

INTERNAL REVENUE SERVICE

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[REDACTED]

Dear [REDACTED]

I am responding to your March 30, 2001 letter on behalf of your constituent, [REDACTED], who believes current tax laws encourage businesses to purchase luxury sport utility vehicles (SUVs) rather than standard passenger automobiles. She says in most instances SUVs are not subject to the luxury tax imposed on passenger automobiles and also qualify for faster depreciation write-offs than other luxury vehicles.


The Internal Revenue Code (the Code) imposes a luxury tax on the first retail sale of any passenger vehicle exceeding a sale price of \$38,000 in 2001 [Section 4001(a)].

The Code also limits depreciation for certain passenger automobiles. This is done in part to discourage taxpayers who purchase passenger vehicles for business use from choosing vehicles more costly than necessary for mere transportation (Section 280F). Establishing annual limitations on the amount of allowable cost recovery deductions helps establish a baseline "reasonable" price for a passenger vehicle. The cost recovery of any amount paid above this price for the vehicle is deferred until the tax years following the initial 5-year recovery period (or until the taxpayer disposes of the vehicle).

Whether a vehicle comes within the reach of these Code sections depends, in part, on the weight of the vehicle. "Passenger vehicles" or "passenger automobiles" are 4-wheeled vehicles manufactured primarily for use on public streets, roads, and highways that are rated at 6,000 pounds or less unloaded gross vehicle weight [Sections 4001(b)(1) and 280F(d)(5)(A)]. The Code provides a special rule for trucks and vans, which uses "gross vehicle weight" (the maximum weight of a loaded vehicle) instead of "unloaded gross vehicle weight" to determine whether the vehicles are classified as passenger automobiles or passenger vehicles [Sections 4001(b)(2) and 280F(d)(5)(A)]. Our position is the term "truck or van" includes SUVs. Therefore, those SUVs that

exceed 6,000 pounds gross vehicle weight are not subject to the depreciation limits or the luxury tax even if their unloaded gross vehicle weight is 6,000 pounds or less.

Many SUVs also are not subject to the gas guzzler tax imposed by section 4064 of the Code because this section requires us to use the Department of Transportation's definition of "automobile," which excludes many SUVs.

I hope this information is helpful to you. If you have any questions, please contact me or 

Sincerely,

Richard A. Kocak
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Associate Chief Counsel
Passthroughs and Special Industries