

## INTERNAL REVENUE SERVICE

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Third Party Contact:

Date: 5/10/2000

CC:PSI:8/PLR-111485-00

07/28/2000

In re:

Legend:  
Taxpayer =

Dear

This is in response to a request submitted on Taxpayer's behalf by its authorized representative concerning the effective date of LTR 104229-00 as it applies to the sale or lease of certain trucks subject to binding contracts entered into between the date of the letter (March 30, 2000) and its effective date (May 15, 2000) with delivery scheduled after May 15, 2000.

By way of background, we note that Rev. Proc. 2000-1, 2000-1 I.R.B. 4, sets forth the procedures for issuing letter rulings. Section 12.08 of this revenue procedure provides that a letter ruling holding that the sale or lease of a particular article is subject to the manufacturers excise tax or the retailers excise tax may not retroactively revoke or modify an earlier ruling holding that the sale or lease of such an article was not taxable if the taxpayer to whom the letter ruling was issued, in relying on the earlier letter ruling, gave up possession or ownership of the article without passing the tax on to the customer. (Section 1108(b), Revenue Act of 1926).

In LTR 199923022 the IRS concluded that the tax imposed by section 4051 of the Internal Revenue Code did not apply to Taxpayer's purchase and subsequent sale or lease of certain trucks. Subsequently, LTR 104229-00 (dated March 30, 2000) revoked LTR 199923022 effective May 15, 2000, and provided that Taxpayer may no longer rely on LTR 199923022 with respect to the purchase and subsequent sale or lease of the trucks.

The § 4051 excise tax is imposed at the time of the first retail sale or lease of automobile truck chassis and bodies (including parts or accessories). Therefore, Taxpayer cannot rely on LTR 199923022 as a basis for exempting from the § 4051 excise tax Taxpayer's first retail sales and leases of trucks on or after May 15, 2000. However, until March 30, 2000, the date of LTR 104229, taxpayer did not know that it could no longer rely on LTR 199923022. Therefore, if on or before March 30, 2000, Taxpayer entered into binding contracts for the sale or lease of trucks with delivery scheduled after May 15, 2000, Taxpayer may continue to rely on LTR 199223022 in regard to these trucks. On the other hand, and in specific response to your request, Taxpayer may not rely on LTR 1999923022 in regard to the sale or lease of trucks made pursuant to binding contracts entered into after March 30, 2000, and sold or leased on or after May 15, 2000, because as of March 30, 2000, Taxpayer was on notice that the IRS revoked LTR 199923022.

This letter does not address whether Taxpayer's sale agreements and purchase orders are binding contracts. Therefore, no inference is to be drawn from this letter that Taxpayer did in fact enter into binding contracts.

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

If you have any questions concerning this letter, please contact

Sincerely,

Associate Chief Counsel  
(Passthroughs and Special Industries)

By:  
Richard A. Kocak  
Chief, Branch 8