

January 10, 2022

Andres Garcia, Internal Revenue
Service, Room 6526, 1111 Constitution
Avenue NW, Washington, DC 20224

**Proposed Collection; Comment
Request for Form 637**

Title: Application for Registration (For
Certain Excise Tax Activities).
OMB Number: 1545-1835.
Form Number: 637

The National Truck Equipment Association ("NTEA") appreciates the opportunity to comment on the proposed collection for IRS Form 637 as noticed in the November 15, 2021 **Federal Register** / Vol. 86, No. 217.

NTEA and The Work Truck Industry

NTEA represents more than 2,000 companies that manufacture, distribute and use work trucks across North America and globally. Many of these companies would be considered small business and operate on a local or regional basis.

Unlike mass-produced assembly-line passenger cars and trucks, commercial work trucks are primarily designed and produced individually or in small numbers, on a custom-order basis. Their diverse applications, limited volume and nearly limitless body and equipment variations dictate this method of production.

Many work trucks are considered mission-critical. Emergency vehicles such as ambulances, fire trucks and law enforcement vehicles are necessary on a daily basis. Utility trucks are needed to keep services such as power and water running, and utility fleets support one another with trucks and crews in the face of natural disasters like hurricanes.

Typically, commercial trucks are built in a multistage process involving three distinct yet interrelated industry segments. To ensure product compatibility, a close-working relationship is necessary between the truck chassis manufacturers and their dealers; truck body and equipment manufacturers; and truck body and equipment and distributors (also known as truck upfitters).

Vehicles produced by NTEA member companies for commercial or vocational use include, but are not limited to, dump trucks, utility company vehicles, agricultural platform and stake body trucks, van-based delivery or service vehicles, shuttle buses, aerial bucket trucks, tow trucks,

beverage delivery trucks, digger derricks, snow removal vehicles, fire trucks, ambulances, waste/recycling trucks and a host of other specialized configurations.

Work trucks are vital to everyday life and support the activities of every major sector of the economy, from agriculture and energy, to utilities and construction.

Form 637

As the association for the work truck industry, many of our members engage in the manufacture and/or sale of chassis and bodies subject to IRC section 4051 tax ("FET"). As you are aware, IRS Form 637 is the form used to register taxpayers, pursuant to IRC section 4222, for certain tax-exempt sales, including tax-exempt sales to state and local governments. Because many of our members desire to sell their chassis and bodies to state and local governments, IRS Form 637 is important to their business.

Under IRC Section 4221(a)(4), a sale to a state or local government may be conducted on a tax-free basis, if certain requirements, including the registration requirements under IRC section 4222, are satisfied. Under IRC Section 4222, sellers¹ are required to register in order to qualify for tax-exempt sales under IRC section 4221, but governmental purchasers have no such registration requirement. NTEA is requesting additional education, both for IRS personnel and for sellers subject to FET, to clarify the proper application of the Form 637 registration requirements, as they apply generally to FET-exempt sales, and particularly to sales to state and local governments.

NTEA member companies have received inaccurate and confusing statements from IRS personnel, who repeatedly question the appropriateness of those companies registering under Form 637. In some cases, NTEA member companies have been placed in the difficult position of having to defend their registration status to IRS auditors. Such confusion has caused some sellers to drop their registration status only to subsequently face challenges in satisfying the requirements for a tax-exempt sale to state and local governments.

IRS personnel - including auditors - should be educated to understand that many sellers subject to FET are registered under Form 637 in order to be eligible to bid on municipal sales of truck chassis and truck bodies. Similarly, sellers should be educated that the IRS treats them differently from purchasers when applying registration requirements for tax-exempt sales to state and local governments. With a tax rate of 12% and FET sales often in excess \$100,000, it becomes critically important that both IRS personnel and FET taxpayers properly understand the application of the Form 637 registration requirements.

Lastly, please note that there is currently an outdated reference to 637 registration in the form exemption certificate for sales for resale, which certificate is located in Treas. Reg. 145.4052-1(a)(6). In 1998, Treas. Reg. 48.4052-1(c) eliminated the requirement for 637 registration with respect to sales for resale, but the registration reference remains in the form certificate.² The

¹ For purposes of these comments, NTEA assumes the term "manufacturer" in IRC section 4222(a) includes the first retail seller, as is the case under IRC section 4221.

² Similarly, in 1998, Treas. Reg. 48.4052-1(c) added a penalties of perjury requirement to exemption certificates for sales for resale, but the form certificate at Treas. Reg. 145.4052-1(a)(6) does not reflect this addition.

failure of the form certificate to accurately reflect the requirements of a tax-free sale for resale is a source of confusion for FET taxpayers.

NTEA appreciates your consideration of the issues raised in these Comments.

If we can provide further information, please contact me at mkastner@ntea.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Kastner", is positioned above the printed name.

Michael Kastner
Managing Director
NTEA Washington, DC Office