

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM
May 22, 2000

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District Director

Taxpayer Name:
Taxpayer Address:
Taxpayer Identification No.:
Quarters Involved:
No Conference Held

LEGEND:

Taxpayer =

ISSUE:

Whether Taxpayer can exclude documentation fees from the tax base when computing the federal luxury excise tax imposed on the sale of passenger vehicles under § 4001(a) of the Internal Revenue Code?

CONCLUSION:

Taxpayer may exclude documentation fees from the tax base when computing the federal luxury excise tax imposed on the sale of passenger vehicles under § 4001(a).

FACTS:

Taxpayer is an automobile retail dealer that sells and leases passenger automobiles that are subject to the luxury tax imposed by § 4001(a). In computing its tax base for purposes of § 4001(a), Taxpayer excludes documentation fees from its sales price.

Documentation fees are amounts Taxpayer charges its customers to process the customer's motor vehicle applications with the state. The fees are for processing motor vehicle title, plate, registration, and lien applications with the state and having these documents notarized. Taxpayer also charges a separate motor vehicle fee to compensate it for fees paid to the state for the issuance of the registrations, plates, titles, and liens (if applicable). The services provided for which Taxpayer charges documentation fees are optional; the customer can elect not to pay those fees, and to complete and process the documents itself.

LAW AND ANALYSIS

Section 4001(a)(1) imposes a tax on the first retail sale of any passenger vehicle to the extent the price exceeds the applicable amount.

Section 4002(a) defines the term first retail sale to mean the first sale for a purpose other than resale, after manufacture, production, or importation.

Section 4002(c)(1) states that except as otherwise provided in the subsection, the lease of a vehicle (including any renewal or extension of a lease or a subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

Section 4002(d)(1)(A) provides that, in determining price for purposes of the § 4001(a) tax, there shall be included any charge incident to placing the passenger vehicle in condition ready for use.

Section 4002(d)(1)(B) provides that there shall be excluded from the taxable sale price, (i) the amount of tax imposed under § 4001(a), and (ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee.

In general, the taxable sale price of a vehicle subject to tax under § 4001(a) includes the total consideration paid for the automobile. That price includes any charge incident to placing the automobile in condition ready for use. The taxable price also includes the cost of any parts or accessories sold on or in connection with the automobile and the cost of any goods or services that the vendee is required to buy in order to purchase the automobile. However, state motor vehicle application fees for titling, plating, registering, and licensing, which are not required to be paid as a condition of the sale of the vehicle, are not included in the taxable sale price. Similarly, Taxpayer's documentation fees, which are associated with the processing of the motor vehicle applications, are also not in connection with the sale of the vehicle and are not included in the taxable sale price. The processing of motor vehicle applications, whether by Taxpayer or the purchaser, are activities that are subsequent to placing the automobiles in condition ready for use, and the fees charged for such services cannot be considered part of the taxable sale price unless there is evidence to show that there has been a reduction of the taxable sale price through the misallocation of the fees for such services.

CAVEATS:

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.