

## Part III – Administrative, Procedural, and Miscellaneous

### Interim Guidance and Request for Comments on Definitions of Chassis and Body; Retail Excise Tax on Heavy Trucks, Trailers, and Tractors

Notice 2016-81

#### **SECTION 1. PURPOSE**

This notice provides interim guidance relating to the excise tax imposed by § 4051 of the Internal Revenue Code on the first retail sale of heavy trucks, trailers, and tractors. Specifically, this notice provides interim definitions of the terms “chassis” and “body” for purposes of § 4051(a)(1) and for purposes of applying the safe harbor provision in § 4052(f)(1). This notice also requests comments on the interim definitions.

#### **SECTION 2. BACKGROUND**

Section 4051(a)(1) imposes a 12-percent 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 145.4051-1(e)(1)(i) of the Temporary Excise Tax Regulations Under The Highway Revenue Act of 1982 defines “tractor” as a highway vehicle primarily designed to tow a vehicle, such as a trailer or a semitrailer, but does not carry cargo on the same chassis as the engine.

Generally, the § 4051 tax applies to the first retail sale of an article. Section 4052(a)(1) defines “first retail sale” as the first sale, for a purpose other than for resale or leasing in a long-term lease, after production, manufacture, or importation. The safe harbor provision in § 4052(f)(1) excludes from the definition of “manufactured” or “produced” an article that is repaired or modified (including any modification that changes the transportation function of the article or restores a wrecked article to a functional condition) if the cost of such repairs and modifications does not exceed 75 percent of the retail price of a comparable new article.

Neither the Code nor the regulations define the terms “chassis” or “body” for purposes of determining articles that are subject to tax under § 4051(a)(1). Likewise, there is no definition of “chassis” or “body” for determining whether an article satisfies the safe harbor provision in § 4052(f)(1).

The Treasury Department and the IRS recognize that taxpayers would benefit from having definitions of “chassis” and “body” in order to identify chassis and bodies that are subject to tax under § 4051(a)(1) and in order to apply the safe harbor provision in § 4052(f)(1). Accordingly, the Treasury Department and the IRS have adopted interim definitions of “chassis” and “body” for these purposes. The interim definitions are set forth in Section 3 of this notice. In crafting these definitions, the Treasury Department and the IRS consulted numerous sources, including the Society of Automotive Engineers (SAE) Glossary of Automotive Terms and Title 49 of the Code of Federal Regulations (Transportation).

### **SECTION 3. DEFINITIONS OF CHASSIS AND BODY**

.01 A “chassis” is a vehicle’s frame and supporting structure and all those components that are attached to it, except those components that are exempt from tax, such as certain idling reduction devices described in § 4053(9).

For purposes of § 4051(a)(1)(A) and (E), the following is a nonexclusive list of components that are attached to and, therefore, part of a chassis:

- engine
- axles
- transmission
- drive train
- suspension
- exhaust aftertreatment system (including, but not limited to, a diesel particulate filter)
- cab

For purposes of § 4051(a)(1)(E), a chassis includes a chassis cab within the meaning of § 145.4051-1(e)(1)(ii)(A), (B) and (D).

A chassis does not include a vehicle’s body, as defined in Section 3.02 of this notice.

.02 A “body” is the cargo or load carrying structure of a truck, trailer, or semitrailer. Examples of a body include, but are not limited to, a flatbed body, a tanker body, and a box body.

### **SECTION 4. APPLICATION OF CHASSIS AND BODY DEFINITIONS TO SECTION 4052(f)(1)**

Section 4052(f)(1) provides that an article taxed under § 4051(a)(1) is not treated as manufactured or produced solely by reason of repairs or modifications to the article if the cost of the repairs and modifications does not exceed 75 percent of the retail price of a comparable new article. The safe harbor provision in § 4052(f)(1) applies only to a

§ 4051(a)(1) article that has been previously taxed. See § 4052(f)(2). The § 4051(a)(1) articles are: truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and highway tractors. Therefore, a taxpayer must repair or modify one of the seven articles identified in § 4051(a)(1) in order to use the safe harbor provision in § 4052(f)(1).

For purposes of § 4052(f)(1), the IRS will use the definitions of chassis and body in Section 3 of this notice to determine the threshold issue of whether a § 4051(a)(1) article has been repaired or modified. In other words, the § 4052(f)(1) safe harbor provision may be applied to a chassis or body only if the chassis or body being repaired or modified is identifiable as such within the meaning of Section 3 of this notice.

#### **SECTION 5. REQUEST FOR COMMENTS**

The Treasury Department and the IRS request comments on the interim definitions of “chassis” and “body” set forth in Section 3 of this notice. The deadline for submission of comments is May 9, 2017.

Written comments should be submitted to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2016-81), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20224. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (Notice 2016-81), Courier’s Desk, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC.

Alternatively, comments may be submitted electronically via the following e-mail address: [Notice.Comments@irs.counsel.treas.gov](mailto:Notice.Comments@irs.counsel.treas.gov). Please include “Notice 2016-81” in the subject line of an electronic communication.

All submissions will be available for public inspection and copying in room 1621, 1111 Constitution Avenue, NW, Washington, DC, from 9 a.m. to 4 p.m.

**SECTION 6. EFFECTIVE DATE**

This notice is effective on and after January 9, 2017.

**SECTION 7. DRAFTING INFORMATION**

The principal author of this notice is Celia Gabrysh of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, please contact Celia Gabrysh or Amanda Dunlap at (202) 317-6855 (not a toll-free number).