

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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X =

Dear :

This letter responds to a letter dated September 18, 2009, requesting rulings under § 4051 of the Internal Revenue Code.

The facts submitted state that X manufactures and sells various types of trailers and semitrailers that are subject to the § 4051 tax. Some of these sales are first retail sales to end-users. Included in the sale of these trailers and semitrailers are taxable tires under § 4071. X requests a ruling that once the § 4051 tax is applied to the amount for which the trailers and semitrailers are sold, X reports its § 4051 liability on Form 720, IRS No. 33, and X's liability is not reduced or otherwise modified to account for a claim by X of the tire tax credit under § 4051(d). X also requests a ruling that X may separately claim a tire tax credit on Form 720, Schedule C, Line 15a, for a particular transaction.

Section 4051(a)(1) generally imposes on the first retail sale of, among other articles, certain truck trailer and semitrailer chassis and truck trailer and semitrailer bodies (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold.

Section 4051(d) provides that if tires are sold on or in connection with the sale of any article and tax is imposed on the sale of the tires, a credit against the tax imposed by § 4051 is allowed in an amount equal to the tax imposed by § 4071 on the tires.

Section 4052(b)(1) generally provides that in determining price (A) there shall be included any charge incident to placing the article in condition ready for use, (B) there shall be excluded (i) the amount of the tax imposed by § 4051, (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, and (iii) the value of any component of such article if (I) such component is furnished by the first user of such article, and (II) such component has been used before such furnishing, and (C) the price shall be determined without regard to any trade-in.

Section 145.4052-1(d)(1) of the Temporary Excise Tax Regulations Under the Highway Revenue Act of 1982 (Pub. L. 97-424) provides that the price for which an article is sold includes the total consideration paid for the article whether that consideration is paid in money, services, or other forms. Similar rules to section 4216(a) and the regulations thereunder, relating to charges to be included in the price and excluded from the price, shall apply.

Section 4071 imposes a tax on taxable tires sold by the manufacturer, producer, or importer thereof.

Accordingly, we rule as follows. The tax imposed by § 4051(a) is computed on the price for which the article is sold, as that term is used in the Code and regulations. To the extent X is liable for the tax under § 4051, X will report that liability based on the price for which the article is sold on Form 720, IRS No. 33. If X meets the requirements of § 4051(d), X may separately claim a credit on Form 720, Schedule C, in the amount of the tax previously imposed by § 4071. X may not “net” the § 4051(d) credit against its § 4051 liability and report a single amount on Form 720, IRS No. 33. A § 4051(d) credit for a particular transaction does not reduce the § 4051 liability for that transaction; rather, this credit is used to reduce the total balance owed by X to the IRS.

Except as specifically set forth above, no opinion is expressed or implied as to the federal tax consequences of the transaction described above under any other provision of the Code.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter are being sent to X's authorized representative.

Sincerely,

Frank Boland
Chief, Branch 7
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2):
Copy of this letter
Copy for section 6110 purposes

cc: