

INTERNAL REVENUE SERVICE

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Dear [REDACTED]

I am responding to your December 20, 2000, inquiry on behalf of your constituent, [REDACTED]. [REDACTED] is concerned that the IRS recently has begun to assess a federal excise tax on noncommercial trucks equipped with fifth wheel hitches.

I cannot determine whether or not the vehicles [REDACTED] describes are subject to federal excise tax because I do not have enough information about the vehicles. However, I can assure you that the IRS has not changed its position that tow vehicles (tractors) are subject to a 12 percent excise tax.

The IRS taxes trucks and tractors consistent with § 4051 of the Internal Revenue Code. Section 4051(a)(1) imposes a 12 percent excise tax on the first retail sale of automobile truck chassis, automobile truck bodies, truck trailer and semitrailer chassis, truck trailer and semitrailer bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. However, trucks with gross vehicle weight ratings of 33,000 pounds or less and trailers with gross vehicle weight ratings of 26,000 pounds or less are not subject to this tax.

If a vehicle is primarily designed to tow a vehicle, such as a trailer or semitrailer, it is a tractor (section 145.4051-1(e)(1) of the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982). A tractor is a taxable vehicle regardless of whether the trailer or semitrailer it tows is used for recreational or commercial purposes. If a vehicle is primarily designed to transport its load on the same chassis as the engine, it is a truck even if it is also equipped to tow a vehicle such as a trailer or a semitrailer (section 145.4051-1(e)(2)).

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I hope this information helps you to respond to [REDACTED]. If you have any questions, please contact me at [REDACTED].

Sincerely,

Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)