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## 29 C.F.R. § 779.365

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### May qualify as exempt 13(a)(2) or 13(a)(4) establishments.

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(a) An establishment engaged in the selling of tires, tubes, accessories and of repair services on tires may qualify as an exempt retail or service establishment under section 13(a)(2) of the Act if it meets all the requirements of that exemption. Similarly, an establishment engaged in retreading or recapping tires may qualify as an exempt establishment under section 13(a)(4) of the Act if it meets all the requirements of that exemption.

(b)

(1) In determining whether, under the 13(a)(2) exemption, 75 percent of the establishment's sales are not made for resale and are recognized as retail sales in the industry, sales other than those described hereinafter in the subparagraphs of this paragraph may be so counted if they meet all the requirements for such classification as previously explained in this subpart. Not eligible for inclusion in the requisite 75 percent are sales of goods that cannot be the subject of a retail sale because the goods are not of a "retailable" type or the sales of such goods lack the "retail concept" (see § 779.321). Nor can sales for resale be counted toward the 75 percent. For example, sales of tires, tubes, accessories or services to garages, service stations, repair shops, tire dealers and automobile dealers, to be sold or to be used in reconditioning vehicles for sale are sales for resale. Further, the sales of tires, tubes, accessories and tire repair services, including retreading and recapping, which are described in the following paragraphs (b) (2) through (7), are not recognized as retail in the industry.

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