

## Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:8/PLR-133376-03

Date:

August 22, 2003

Legend:

Taxpayer =

Dear :

This is in response to a request for a letter ruling dated May 23, 2003. You requested that the Internal Revenue Service determine whether tax is imposed by § 4064 of the Internal Revenue Code on the sale of \_\_\_\_\_ by the Taxpayer. The following facts and representations have been submitted in the request.

\_\_\_\_\_ will be imported and sold by the Taxpayer. \_\_\_\_\_ are 4-wheeled vehicles, propelled by fuel, and manufactured primarily for use on public streets, roads, and highways. \_\_\_\_\_ have seating for \_\_\_\_\_ behind the driver.

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The Taxpayer represents that the fuel economy of \_\_\_\_\_ is less than 22.5 miles per gallon.

Section 4064(a) imposes a tax on the sale by the manufacturer of certain automobiles. The tax is determined in accordance with the fuel economy of the automobile, as determined by the Administrator of the Environmental Protection

Agency.

Section 4064(b)(1)(A) defines the term “automobile” as any 4-wheeled vehicle propelled by fuel (i) which is manufactured primarily for use on public streets, roads, and highways and (ii) which is rated at 6,000 pounds unloaded gross vehicle weight or less. That section further provides that, in the case of a limousine, the automobile definition shall be applied without the weight limitation set forth in § 4064(b)(1)(A)(ii).

Section 4064(b)(5) provides that the term “manufacturer” includes a producer or importer.

Neither the statutory provisions nor the regulations thereunder define limousine. Further, the legislative history to § 4064 does not provide guidance on the meaning of the term “limousine.” The dictionary defines limousine as “an automobile having an enclosed compartment seating three or more passengers and ... a driver’s seat enclosed but separated from the passenger’s compartment by a glass, usually movable, partition.” Webster’s Third New International Dictionary of the English Language 1313 (1986).

The Taxpayer will import and sell \_\_\_\_\_ are 4-wheeled vehicles propelled by fuel which are manufactured primarily for use on public streets, roads, and highways. As such, the sale of \_\_\_\_\_ may be subject to the gas guzzler tax if they are either (1) rated at 6,000 pounds unloaded gross vehicle weight or less, or (2) a limousine.

Regarding whether \_\_\_\_\_ is a limousine within the meaning of § 4064(b)(1)(A), since a limousine is defined as having a separate passenger compartment seating three or more and \_\_\_\_\_, \_\_\_\_\_ a limousine within the meaning of that section.

Accordingly, based on the Taxpayer’s representations of the \_\_\_\_\_ tax is not imposed by § 4064 on the sale of \_\_\_\_\_ by the Taxpayer.

This letter ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent. Temporary or final regulations pertaining to one or more of the issues addressed in this letter ruling have not yet been adopted. Therefore, this letter ruling will be modified or revoked by the adoption of temporary or final regulations to the extent the regulations are inconsistent with any conclusion in the letter ruling. See

section 12.04 of Rev. Proc. 2003-1, 2003-1 I.R.B. 1, 44. However, if the taxpayer can demonstrate that the criteria in section 12.06 of Rev. Proc. 2003-1, 2003-1 I.R.B. at 45, are satisfied, a letter ruling is not revoked or modified retroactively except in rare or unusual circumstances.

Sincerely,

Associate Chief Counsel  
(Passthroughs and Special Industries)

By:

Frank Boland  
Chief, Branch 8

Enclosures(2):

Copy of this letter  
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cc: