printed or typed name of person signing this certificate

Title of person signing

---

Signature and date signed

(d) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

**§48.6416(c)-1 [Removed]**

Par. 25. Section 48.6416(c)-1 is removed.

Par. 26. For each section listed in the tables, remove the language in the “Remove” column from wherever it appears in the paragraph and add in its place the language in the “Add” column as set forth below:

Section	Remove	Add
§48.4071-3(b) Second sentence	tires or tubes	taxable tires
Fourth sentence	tires or inner tubes	taxable tires
Fifth sentence	tires	taxable tires
Sixth sentence	taxable tires and inner tubes	taxable tires
§48.4071-3(c)(1) Introductory text	tires or inner tubes	taxable tires
§48.4071-3(c)(1)(i)	tires or inner tubes	taxable tires
	tires or tubes	taxable tires
	tires and inner tubes	taxable tires
§48.4071-3(c)(2)(i) Second sentence	tires and inner tubes	taxable tires
Third sentence	tires or inner tubes	taxable tires
Fourth sentence	Tires and inner tubes	Taxable tires
	tires and tubes	taxable tires
Seventh sentence	tires and inner tubes tires and tubes tires or tubes	taxable tires
Eighth sentence	tires and inner tubes tire or inner tube	taxable tires
§48.4071-3(c)(2)(ii) First sentence (Example)	tires and tubes	taxable tires
Third sentence (Example)	tires and inner tubes	taxable tires
Fourth sentence	tires or inner tubes	taxable tires

(Example)	tires and tubes	
§48.4071-3(c)(3)(i)	tire or inner tube	taxable tire
§48.4071-3(c)(3)(ii)	tire or inner tube	taxable tire
§48.4071-3(d)(1) First sentence	tires and inner tubes	taxable tires
Second sentence	tires or inner tubes	taxable tires
§48.4071-3(d)(2)	tires and inner tubes	taxable tires
§48.4071-3(d)(3)(i) First sentence	tire or inner tube	taxable tire
Second sentence	tire or inner tube	taxable tire
§48.4071-3(d)(3)(ii) Third sentence (Example)	tires and tubes (each of the two times it appears)	taxable tires
Fourth sentence (Example)	tires or inner tubes	taxable tires
§48.4081-1(b)	48.4061(a)-1(d)	48.0-5 of this chapter
Redesignated §48.4221-7 (b)(1)	tire or inner tube	taxable tire
Second sentence	tire or inner tube	taxable tire
Third sentence	tire or inner tube	taxable tire
§48.6421-4(c)	48.4061(a)-1(d)	48.0-5

PART 145--TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY  
REVENUE ACT OF 1982 (PUB. L. 97-424)

Par. 27. The authority citation for part 145 is amended by adding the following entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.\*\*\*

Section 145.4052-1 also issued under 26 U.S.C. 4052.

Par. 28. Section 145.4051-1 is revised to read as follows:

§145.4051-1 Imposition of tax on heavy trucks, tractors, and trailers sold at retail.

(a) For rules relating to the imposition of the tax imposed by section 4051 and related rules on the tax base, liability for tax, explanation of terms, and exclusions, see §48.4051-1 through §48.4052-2 of this chapter.

(b) This section applies on and after the date on which these regulations are published as final regulations in the **Federal Register**.

Par. 29. Section 145.4052-1 is amended by:

1. Revising paragraph (a).
2. Adding two sentences after the first sentence in paragraph (d)(1).
3. Removing the last sentence in paragraph (d)(8)(iii).
4. Revising paragraph (g).

The revisions read as follows:

§145.4052-1 Special rules and definitions.

(a) First retail sale. For the definition of first retail sale, see §48.4052-1 of this chapter.

\* \* \* \* \*

(d) \* \* \* (1) \* \* \*. Total consideration paid for a chassis or body includes charges for equipment installed on the chassis or body. See §48.4051-1(d)(4). \* \* \*

\* \* \* \* \*

(g) Effective/applicability date. This section applies on and after the date of publication of these regulations in the **Federal Register** as final regulations.

**§145.4061-1 [Removed]**

Par. 30. Section 145.4061-1 is removed.

Par. 31. For each section listed in the tables, remove the language in the “Remove” column and add in its place the language in the “Add” column as set forth below:

§145.4052-1(b)(1) First sentence	§145.4051-1	§48.4051-1 of this chapter
----------------------------------	-------------	----------------------------

Second sentence	paragraph (a)(2) of this section	§48.4052-1(b) of this chapter
§145.4052-1(b)(2)	§145.4051-1	§48.4051-1 of this chapter
	paragraph (a)(2) of this section	§48.4052-1(b) of this chapter
§145.4052-1(c)(1)	§145.4051-1	§48.4051-1 of this chapter
§145.4052-1(c)(5)(ii)	4216(a), 4216(f)	4052(b)(1)(A) and (B), 4216(a)
§145.4052-1(d)(1) Fourth sentence	Installatioin	installation

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016-06881 Filed: 3/30/2016 8:45 am; Publication Date: 3/31/2016]