

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

[REDACTED]

Person to Contact:  
[REDACTED]

Telephone Number:  
[REDACTED]

Refer Reply To:  
CC:PSI:8/COR-113158-01

Date:  
MAR 12, 2001

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[REDACTED]

This responds to your March 1, 2001, fax to [REDACTED] of this office wherein you ask whether a domestic manufacturer of sport fishing equipment (specifically, spear gun fishing equipment) is required to complete the Form 637 application for registration in order to make tax-free sales for export? As indicated to you by [REDACTED] any application of tax law to a taxpayer's specific set of facts should be submitted to the National Office of the IRS as a ruling request pursuant to Revenue Procedure 2001-1, 2001-1 I.R.B. 1 (copy enclosed). If you would like a ruling on this question, please follow the instructions in the revenue procedure. In the meantime, we hope the following general information will be useful to you.

Section 4161(a)(1) of the Internal Revenue Code imposes on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which the article is sold.

Section 4162(a)(4) provides that fishing spears, spear guns, and spear tips are sport fishing equipment as that term is used in § 4161.

Section 4221(a)(2) provides that for purposes of the manufacturers excise taxes (which includes the tax on sport fishing equipment) no tax is imposed on the sale by the manufacturer of an article for export, or for sale by the purchaser to a second purchaser for export.

Section 4222(a) provides that § 4221 shall not apply to the sale of an article unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered. Registration with the IRS is accomplished by filing Form 637, Application for Registration (For Certain Excise Tax Activities).

Section 48.4222(b)-1(b) of the Manufacturers and Retailers Excise Tax Regulations provides that persons whose principal place of business is not within the United States may, but are not required to, register in order to purchase articles tax free for export. To establish the right to sell articles tax free for export to a purchaser who is

not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain the evidence required by § 48.4221-3(b).

Section 48.4221-3(b) provides that the manufacturer must obtain from the purchaser at the time title to the article passes or at the time of shipment, whichever is earlier, either:

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

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

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

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

Section 4221(b)(2) provides that where an article is sold tax free for export or for resale by the purchaser to a second purchaser for export, the exemption ceases to apply in respect of the sale of the article unless, within the 6-month period which begins on the date of the sale by the manufacturer (or, if earlier, on the date of shipment by the manufacturer) the manufacturer receives proof that the article has been exported.

If you have any questions or require further assistance, please feel free to contact my office at the number listed above.

Sincerely,

Associate Chief Counsel  
(Passthroughs and Special Industries)

By:

Bernard H. Weberman  
Assistant to the Chief, Branch 8