

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

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District Director

Taxpayer's Name:

Taxpayer's Address:

Taxpayer Identification No.:

Periods Involved:

No Conference Held

Legend: X=

ISSUE:

Whether the installation of X on the taxpayer's trucks causes the taxpayer to incur liability for the excise tax on truck parts and accessories under § 4051(b)(1) of the Internal Revenue Code.

CONCLUSION:

The installation of X on the taxpayer's trucks does not cause the taxpayer to incur liability for the excise tax on truck parts and accessories under § 4051(b)(1).

FACTS:

The taxpayer is a common carrier truck line that uses a two-way satellite communications system, X, to track the location and availability of its trucks and to communicate with the drivers. X requires the installation of equipment on the taxpayer's trucks not later than six months after the trucks are first placed in service.

X consists of a mobile transceiver (vehicle equipment), an earth station hub for routing messages, a communications satellite to relay messages between the vehicles and the

communications hub, and a base station located in the taxpayer's home office. X transmits, to the taxpayer's office: messages sent from the drivers; the geographic

coordinates (longitude and latitude) of its vehicles; and, as an option, engine diagnostics and performance information that is produced by a subsystem (not part of X.) The vehicle equipment has three basic components: (1) a keyboard/display mounted in the cab of the truck that allows the driver to communicate with the dispatcher through written communications; (2) a communications unit that includes a transmitter/receiver to handle outbound and inbound messages and a radio navigation device to transmit location data, also mounted in the cab; and (3) an outdoor antenna and front end electronics attached to either the top of the cab or the cab's airfoil.

APPLICABLE LAW:

Section 4051(a) imposes a tax on the first retail sale of certain highway vehicles including highway tractors. Under § 4051(b)(1), if the owner, lessee, or operator of any vehicle installs any part or accessory on the vehicle within six months of the date the vehicle was first placed in service, a tax is imposed on the installation of the part equal to 12 percent of the price of the part or accessory and its installation.

Section 145.4051-1(c) of the Temporary Regulations under the Highway Revenue Act of 1982 provides, in part, that for purposes of the tax imposed by § 4051(b)(1) the term "parts and accessories" does not include those parts and accessories that were previously exempt from tax under sections 4061(b)(1) and (2) as in effect prior to January 7, 1983.

Revenue Ruling 64-311, 1964-2 C.B. 417, holds that mobile transceivers that are designed for two-way communication between mobile and fixed or mobile stations are not subject to the manufacturers excise tax on "automobile parts and accessories" imposed by § 4061(b) of the Code.

RATIONALE:

Tax is imposed on the installation of any part or accessory on certain highway vehicles within six months of the date the vehicle was placed in service. As provided in § 145.4051-1(c), the term "part or accessory" does not include those parts and accessories previously exempt from tax under §§ 4061(b)(1) and (2) as in effect prior to January 7, 1983.

X is a two-way communications system that, under the holding of Rev. Rul. 64-311, would not have been subject to tax under § 4061(b). Because the basic components of X would not have been considered a part or accessory under § 4061(b), as in effect prior to January 7, 1983, the basic components of X are not considered a part or accessory for purposes of the tax imposed under § 4051(b)(1).

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CAVEAT:

A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent. Under § 6110(c), names, addresses, and identifying numbers have been deleted.

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