

INTERNAL REVENUE SERVICE

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In re: Letter Ruling Request Regarding the Characterization of a Vehicle as a Truck or a Tractor for Federal Excise Tax Purposes

Taxpayer =

Dear

This is in response to a request for a ruling that Taxpayer's first retail sale of a Vehicle 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 intends to purchase the completed Vehicles from their manufacturer and resell the Vehicles to retail customers. The Vehicle has a gross vehicle weight (GVW) rating of 23,000 pounds and a gross combination weight of 43,000 pounds. The Vehicle has a removable ball gooseneck hitch, a fifth wheel hitch, and a receiver hitch, a trailer plug, a platform behind the cab, a 52 cubic foot storage box, and a 46 cubic foot storage box. The Vehicles cab accommodates five passengers. The Vehicle's cab has an electric brake control that links to the brakes of a towed trailer, trailer hook up lights, and other towing features. The vehicle has the capacity to tow 20,000 pound trailers such as year around house trailers and horse trailers. The Vehicle's selling price can approach four times the price of a pickup truck that has a GVW of less than 6,000 pounds.

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. Section 4051(a)(2) provides that this tax does not apply to automobile truck chassis and automobile truck bodies suitable for use with a vehicle which has a GVW of 33,000 pounds or less.

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.

Taxpayer argues, among other things, the Vehicle should be characterized as a truck because the Vehicle can carry cargo in its 52 cubic foot and 46 cubic foot boxes. The capacity of these two boxes is incidental when compared to the Vehicle's capacity to tow a 20,000 pound trailer.

The Vehicle has the functional equivalent of a towing package because it has an electric brake control, trailer hook up lights, and other towing features. The Vehicle does not require an airbrake system because electric brakes are sufficient for the size of the trailers the Vehicle tows. The towing and braking abilities of this Vehicle are disproportionately powerful for its load carrying capacity, which is limited to the 52 cubic foot and the 46 cubic foot boxes. The cost of this Vehicle for its capacity to transport a load is disproportionately high when compared to trucks that have similar load carrying capacities.

Accordingly, this Vehicle is primarily designed to tow. Therefore, Taxpayer's first retail sale of a Vehicle is subject to the 12 percent excise tax imposed by § 4051(a)(1).

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