

INTERNAL REVENUE SERVICE
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April 14, 1999

Legend:

Taxpayer =

X =

Y =

N =

Dear Sir or Madam:

This letter is in response to a request for ruling dated January 25, 1999, supplemented by a letter dated March 30, 1999, filed on behalf of the above named Taxpayer, concerning whether certain custom-built trailers specifically manufactured to form a communications complex for off-highway use are subject to the tax imposed by § 4051(a)(1) of the Internal Revenue Code.

The information submitted indicates that Taxpayer is a manufacturer of custom-built mobile systems including trailers, shelters, power systems, and specialty state-of-the-art engine generator systems. Taxpayer will manufacture X, Y, and Z for N. These trailers are designed to replace the functional operation of a destroyed communications facility when a catastrophic failure occurs at a central communication office belonging to N.

X, Y, and Z are part of an overall system and do not operate independently of each other. To operate as designed, they are inter-connected via coaxial cable to form a complex. Once connected as a complex, the trailers will remain in place until the destroyed facility is rebuilt, usually an estimated time of one to three years.

Section 4051(a)(1) imposes a tax on the first retail sale of certain automotive articles including trailer and semitrailer chassis and bodies.

Section 145.4051-1(a)(2) of the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982 provides, in pertinent part, that a trailer or semitrailer chassis or body is taxable under § 4051(a)(1) only if such chassis or body is sold for use as a component part of a 'highway vehicle' (as defined in paragraph (d) of § 48.4061(a)-1 of the Manufacturers and Retailers Excise Tax Regulations), which is a trailer or semitrailer.

Section 48.4061(a)-1(d)(1) provides that the term 'highway vehicle' means any self-propelled vehicle, or any trailer or semitrailer, designed to perform a function of transporting a load over public highways, whether or not also designed to perform other functions, but does not include a vehicle described in paragraph (d)(2) of this section. For purposes of this definition, 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.

Section 48.4061(a)-1(d)(2)(iii) states that a trailer or semitrailer is not a highway vehicle if it is specially designed to serve no purpose other than providing an enclosed stationary shelter for the carrying on of a function which is directly connected with and necessary to, and at the off-highway site of, a construction, manufacturing, processing, mining, drilling, farming, timbering, or operation similar to any one of the foregoing enumerated operations such as a trailer specially designed to serve as an office for such an operation.

Revenue Ruling 79-239, 1979-2 C.B. 367, concerns the application of the tax imposed by § 4061(a) to sales of an undercarriage designed to transport antenna units. The antenna comprises part of a military communication system. The undercarriage with antenna is towed by a military vehicle over the highways and cross country. The antenna may remain at an off-highway site for up to two years. The ruling cites § 48.4061(a)-1(d)(2), which defines off-highway vehicles in the context of vehicles that perform a construction, manufacturing, processing, farming, mining, drilling, or timbering operation or similar operation. The ruling holds that because the mobile antenna performs operations 'similar' to those enumerated in the regulations, and meets the other requirements of § 48.4061(a)-1(d)(2)(i), sales of the antenna units are exempt from tax.

The purpose of the regulations is to exclude from tax vehicles that make only occasional use of the public highways to get to off-highway job sites. A trailer or semitrailer that

performs one of the operations enumerated in § 48.4061(a)-1(d)(2) (construction, manufacturing, processing, farming, mining, drilling, timbering,) typically spends extended periods of time at its off-highway site, and is only occasionally transported over the public highways to another job site. The principle contained in Rev. Rul. 79-239 is that an operation should be regarded as similar to the enumerated operations if the operation extends over extended periods of time at an off-highway site.

Based on the rationale in Rev. Rul. 79-239, we consider the function of X, Y, and Z as a complex to be directly connected with and necessary to an operation that is similar to those enumerated in § 48.4061(a)-1(d)(2)(iii). Further, since the trailers are designed to serve as a portable communications complex and serve no other purpose they satisfy the requirements for the exception provided in § 48.4061(a)-1(d)(2)(iii) and the principle that a vehicle designed to function at an off-highway site over extended periods of time is not a highway vehicle.

Accordingly, the custom-built trailers specifically manufactured to form a communications complex for off-highway use are not subject to the tax imposed by § 4051(a)(1).

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it shall not be used or cited as precedent.

Sincerely yours,

Assistant Chief Counsel
(Passthroughs and Special Industries)

By: _____
Richard Kocak
Chief, Branch 8

Enclosures (2):
Copy of this letter
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