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Person To Contact:
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Telephone Number:

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March 24, 2008

Legend

Taxpayer =
Trailer Model A =
Trailer Model B =
Trailer Model C =

Dear :

This replies to a letter ruling request dated September 28, 2007, submitted on your behalf by your authorized representative, with regard to whether certain truck and truck semitrailer bodies that you sell at retail are exempt under section 4053(2) of the Internal Revenue Code (the Code) from the tax imposed by section 4051(a)(1).

Taxpayer designs, manufactures, and sells specialty trailers, primarily to end users (although sometimes to third-party distributors), and primarily customized to the end user's particular anticipated use. Taxpayer manufactures three different types of "walking floor" or "live floor" trailers (herein, "live floor"). Each type of live-floor trailer is designed and built for a specific use. At issue in this case is Taxpayer's Trailer Model A.

Trailer Model A is specifically designed and built by Taxpayer to haul and unload various agricultural commodities that are used as livestock feed and fertilizer to and on farms and feed lots. The trailer is an open-top, rectangular box.

Taxpayer has recently redesigned Trailer Model A, replacing many of its high tensile steel components with extruded aluminum components (EACs). The purpose of the design change was to reduce the trailer's weight so as to increase its hauling capacity, thereby making it better suited to end users desiring to haul agricultural commodities for use as livestock feed and fertilizer. Although some strength and durability was

sacrificed in the redesign, the strength and durability that was lost was not needed to haul and unload agricultural commodities used as livestock feed and fertilizer because Trailer Model A is not unloaded on a tip dumper (discussed below). Taxpayer represents that Trailer Model A is not strong and durable enough to be unloaded on a tip dumper. Taxpayer represents that farms, dairies, and feed lots generally do not have tip dumpers.

Taxpayer represents that even with the increased hauling capacity gained by using EAC's, Trailer Model A is not efficient for use in hauling on the highways because it costs about twice as much as a general purpose freight trailer and has only about three-fourths of the legal load-carrying capacity of a comparably-sized conventional general purpose freight trailer.

According to Taxpayer, other features also indicate that Trailer Model A was primarily designed for use on a farm. For example, it is loaded from the top and unloaded through doors at the rear, using live floor technology. The unloading process takes about 15 minutes. Trailer Model A has heavy-duty EAC rails at the top of the trailer that slope inward to self-clean, which prevents fertilizer from contaminating feed. Trailer Model A's lower rails support the live floor, are designed to prevent the sidewalls from buckling under stress, and are critical in limiting corrosion and contamination of the cargo. The front coupler, landing gear, live floor mechanism, and rear suspension subframe are fastened to the lower rails to enhance the rigidity of the trailer.

Taxpayer further represents that Trailer Model A is not suitable for hauling a commodity for human consumption, such as corn, because during harvest, all farmers in the area deliver to a common processing plant within a compressed period of time. Processing plants have tip loaders to accommodate quick delivery. As noted above, Trailer Model A is not suitable for tip loading. In the alternative, if the owner of Trailer Model A processes its own commodity and/or hauls it on the highway directly to the consumer, the owner needs a refrigerated truck and/or a truck capable of being unloaded by forklift. Trailer Model A is neither.

In contrast with Trailer Model A, Trailer Model B is designed for forest products. Trailer Model B is designed to withstand the extraordinary stress placed on the frame from unloading with a tip dumper, loading with a hopper, or driving on rutted, uneven or unpaved ground, causing great torsional stress. A tip dumper elevates the front of a trailer up to 67 degrees in the air and unloads a truck in two or three minutes. A hopper drops wood chips into the trailer, and can occasion great stress if the chips become "hung up" and all fall at once. Because of design features intended to be used in these circumstances, Trailer Model B is heavier and costs more than Trailer Model A.

Trailer Model C, which is designed for hauling refuse and other waste material, is constructed of heavier and more durable material than either Trailer Model A or Trailer

Model B. Trailer Model C's deck is sometimes fabricated from water-resistant materials. Trailer Model C is also more expensive than Taxpayer's other live floor trailers.

Section 4051(a)(1) imposes a tax on the first retail sale of, among other things, automobile truck bodies and truck trailer and semitrailer bodies.

Section 4053(2) provides that the tax imposed by section 4051 shall not be imposed on any body primarily designed- (A) to process or prepare seed, feed, or fertilizer for use on farms, (B) to haul feed, seed, or fertilizer on farms, (C) to spread feed, seed, or fertilizer on farms, (D) to load or unload feed, seed, or fertilizer on farms, or (E) for any combination of the foregoing.

Rev. Rul. 69-579, 1969-2 C.B. 200, holds that certain automotive truck bodies equipped with heavy-duty unloading equipment and used primarily for hauling feed, seed, and fertilizer to and on farms, are exempt from the manufacturers tax under section 4063(a)(2)(B) (the predecessor to the section 4053(2) exemption provided for retailers tax purposes).

Rev. Rul. 69-579 describes truck, trailer, and semitrailer bodies that contain heavy-duty mechanical or pneumatic type unloading equipment specially designed to facilitate unloading on the farm. The unloading equipment is built into, and forms an integral part of the bodies, adding substantially to their cost and weight, and limiting their load-carrying capacity. The mechanical system uses conveyors and augers, and unloads from the top of the body; the pneumatic system uses a blower and hose, and usually unloads from the bottom and rear of the body. Each system is activated by a power take-off from the truck engine. The bodies are usually divided into separate compartments and are either open at the top or completely enclosed.

The revenue ruling states that the elaborate and expensive unloading systems built into these bodies, and the modifications of the bodies required to accommodate the unloading systems, make it impracticable to purchase the bodies for use other than in hauling feed, seed, or fertilizer to, and unloading it on, farms. The revenue ruling concludes that the bodies are primarily designed to haul and unload feed, seed, or fertilizer on farms, and are exempt from the manufacturers tax by virtue of the section 4063(a)(2)(B) exemption.

Rev. Rul. 75-462, 1975-2 C.B. 419, provides that highway bodies that are used for the general hauling of feed, seed, or fertilizer over the highway are subject to the manufacturers excise tax unless they have specific features that indicate they are primarily designed to haul feed, seed, or fertilizer to and on farms.

Rev. Rul. 2004-80, 2004-2 C.B. 164, addresses the definition of the term "primarily designed" as that term is used in distinguishing a truck from a tractor for purposes of

section 4051(a)(1). The revenue ruling states that the term “primarily designed” means principally designed. It does not mean exclusively designed.

The exemption from tax provided by section 4053(2) does not extend to bodies primarily designed for general use, even though the bodies may be capable of hauling feed, seed, and fertilizer to and on farms or performing other functions described in section 4053(2). To be exempt, a body must be primarily designed for one, or a combination of functions described in section 4053(2).

In requesting tax-exempt treatment for Trailer Model A, Taxpayer submitted a letter ruling request that was detailed and comprehensive. To complement the extensive factual discussion, the letter ruling request included engineering schematics, full-color brochures, and a matrix comparing and contrasting the different types of live floor trailers produced by Taxpayer, as well as a comprehensive legal analysis.

With regard to the Trailer Model A truck and semitrailer bodies at issue in this case, each of the bodies contains an unloading system that is built into, and forms an integral part of, the body. The special unloading equipment is elaborate and expensive, adds substantially to the cost and weight of each body, and limits its load-carrying capabilities. Thus, like the specially designed bodies described in Rev. Rul. 69-579, purchase of the subject bodies for use other than in hauling feed, seed, or fertilizer to, and unloading it on, farms, would be impractical.

Further, the detailed information provided by Taxpayer highlights a number of specific features, including the unloading system, the use of EACs (which reduces the strength and durability of the trailers), the sloped design and self-cleaning nature of the rails at the top of the trailer, and the fabrication of the lower rails to limit corrosion and contamination of the trailer’s cargo, that indicate Trailer Model A is primarily designed for use on farms.

Accordingly, the truck and semitrailer bodies described herein as Trailer Model A fall within the exemption provided by section 4053(2) and Taxpayer's retail sales thereof are exempt from the tax imposed by section 4051(a)(1).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Stephanie N. Bland
Senior Technician Reviewer, Branch 7
(Passthroughs & Special Industries)