

INTERNAL REVENUE SERVICE

Number: **200221019**
Release Date: 5/24/2002
Index No. : 4051.00-00

CC:PSI:8/PLR-160314-01

February 14, 2002

Dear

This is in response to a request for a ruling that Taxpayer's first retail sales of the vehicles described below will not be subject to the 12 percent excise tax imposed by § 4051(a)(1) of the Internal Revenue Code. This request was submitted on your behalf by your authorized representative.

Taxpayer purchases certain chassis cabs designated by the manufacturer thereof as recreational vehicle (RV) chassis. The chassis are sold tax free to Taxpayer by the chassis manufacturer's dealer based on Taxpayer's certification that the chassis will not be completed or used as a truck tractor, but will be used to complete a motorhome. Taxpayer completes the chassis as motorhomes (Models T and U), motorhomes with garages incorporated therein (Models V, W and X), and toterhomes (Models Y and Z). The completed vehicles are sold by Taxpayer to retailers and directly to retail purchasers.

Taxpayer installs fiberglass reinforced bodies on all the RV designated chassis. Standard interior features on all Models include, among other items, carpeting, vinyl (bath) and oak plank (kitchen) flooring, cabinetry and countertops, windows, sofa bed, dinette, overcab sleeper, refrigerator, microwave oven, range, television, and shower stall. A fresh water tank, propane furnace, and an air conditioner are also included. A tag hitch and brake controller are also installed as standard items. The toterhomes are equipped with a rear outside multipurpose deck (accessible from the forward living compartment by a rear door) that can be used as a back porch or storage area. A 40,000 pound rated gooseneck hitch is standard and is installed into the deck to allow the toterhome to tow a trailer.

Section 4051(a)(1) imposes a 12 percent excise tax on the first retail sale of automobile truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

Under § 145.4051-1(e)(1)(i) of the Temporary Excise Tax Regulations Under The Highway Revenue Act of 1982 (Pub. L. 97-424) the term “tractor” means a highway vehicle primarily designed to tow a vehicle, such as a trailer or semitrailer, but does not carry cargo on the same chassis as the engine. A vehicle equipped with air brakes and/or towing package will be presumed to be primarily designed as a tractor.

Section 145.4051-1(e)(2) defines a “truck” as a highway vehicle that is primarily designed to transport its load on the same chassis as the engine even if it is also equipped to tow a vehicle, such as a trailer or semitrailer.

Section 4052(a)(1) provides that the term “first retail sale” means the first sale, for a purpose other than for resale or leasing in a long-term lease, after production, manufacture, or importation.

Section 4053(1) provides that no tax is imposed by § 4051 on any article designed to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and to be used primarily as living quarters or camping accommodations.

Rev. Rul. 75-545, 1975-2 C.B. 427, holds that an aluminum sleeper cab designed for permanent installation on a heavy-duty long-distance-hauling automobile truck chassis or highway tractor, with access through the rear cab window, to provide sleeping quarters for the vehicle driver does not qualify for exemption from the tax imposed under § 4061 (a manufacturers tax now repealed, but the predecessor to the retailers tax imposed by § 4051) as living quarters or camping accommodations under § 4063(a)(1) (the predecessor to § 4053(1)). Although equipped with a mattress and luggage compartment, the sleeper cab is not designed as camping accommodations, nor is it designed as living quarters. Instead, the cab is designed merely to provide a sleeping compartment for the driver.

Rev. Rul. 73-197, 1973-1 C.B. 423, holds that the sale of specially designed chassis for use in the manufacture of mobile homes are not subject to the tax imposed on truck chassis under § 4061(a)(1). However, the tax imposed under § 4061(a)(1) applies to the sale of conventional truck chassis even though they are used as components of mobile homes.

Section 4051(a)(1) imposes a tax on the first retail sale of certain automotive articles, including truck bodies and chassis and highway truck tractors. The exemption from the § 4051 tax provided under § 4053(1) includes bodies that are primarily designed for use as living quarters for self-propelled mobile homes. In contrast, a heavy-duty highway tractor equipped with accommodations such as the sleeper cab

described in Rev. Rul. 75-545 would not come within the purview of the exemption.

The standard features of the bodies installed by Taxpayer on all Models of the vehicles at issue include household furnishings and appliances that would allow the inhabitants of the vehicles to comfortably use the vehicles as living quarters. Virtually all of the useable space in the bodies of the motorhomes (including those with garages) and the majority of space in the toterhome bodies is dedicated to living quarters. The rear space of the toterhome bodies is comprised of a deck with a gooseneck hitch. Although, under § 145.4051-1(e)(1)(i), a vehicle equipped with a towing package (in this case the gooseneck hitch and brake controls) is presumed to be a tractor, the primary design of the toterhome bodies for use as living quarters effectively rebuts that presumption. Thus, all of the bodies of the Model vehicles at issue are primarily designed for use as living quarters. Accordingly, all of the bodies for the Model vehicles come within the exemption provided under § 4053(1) and are not subject to the tax imposed by § 4051(a)(1).

Section 4052(a)(1) provides that the term "first retail sale" means the first sale after manufacture, for a purpose other than for resale or leasing in a long-term lease. Inasmuch as the chassis manufacturer has classified the chassis sold by its dealer to Taxpayer as nontaxable chassis for excise tax purposes, and Taxpayer only certifies that it is purchasing the chassis for use other than for completion or use as truck tractors (no certification is provided by Taxpayer that it is purchasing tax free for resale or long-term lease), a first retail sale is made by the chassis manufacturer or dealer. Generally, once a chassis is subject to tax in a first retail sale (whether the sale is taxed or tax free), further sales will not be subject to the § 4051 tax. Thus, Taxpayer is not subject to the § 4051 tax on its subsequent sale of the chassis that are completed as Model vehicles. No inference should be drawn from this ruling regarding the correctness of the chassis manufacturer's or dealer's classification of the chassis at issue as nontaxable chassis for excise tax purposes.

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

Sincerely,
Associate Chief Counsel
(Passthroughs and Special Industries)
By: Richard A. Kocak
Chief, Branch 8

Enclosures (2):
Copy of this letter
Copy for § 6110 purposes