

INTERNAL REVENUE SERVICE
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Legend:

Taxpayer =

Dear Sir or Madam:

This letter is in response to a request for ruling dated October 30, 1998, filed on Taxpayer's behalf by its authorized representative. The letter requests that we rule that the purchase and subsequent sale or lease of certain specially designed trucks tailored for installation of a crane boom are not taxable highway vehicles under § 4051 of the Internal Revenue Code.

Taxpayer purchases truck cabs and truck chassis having gross vehicle weight ratings of over 33,000 pounds. Each cab and chassis has been modified to accept a specific type of boom-type or mast-type crane that has a reach in excess of 100 feet. The modifications include replacing the truck frame with a heavy duty 11 5/8 inch steel frame with a 10 3/4 inch liner, substituting special front and tandem rear axles and a special walking-beam suspension system, shortening the wheel base, installing a transmission that is limited to 10 speeds, and installing a special fan clutch/Power Take Off not suitable for use with a dump vehicle.

Subsequent to the purchase of the chassis and cab, Taxpayer contracts with a third party to modify the chassis to accommodate the mounting of a crane or boom. The modifications include the installation of a torque subframe to support the crane and load, the installation of a special cross-tie bar under the transmission, and the attachment of front and rear stabilizing outriggers to the chassis frame. After modification, the vehicle is unsuitable to carry any significant additional cargo, due to the weight of the crane and accompanying machinery.

The modifications to the frame, subframe, and transmission are permanent in nature. While it is possible to remove and remount cranes on a different chassis, the existing chassis is no longer useful as a component part of a highway vehicle due to these modifications.

After the trucks are modified, Taxpayer sells or leases the vehicles.

Section 4051(a)(1) imposes a 12 percent excise tax on the first retail sale of certain articles including automobile truck chassis and bodies (including in each case parts or accessories sold on or in connection therewith or with the sale thereof).

Section 4051(a)(2) provides that the tax imposed by § 4051(a)(1) does not apply to automobile truck chassis and bodies suitable for use with a vehicle that has a gross vehicle weight of 33,000 pounds or less.

Section 145.4051-1(a)(2) of the Temporary Excise Tax Regulations provides that a chassis or body is taxable under § 4051(a)(1) only if such chassis or body is sold for use as a component part of a highway vehicle (as described in § 48.4061(a)-1(d) of the Manufacturers and Retailers Excise Tax Regulations).

Section 48.4061(a)-1(d)(1) defines a "highway vehicle" as any self-propelled vehicle, or any trailer or semitrailer, designed to perform a function of transporting a load over public highways, whether or not also designed to perform other functions, but does not include a vehicle described in § 48.4061(a)-1(d)(2).

Section 48.4061(a)-1(d)(2)(i) provides that a self-propelled vehicle, or trailer or semitrailer, is not a highway vehicle if it (A) consists of a chassis to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or operation similar to any one of the foregoing enumerated operations, if the operation of the machinery or equipment is unrelated to transportation on or off the public highways, (B) the chassis has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and (C) by reason of such special design, such chassis could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that

particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

Revenue Ruling 79-423, 1979-2 C.B. 386, states that a chassis meets the part (C) test of § 48.4061(a)-1(d)(2)(i) if it has been specially designed to hold certain jobsite machinery or equipment, to the extent that it is substantially structurally different than a chassis that would ordinarily be used for transporting a load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

Revenue Ruling 81-71, 1981-1 C.B. 496, holds that, for purposes of § 4061(a)(1) (a manufacturers tax that was the predecessor to the § 4051 retailers tax), a custom-built truck chassis specially designed to serve as a mobile mount for a telescoping boom-type crane satisfies the requirements for exception under § 48.4061(a)-1(d)(2)(i) and is not a taxable highway vehicle. The chassis is constructed with a reinforced box-type frame that is specially designed to withstand torsional stresses imposed by the articulation of the crane. The chassis serves as the base upon which the turntable for the crane is mounted and the rear suspension system of the chassis includes tandem axles of the walking-beam type that are welded directly to the chassis frame without load cushions or springs. This form of suspension system, together with both front and rear outrigger assemblies, is designed to stabilize the vehicle when the crane is in use. The revenue ruling states that these special design features render the chassis substantially different structurally from a chassis that would ordinarily be used to haul machinery or equipment other than the crane or similar machinery or equipment requiring such a specially designed chassis.

Section 48.4061(a)-1(e)(1) provides the general rule that the sale of a chassis or body shall be taxable if the chassis or body is, in any sense, suitable for use as a component part of a highway vehicle.

Section 48.4061(a)-1(e)(2)(ii) provides an exception to the general rule of § 48.4061(a)-1(e)(1). Section 48.4061(a)-1(e)(2)(ii) allows the tax-free sale of a chassis or body ordinarily subject to tax under § 4061 (now § 4051) if the chassis or body is actually sold for use, or for resale for use, as a component part of a vehicle that is not a highway vehicle as defined in § 48.4061(a)-1(d). Sections 48.4061(a)-1(e)(2)(ii), (iii), and (iv) provide certain procedural requirements that the manufacturer or reseller must comply with in order to sell tax free.

Section 145.4051-1(a)(2) states that, with respect to tax-free sales of a chassis or body for use as a component part of a vehicle other than a highway vehicle, provisions similar to those set forth in §§ 48.4061(a)-1(e)(2)(ii), (iii), and (iv) shall apply.

The chassis at issue, as modified, is designed and sold for use as a component part of a crane and is designed to perform a function of transporting a load both on and off the highway. Thus, the chassis is a component of a "highway vehicle" as that term is defined in § 48.4061(a)-1(d)(1) and will be subject to the § 4051 tax unless it is within one of the exceptions provided under § 48.4061(a)-1(d)(2).

Section 48.4061(a)-1(d)(2)(i) provides an exception for certain specially designed mobile machinery. That section sets forth a three-part test. Taxpayer's chassis fulfills the requirements of subparts (A) and (B) of the exception provided in § 48.4061(a)-1(d)(2)(i). The cranes are permanently mounted to a chassis that, as modified, is specially designed and constructed solely as a mobile carriage, mount, and power source for the equipment.

In order to fulfill the requirements of subpart (C) of that regulation, it must be shown that the specially designed chassis could not, without substantial structural modification, be used as a component of a vehicle designed to transport a load other than the machinery or equipment for which it was designed to transport. Rev. Rul. 79-423 indicates that the subpart (C) test is met if the chassis has been specially designed to hold the particular machinery or equipment and is substantially structurally different than a chassis that would ordinarily be used for transporting some other load. The chassis at issue, as modified, are not standard over-the-road chassis. On the contrary, the chassis are very similar to those described in Rev. Rul. 81-71, and have been designed and fabricated to accommodate the equipment. The chassis is constructed with a reinforced torque subframe that is specially designed to withstand the stresses of the equipment's operations. The chassis also serves as the base to which the equipment is mounted. Front and rear outrigger assemblies are designed to stabilize the vehicle when the equipment is in use. In addition, the suspension system of the chassis includes walking-beam suspension and special tandem axles. These special design features render the chassis substantially different structurally from a chassis that would ordinarily be used for over-the-road transportation. Moreover, the chassis at issue here could not, without substantial modification, be used as a component of a vehicle designed to transport a load other than the equipment over the highway.

Thus, the vehicles manufactured for, and sold or leased by, Taxpayer, are not taxable highway vehicles under § 4051(a)(1). Therefore, the original manufacturer of the chassis may sell to Taxpayer those chassis which will be used as component parts of the non-highway vehicles free of the tax imposed by § 4051(a)(1). However, pursuant to § 145.4051-1(a)(2), the seller and Taxpayer must comply with provisions similar to those set forth in §§ 48.4061(a)-1(e)(2)(ii), (iii), and (iv).

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

Sincerely yours,

Assistant Chief Counsel
(Passthroughs and Special Industries)

By: _____
Bernard H. Weberman
Assistant to the Branch Chief, Branch 8

Enclosures (2):
Copy of this letter
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