

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

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Third Party Contact: None

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CASE MIS No.: TAM-123098-02/CC:PSI:B8

Director, Area

Division

Taxpayer's Name:

Taxpayer's Address:

Taxpayer's Identification No:

Quarters Involved:

Date of Conference: None

LEGEND: Taxpayer =

ISSUE:

Is Taxpayer a manufacturer with respect to certain monofilament fluorocarbon fishing line (the Line) for purposes of the tax imposed by § 4161(a) of the Internal Revenue Code and therefore liable for this tax on its sales of the Line?

CONCLUSION:

Taxpayer is not the manufacturer of the Line for purposes of the tax imposed by § 4161(a) and therefore is not liable for tax on its sales of the Line.

FACTS:

Taxpayer purchases the Line on spools ranging in size from approximately _____ yards to _____ yards. The Line is specifically designed and manufactured for use as fishing line or leader line. The Line is not over _____ pounds test. Taxpayer cuts the Line and either puts the Line on smaller spools or winds the Line into coils. The length of the Line on spools and in coils varies from approximately _____ yards to _____ yards. Taxpayer then resells the Line. The Line is very expensive compared to other fishing line and therefore is _____ used as leader line even though the Line can be used solely as fishing line. A leader is an item of terminal tackle that is attached to the end of a fishing line and to which a hook or lure or any other item of terminal tackle is attached. Taxpayer has not paid a § 4161 tax on its sales of the Line. The

manufacturer that sells the Line to Taxpayer has paid a § 4161 tax on its sales of the Line.

LAW AND ANALYSIS:

Section 4161(a)(1) imposes a 10 percent excise tax on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer. Section 4162(a)(3) provides that the term “sport fishing equipment” means fly fishing lines, and other fishing lines not over 130 pounds test. Section 4162(a)(5)(A) provides that this term also means items of terminal tackle including leaders.

Section 48.4161-1(c) of the Manufacturers and Retailers Excise Tax Regulations provides that the tax imposed by § 4161(a) is payable by the manufacturer, producer, or importer making the sale.

Section 48.0-2(a)(4)(i) provides that the term “manufacturer” includes a person who produces a taxable article from scrap, salvage, or junk material, or from new or raw material, by processing, manipulating, or changing the form of an article or by combining or assembling two or more articles.

The IRS office that submitted this request determined that Taxpayer is the manufacturer of the Line. The office argues that by cutting the Line and putting it on smaller spools or by winding the Line into coils smaller than that on which the Line was purchased Taxpayer engaged in a manufacturing process that made the Line useable in sport fishing by changing its form.

Taxpayer argues that it is not the manufacturer of the Line because Taxpayer is merely repackaging the Line by cutting the Line and putting it on smaller spools or by winding the Line into smaller coils. The length to which Taxpayer cuts the Line is based on a marketing analysis of pricing and consumption patterns of fishermen.

The IRS considers changing the size of an article to constitute further manufacture in certain circumstances. See, for example Rev. Rul. 76-478, 1976-2 C.B. 338, and Rev. Rul. 71-512, 1971-2 C.B. 366. In these instances changing the size results in tailoring a generic product into a different product. However, in this instance the Line was specifically designed and manufactured as fishing line or leader line. At the time Taxpayer purchased the Line from the manufacturer the Line had reached a stage of manufacture where its design was clearly established as that of fishing line or leader line. The commercial and practical necessity of cutting the Line into shorter lengths did not materially change the Line’s intrinsic value, form, or intended use. The Line is fishing line used as fishing line/leader line before and after Taxpayer cuts the Line. Therefore, Taxpayer’s cutting of the Line does not constitute manufacture.

CAVEAT: A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent.