

**INTERNAL REVENUE SERVICE**

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May 4, 2000

Legend: Taxpayer =

Dear

This letter is in response to a request for a ruling dated December 23, 1999, filed on Taxpayer's behalf by its authorized representative. The letter requests that we rule that:

(1) The Type 1 vehicle described below is not a taxable vehicle under § 4051 of the Internal Revenue Code, but if the Type 1 vehicle is held to be a taxable vehicle, only the chassis and the equipment that contributes to the highway transportation function of the vehicle is subject to tax.

(2) The Type 2 vehicle described below is not a taxable vehicle under § 4051, but if the Type 2 vehicle is held to be a taxable vehicle, only the chassis and the equipment that contributes to the highway transportation function of the vehicle is subject to tax.

(3) That as to the Type 3 vehicle described below, which is a taxable vehicle under § 4051, only the chassis and the equipment that contributes to the highway transportation function of the vehicle is subject to tax under § 4051.

Taxpayer constructs for its own use the three types of vehicles by purchasing highway truck chassis (with gross vehicle weight ratings of over 33,000 pounds) whose rear drive train is usually equipped with a high gear reduction rear end that enables the vehicles to maintain a speed of ½ to 10 miles per hour (mph) while performing their

jobsite functions and limits the vehicles to speeds of 55 mph. After its purchase of the chassis, Taxpayer modifies the chassis and installs bodies, machinery, and equipment on them.

Type 1 vehicle. This vehicle is designed to transport machinery and equipment to a jobsite where it is used to remove traffic lines from pavement by grinding them off the pavement surface, saw lines in pavement, and groove pavement surfaces.

Taxpayer welds steel plates to the chassis for additional strength and flexibility, and permanently mounts machinery and equipment, including a 300 horsepower motor and three 85 horsepower hydraulic motors, a compressor, vacuum fans with housings, seats and control panels for operation of the machinery, four grinder boxes, two saws, and grinder and saw box carriages. Taxpayer also installs a water spray system designed to keep the saw blades from overheating, including a water tank with a capacity of approximately 270 gallons. Taxpayer also installs vacuum equipment for vacuuming the debris produced by the grinding process and a collector bin with a capacity of approximately 250 gallons into which the debris is vacuumed. In conjunction with the above, the vehicle's air and gas tanks are repositioned; exhaust systems, fuel lines and wiring are rerouted; and in some cases the chassis must be lengthened, cross members moved, and a tag axle added.

Type 2 vehicle. This vehicle is designed to transport paint or thermoplastic materials, machinery, and equipment to a jobsite where it is used to mark pavement, either by applying paint or plastic lines to pavement or by embedding plastic markers to mark traffic lanes.

Taxpayer welds metal plates to the chassis for additional strength and flexibility, and permanently mounts machinery and equipment, including an auxiliary power plant, hydraulic pumps, hoses, paint or thermoplastic sprayer equipment, and extendable cartridges that allow the sprayer equipment to be extended. In addition, Taxpayer installs two to four paint/thermoplastic holding tanks with capacities of 120 to 400 gallons. Taxpayer also installs burners or furnaces to the Type 2 vehicles that apply thermoplastic materials to keep the materials from congealing. Air and gas tanks are repositioned and exhaust systems, fuel lines, and wiring are rerouted; in some cases the chassis must be lengthened, cross members moved, and a tag axle added. The paint holding tanks are ordinarily filled at the shop before leaving for the jobsite, but because of the higher temperature needed for thermoplastic material if the jobsite is distant from the shop the thermoplastic materials will be transported on a Type 3 vehicle described below.

Type 3 vehicle. This vehicle is designed to transport a significant amount of removable cargo as well as machinery and equipment to a jobsite and to process thermoplastic materials at high temperatures for application by a Type 2 vehicle. It also may mark pavement.

Taxpayer installs a subframe or welds steel plates to the chassis and permanently mounts machinery and equipment, usually including an auxiliary power plant, hydraulic pumps, hoses, paint or thermoplastic sprayer equipment, and extendable cartridges that allow the sprayer equipment to be extended from either side of the vehicle. In addition, Taxpayer may install tanks that hold the paint or thermoplastic materials. The vehicle also has substantial cargo carrying capacity on flatbed space. On some of these vehicles Taxpayer permanently installs furnaces for the processing of thermoplastic materials prior to transfer onto Type 2 vehicles.

Section 4051(a)(1) imposes a 12 percent excise tax on the first retail sale of certain articles including automobile truck chassis and bodies (including in each case parts or accessories sold on or in connection therewith or with the sale thereof).

Section 4052(a)(3) provides that if a person uses a taxable article before the first retail sale of such article, then such person shall be liable for tax in the same manner as if such article were sold at retail by him.

Section 145.4051-1(a)(2) of the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982 provides that a 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 described in § 48.4061(a)-1(d) of the Manufacturers and Retailers Excise Tax Regulations).

Section 48.4061(a)-1(a)(3)(i) includes, as a part of a taxable truck chassis or body, equipment that is installed on a taxable chassis or body and that contributes to the highway transportation function of the chassis or body. The regulation includes loading and unloading equipment as an example of machinery and equipment that contribute to the highway transportation function of a chassis or body.

Section 48.4061(a)-1(a)(3)(ii) provides that amounts charged for equipment installed on a taxable chassis or body are not part of the taxable sales price if (A) the equipment does not contribute to the highway transportation function of the chassis or body and (B) the reasonableness of the charge is supportable by adequate records.

Section 48.4061(a)-1(d)(1) defines a "highway vehicle" as 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 § 48.4061(a)-1(d)(2).

Section 48.4061(a)-1(d)(2)(i) provides that a self-propelled vehicle, or trailer or semitrailer, is not a highway vehicle if it (A) consists of a chassis to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or

equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or operation similar to any one of the foregoing enumerated operations, if the operation of the machinery or equipment is unrelated to transportation on or off the public highways (the A test), (B) the chassis has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation (the B test), and (C) by reason of such special design, such chassis could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis (the C test).

Section 48.4061(a)-1(e)(1) provides the general rule that the sale of a chassis or body shall be taxable if the chassis or body is, in any sense, suitable for use as a component part of a highway vehicle.

Rev. Rul. 80-237, 1980-2 C.B. 306, holds that the sale of certain paint striping units mounted on tax-paid chassis are taxable as component parts of vehicles designed to transport a load over the public highways, but that the cost of certain equipment (including a heating system designed to apply the paint rather than to preserve the paint or further liquify it for unloading, jacketed hoses, manifold, gun carriages, spray guns, intercom system, flashing warning lights and floodlights, mechanical pointer, footage counter, dusting system, cab console control, intermittent line mechanism, control panel seats, flashing signboard, speed meter, and optical pointer) is not part of the taxable sales price provided the charges are properly supported. The ruling further holds that a power take-off (PTO) that primarily operates the paint fill pumps is part of the taxable sales price but a PTO that primarily operates equipment associated with spraying paint at the jobsite is not included in the taxable sales price. Further, an air compressor that primarily powers an agitator and pressurizes the tanks is part of the taxable sales price, but an air compressor that primarily operates equipment associated with spraying paint at the jobsite is not part of the taxable sales price.

Rev. Rul. 81-72, 1981-1 C.B. 497, holds that a thermoplastic striping unit that applies line markings to the road and transports thermoplastic materials to the jobsite is a component part of a vehicle designed to transport a load over the public highway, and the platform, spray pot, bead tank, and tac coat are designed to transport thermoplastic material to the jobsite and thus constitute a body. The ruling further holds that a hot oil heating system that preserves the thermoplastic material at a high temperature so that it may be readily unloaded, and an air compressor that forces the material out, both assist in unloading the vehicle and contribute to the highway transportation function and are considered part of the body under § 48.4061(a)-1(a)(3). Further, certain equipment (including jacketed hoses, manifolds, spray guns, spray gun carriages, intercom system, flashing warning lights and floodlights, mechanical pointer, footage counter, cab console control, intermittent line mechanism, control panel seats, flashing

signboard, speed meter, and optical pointer) is designed to apply the material rather than transport or load or unload it, and thus is not part of the taxable sales price provided the reasonableness of the charges is supported by adequate records.

Rev. Rul. 79-423, 1979-2 C.B. 386, states that a chassis meets the C test of § 48.4061(a)-1(d)(2)(i) if it has been specially designed to hold the particular machinery or equipment, to the extent that it is substantially structurally different than a chassis that would ordinarily be used for hauling a load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

The Type 1 vehicle is designed to perform a function of transporting a load over the highway. Thus, it is a "highway vehicle" as that term is defined in § 48.4061(a)-1(d)(1) and is subject to the § 4051 tax unless the vehicle is within the exception provided under § 48.4061(a)-1(d)(2)(i) for certain specially designed mobile machinery. That section sets forth the three-part test stated above.

The chassis of the Type 1 vehicle fulfills the A and B tests of § 48.4061(a)-1(d)(2)(i). As to the A test, it consists of a chassis to which there has been permanently mounted machinery or equipment to perform a construction operation that is unrelated to transportation. Thus, the Type 1 vehicle meets the A test. As to the B test, which limits the exception to vehicles whose chassis have been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, the small size of the water tank and collector bin, the frequent need to replenish the water tank and empty the collector bin while performing a typical job, and their function, support that they are jobsite reservoirs rather than cargo transporters. Thus, the Type 1 vehicle meets the B test.

In order to fulfill the requirements of the C test, it must be shown that the specially designed chassis could not, without substantial structural modification, be used as a component of a vehicle designed to transport a load other than the machinery or equipment that they were designed to transport. Rev. Rul. 79-423 indicates that the C test is met if the chassis has been specially designed to hold the particular machinery or equipment and is substantially structurally different than a chassis that would ordinarily be used for hauling some other load. Taxpayer asserts that because of the modifications to the chassis the Type 1 vehicle meets the C test. Its chassis could not, without substantial structural modification, be used as a component of a vehicle designed to transport a load other than the machinery or equipment that it was designed to transport. Specifically, Taxpayer asserts that to convert the Type 1 vehicle to a conventional transporter all of the machinery and equipment would have to be removed and the rear drive train replaced. However, the removal of the machinery and equipment does not constitute structural modification of the chassis. Moreover, the rear drive train would not need to be replaced and the other modifications made to the chassis of the Type 1 vehicle would not need to be reversed

in order for it to be used for transporting a removable load. Thus, the Type 1 vehicle does not meet the requirements of the C test. Accordingly, the Type 1 vehicle is not described within the exception provided in § 48.4061(a)-1(d)(2)(i) for certain specially designed mobile machinery and is subject to the tax imposed by § 4051(a)(1).

The Type 2 vehicle is designed to perform a function of transporting a load over the highway. Thus, the Type 2 vehicle is a "highway vehicle" as that term is defined in § 48.4061(a)-1(d)(1) and is subject to the § 4051 tax unless each vehicle is within the exception provided under § 48.4061(a)-1(d)(2)(i) for certain specially designed mobile machinery. As to the A test, it consists of a chassis to which there has been permanently mounted machinery or equipment to perform a construction operation that is unrelated to transportation. Thus, the Type 2 vehicle meets the A test. As to the B test, as indicated above, it limits the exception to vehicles whose chassis has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved. However, as the tanks installed on the Type 2 vehicles are designed to transport a removable load, paint and thermoplastic material, the Type 2 vehicle is not constructed only as a mobile carriage, mount, and power source for the equipment. See Rev. Rul. 80-237 and Rev. Rul. 81-72. Thus, the Type 2 vehicle does not meet the requirements of the B test. Accordingly, the Type 2 vehicle is not described within the exception provided in § 48.4061(a)-1(d)(2)(i) for certain specially designed mobile machinery and is subject to the tax imposed by § 4051(a)(1).

In your ruling request you agree that the Type 3 vehicle is designed to transport cargo over the highway and is thus a taxable highway vehicle subject to the tax imposed by § 4051(a)(1).

Under § 48.4061(a)-1(a)(3) and the above-cited revenue rulings, certain components of the vehicles do not contribute to the highway transportation function and are thus not part of the taxable sales price. For Type 1 vehicles excludable components include the four motors, the compressor, the vacuum fans with housing, the control panels for operation of the machinery, and the grinder and saw box carriages. The vacuum equipment, the collector bin, the water tank, and the water spray system are also not part of the taxable sales price. For Type 2 vehicles excludable components include the auxiliary power plant, hydraulic pumps, hoses, paint or thermoplastic sprayer equipment, and extendable cartridges (but not the paint/thermoplastic holding tanks or the burners or furnaces). For Type 3 vehicles excludable components include the auxiliary power plant, hydraulic pumps, hoses, paint or thermoplastic sprayer equipment, the extendable cartridges, and any furnaces (but not the tanks).

This ruling is based solely on the facts as presented, Taxpayer's representations, and the analysis set forth above. 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 A. Kocak  
Chief, Branch 8

Enclosures (2):

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