

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

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Director, Area
Small Business/Self-Employed Operating Division

Taxpayer Name:
Taxpayer Address:

Taxpayer Identification No.:
Quarters Involved:
Date of Conference:

LEGEND:

Taxpayer =

ISSUE:

Whether amounts attributable to the compaction equipment and top doors of refuse collection vehicles are includable in the tax base for purposes of determining the tax imposed by § 4051(a)(1) of the Internal Revenue Code on Taxpayer's sales of the vehicles.

CONCLUSION:

The amounts attributable to the compaction equipment and top doors of refuse collection vehicles are includable in determining the tax base of Taxpayer's vehicles for purposes of the tax imposed by § 4051(a)(1).

FACTS:

Taxpayer sold refuse collection vehicles (vehicles) during the relevant period that included the compaction equipment and top doors at issue. A compaction blade assembly is used to compact solid waste within the vehicle's body to allow room for additional solid waste to be loaded. The top door functions primarily as a cover over the solid waste. The vehicles were subject to federal excise tax at the time of the sale. Taxpayer filed a claim for refund of the portion of the tax attributable to four items, including the top door assembly of front door vehicles and the compaction equipment of front, side, and rear door vehicles. The claim was denied by the Internal Revenue Service (IRS).

LAW AND ANALYSIS:

Section 4051(a) imposes on the first retail sale of certain enumerated articles (including in each case the parts or accessories sold on or in connection therewith) a tax equal to 12 percent of the article's sale price. Included among those articles are truck chassis and bodies. The tax does not apply to truck chassis and bodies suitable for use with vehicles having a gross vehicle weight of 33,000 pounds or less.

Prior to its repeal, § 4061(a)(1) imposed a 10 percent tax upon a manufacturer's sale of automobile truck chassis and bodies (including in each case parts and accessories therefor sold on or in connection therewith or with the sale thereof). Under the Highway Revenue Act of 1982 (P. L. 97-424), the manufacturers tax was replaced, effective April 1, 1983, by a 12 percent retail tax imposed by § 4051 on the first retail sale of an automobile truck chassis and body (including in each case parts or accessories sold on or in connection therewith or with the sale thereof). Although the imposition of tax changed from manufacturers to retailers the underlying concepts and interpretations concerning amounts charged for machinery or equipment that is installed on a taxable chassis or body did not change. In fact, § 145.4052-1(f)(2) of the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982 provides that for purposes of the tax on heavy trucks and trailers at retail rules similar to those found in § 48.4061(a)-1(a)(2) and (3) of the Manufacturers and Retailers Excise Tax Regulations shall apply.

Section 48.4061(a)-1(a)(3)(i) provides that equipment or machinery installed on a taxable chassis or body is considered to be an integral part of the taxable chassis or body if the machinery or equipment contributes toward the highway transportation function of the chassis or body. Therefore, the amount of the sale price of a taxable chassis or body that is attributable to the machinery or equipment must be included in the tax base when computing the tax due on a manufacturer's or importer's sale or use of a taxable chassis or body. Examples of the type of machinery or equipment that contribute to the highway transportation function of a chassis or body are the following: Loading and unloading equipment; towing winches; and all other machinery or equipment contributing to either the maintenance or safety of the vehicle, the preservation of cargo (other than refrigeration units) or the comfort or convenience of the driver of passengers.

Section 48.4061(a)-1(a)(3)(ii) provides that amounts charged for machinery or equipment that is installed on a taxable chassis or body are not part of the taxable sale price of the chassis or body if (A) the machinery or equipment does not contribute toward the highway transportation function of the chassis or body and (B) the reasonableness of the charge for the machinery or equipment is supportable by adequate records. Examples of such machinery or equipment are the following: equipment designed to spread materials on the highway; machinery or equipment used solely in the operation of mobile amusement rides; television equipment mounted in a mobile television studio; machine shop equipment mounted in a mobile machine shop; and car crushing equipment mounted on the chassis of a mobile car crusher.

Rev. Rul. 68-380, 1968-2 C.B. 490, holds that collection tanks of certain refuse trucks are truck bodies subject to the manufacturers excise tax imposed by § 4061(a)(1). The hydraulic compactors and the hydraulic drum-dumps attached thereto contribute to the loading function of the bodies, thus adding to their utility. They are, therefore, parts or accessories for the bodies and are includable in the tax base of the bodies.

Rev. Rul. 74-47, 1974-1 C.B. 307, provides generally that power take-off systems and their components that are designed to be attached to or used in connection with taxable highway vehicles, which add to the utility of the vehicles, are taxable parts or accessories under § 4061(b). Under former section 4061(b), tax was imposed on parts or accessories (other than tires and inner tubes) for any article enumerated in former § 4061(a)(1). The ruling states that a power take-off system adds to the utility of a vehicle if it is designed to perform a function relating to the transportation of persons or property over the highway, including a function relating to the loading and unloading of the vehicle.

Rev. Rul. 78-311, 1978-2 C.B. 260, holds that certain components used in the cleaning operations of certain mobile washing vehicles do not contribute toward the transportation function of the vehicles. These include the water heater, cleaning and degreasing hose assemblies, pressure pump and motor, and miscellaneous fittings, piping, etc., that are used only in the cleaning operations. Because those items do not contribute toward the highway transportation function of the chassis or body, the amounts charged for those items are not part of the taxable sales price of the vehicles provided the reasonableness of the charge for the equipment is supported by adequate records.

Rev. Rul. 79-192, 1979-1 C.B. 340, concerns whether certain street sweeping vehicles and street sweeping mechanisms are subject to the manufacturers excise tax on truck chassis and bodies and truck parts or accessories under former § 4061. An article contributes to the highway transportation or load-carrying function of a vehicle only if it contributes as much or more to the highway transportation function than to the nontransportation function. In other words, an item that contributes primarily to the nonhighway transportation function of the vehicle is not taxable. The ruling holds that items of equipment that lift the sweepings into the vehicle once they have been gathered from the street by brooms are taxable as loading equipment for purposes of §§ 4061(a)(1) and 4061(b) because they do not contribute primarily to the nonhighway transportation function of the vehicle. The vacuum equipment, water hoses, and certain other components of street sweeper vehicles are items that primarily perform the nontransportation function of street cleaning and are excludable from the tax base.

Rev. Rul. 95-40, 1995-1 C.B. 195, holds that the sale of the truck chassis and bodies of vacuum loaders and sewer cleaners, and the components of the vehicles that contribute to their highway transportation function, are subject to the retailers excise tax under § 4051(a). The sales of components of the vehicles that do not contribute to their highway transportation function are not subject to the retailers excise tax under § 4051(a).

The Director contends that the amounts attributable to the compaction equipment and the top doors are includable in the tax base because they contribute to the transportation function of the vehicles. The IRS primarily cites Rev. Rul. 68-380 and Rev. Rul. 74-47 in support of this position. Taxpayer argues that the compaction equipment and the top doors should be excluded from the tax base because they are merely equipment on the vehicles that do not contribute to the transportation function of the taxable vehicles. Taxpayer cites various revenue rulings, which provide generally that certain equipment can be excluded from the tax base. Taxpayer also refers specifically to the example of the car crushing equipment mounted on the chassis of a mobile car crusher mentioned in § 48.4061(a)-1(a)(3)(ii), above, and argues that Rev. Rul. 68-380 is not controlling.

The distinction between articles that aid or augment the transportation function (and are taxable) and those items that are part of the load itself (and are not taxable) is set forth in § 48.4061(a)-1(a)(3). Equipment or machinery installed on a taxable chassis or body is considered to be an integral part of the taxable chassis or body if the machinery or equipment contributes toward the highway transportation function of the vehicles. The compaction equipment at issue is used to load the vehicle bodies (a transportation function). It also enables the vehicle to carry more than it would be able to carry without the compaction. Therefore, it adds to the utility of the vehicle in transporting a load over the highways. Equipment or machinery that contributes to the preservation of cargo also contributes to the highway transportation function of a chassis or body. A top door clearly contributes to the preservation of cargo.

The mobile car crusher referenced in § 48.4061(a)-1(a)(3)(ii) is not a cargo transporter. It is mobile machinery and the car crusher is the load that is being carried on the vehicle chassis. In contrast, the compactor equipment at issue contributes to the load carrying function of the taxable vehicle but is not itself the load being carried.

CAVEATS:

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