

INTERNAL REVENUE SERVICE

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[REDACTED]

August 24, 2001

Dear [REDACTED]

This is in response to your letter that asks for information concerning the use of dyed diesel fuel in "school buses." We hope this general information is helpful.

Section 4081(a)(1) of the Internal Revenue Code imposes a federal excise tax on certain removals, entries, and sales of taxable fuel. Section 4083(a)(1)(B) provides that diesel fuel is a taxable fuel. Under § 4082(a) and § 48.4082-1 of the Manufacturers and Retailers Excise Tax Regulations, tax is not imposed if, among other conditions, the diesel fuel is dyed as required.

Section 4041(a)(1) imposes a tax on diesel fuel sold or used as a fuel in a diesel-powered highway vehicle if no tax has been imposed by § 4081. However, § 48.4082-4(c)(4) provides that the § 4041 tax does not apply with respect to any liquid for use in a bus while the bus is engaged in the transportation of students and employees of schools (as defined in the last sentence of § 4221(d)(7)(C)). The last sentence of § 4221(d)(7)(C) provides that the term "school" means an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

The term "bus," for purposes of § 4041, is not defined in the Code, the applicable regulations, or the legislative history. Designation of a vehicle as a bus usually will be made upon manufacture and included in the vehicle identification number assigned to a vehicle. In designating the type of vehicle, a manufacturer will consider the weight, dimensions, specifications and/or features that distinguish buses from trucks or passenger automobiles. For example, features used to identify transit buses upon manufacture or subsequent modification have included: straight-back seats of the

bench type; accordion or folding-type doors at the front of the bus and often a second door in the middle or rear for passengers to leave the bus; facilities for baggage storage; and certain transmission gear ratios, acceleration and maximum speeds, and aisle space for standees. Standard sedans, vans, and eight and nine passenger station wagons engaged in the transportation of students and employees of schools are not buses.

If you decide you want a written statement that interprets and applies these tax laws to your specific set of facts, your request must comply with Rev. Proc. 2001-1, 2001-1 I.R.B. 1, which describes the IRS' administrative procedures and requirements for issuing a letter ruling. We have enclosed a copy of Rev. Proc. 2001-1 for your convenience.

If you have any questions concerning this letter, [REDACTED]
[REDACTED]

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Ruth Hoffman
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Enclosure