

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

11-29-1999

Number: **200022002**
Release Date: 6/2/2000
Third Party Contact: None
Index No.: 4051.00-00
Control No.: TAM-114789-99/CC:DOM:P&SI:B8

Taxpayer's Name:

Taxpayer's Address:

Taxpayer Identification No.:

Periods Involved:

Conference Held

ISSUE:

Whether an automobile truck body sold by the taxpayer is subject to the retailers tax on sales of truck bodies imposed by § 4051 of the Internal Revenue Code?

CONCLUSION:

The automobile truck body sold by the taxpayer is subject to the retailers tax on sales of truck bodies imposed by § 4051.

FACTS:

The taxpayer manufactures and sells at retail automobile truck bodies. The bodies in question are open-top rectangular boxes. The sides of the bodies are tapered so that the front is several inches narrower than the rear. They are designed to be installed on a trailer or truck chassis; removal of cargo is accomplished by hydraulically lifting the front of the body, thereby dumping the cargo out of the rear of the vehicle.

Each body has a hydraulically-operated rear discharge door (a tailgate).

LAW AND ANALYSIS

Section 4051(a)(1)(b) imposes a tax on the first retail sale of automobile truck bodies.

Section 4053(2) provides that the tax imposed by § 4051 shall not be imposed on any body primarily designed:

- (A) to process seed, feed, or fertilizer for use on farms;
- (B) to haul feed, seed, or fertilizer to and on farms;
- (C) to spread feed, seed, or fertilizer on farms;
- (D) to load or unload feed, seed, or fertilizer on farms; or
- (E) for any combination of the foregoing.

Rev. Rul. 69-579, 1969-2 C.B. 200, holds that certain automotive truck bodies equipped with heavy-duty unloading equipment and used primarily for hauling feed, seed, or fertilizer to and on farms are exempt from the manufacturers tax under § 4063(a)(2)(B) [now § 4053(2)(B)]. The ruling states that the elaborate and expensive unloading equipment built into the bodies, and the modifications required to accommodate the unloading systems, make it impractical to purchase the bodies for use other than in hauling seed, feed, or fertilizer to, and unloading it on, farms. The equipment included heavy duty mechanical or pneumatic unloading equipment that formed an integral part of the bodies. The mechanical system employed conveyors or augurs that unloaded from the top of the bodies; the pneumatic system employed blowers and a hose and usually unloaded from the bottom and rear of the body.

Rev. Rul. 75-462, 1975-2 C.B. 419, holds that a dump truck designed for, and primarily used in, hauling grain and sugar beets from the field to points on or off the farm and that may also be used to haul feed or fertilizer over the highway to the farm is not exempt from tax under the provisions of § 4063(a)(2)(B). The interior of the body is smooth, which facilitates the unloading and cleaning of the body. The ruling states that the body is designed to haul low density farm commodities over the highway and on the farm and that highway bodies used for general hauling of feed, seed, or fertilizer over the highway are subject to the manufacturers excise tax unless they have specific features that indicate they are primarily designed to haul those items to and on farms. The ruling further states that although the bodies carry feed and fertilizer they do not

have specific features that indicate they are primarily designed to haul feed and fertilizer to and on farms.

The taxpayer states that the bodies have been specially designed for dumping silage into pits at farms for cattle feed. The taxpayer emphasizes that the bodies are tapered, have a slick floor, and have a rear door that is either totally opened or closed, and that all of these characteristics allow for speedy dumping of silage. Further, their large size makes them especially suitable for hauling silage, which is very light weight.

The exemption from tax provided by § 4053(2) does not extend to truck bodies designed for general use even though the bodies may be capable of hauling feed, seed, or fertilizer to and on farms and/or performing a combination of the other functions described in § 4053(2). To be exempt, a body must be primarily designed for one, or a combination of, the purposes described in § 4053(2).

Unlike the bodies described in Rev. Rul. 69-579, which would not be purchased for use other than in hauling feed, seed, or fertilizer, the bodies here are designed for general hauling of farm and other cargo. The bodies' features do not establish that they are primarily designed for an exempt purpose under § 4053(2); these features, such as slick floors, are equally useful for unloading many different types of cargo under varied circumstances. We note that these bodies do not have features relating to an exempt purpose under § 4053(2). Thus, the bodies are functionally similar to the bodies described in Rev. Rul. 75-462 in that they are not primarily designed to haul feed, seed, or fertilizer. Accordingly, the bodies are not exempt from tax under § 4053(2).

CAVEAT:

A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(k)(3) provides that it shall not be used or cited as precedent. In accordance with § 6110(c), names, addresses, and other identifying numbers have been deleted.