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July 17,2007

Legend:	Taxpayer	=
	Vehicle	=
	Crane	=
	Chassis	=
	Chassis Manufacturer	=

Dear :

This responds to your request for a ruling that Taxpayer’s Vehicle is not subject to the tax imposed by § 4051(a) of the Internal Revenue Code because it is mobile machinery under § 4053(8).

Facts

Taxpayer designed and plans to manufacture Vehicle, a self-propelled mobile hydraulic crane. Taxpayer plans to sell Vehicle at retail to equipment rental companies for use as jobsite lifting equipment in the general contracting and construction, steel erection, and crane-rental business.

Vehicle is comprised of Crane and Chassis. Chassis is a standard truck chassis manufactured by Chassis Manufacturer, generally for refuse applications. Chassis has a gross vehicle weight rating in excess of 33,000 pounds. Taxpayer plans to special-order Chassis with the following changes/upgrades: (1) upgrade rear suspension from 40,000 pounds to 46,000 pounds; (2) extend wheelbase from 209 inches to 245 inches; (3) eliminate front cross members (aft of transmission); (4) route muffler to left-hand

side; (5) use construction truck engine instead of standard highway engine; and (6) install fuel tanks, air tanks, and battery box at locations specified by Taxpayer.

Additionally, Taxpayer requires Chassis Manufacturer to cut four notches into the frame rails of the chassis. The notches are cut from the top of the frame rail approximately 3 inches deep and 21 inches long. Taxpayer requires the notches for placement of Crane's outriggers. Notching the frame rails permits the outriggers to be placed closer to the ground to provide stability for the crane while in operation. The notching also allows Taxpayer to reduce the weight of the outrigger jacks and beams, thus permitting Taxpayer to use its standard outrigger design. Taxpayer determined that additional stress would be caused on the outrigger jacks and beams if the outriggers boxes rested directly on top of the frame rails. As a result of the notches, the chassis is no longer a continual and symmetrical "C" shape chassis. The strength of the chassis is significantly reduced as a result of the notches. Taxpayer expects that Chassis Manufacturer will de-rate the chassis to less than 30,000 pounds due to the notches cut into the frame.

Taxpayer also requires Chassis Manufacturer to drill 30 holes into each of the frame rails, in order for Taxpayer to mount the crane's sub-frame on the chassis.

After Taxpayer receives the chassis from Chassis Manufacturer, Taxpayer plans to modify it further and assemble Crane to it. Taxpayer's modifications include installing: (1) a hydraulic tank; (2) a drive pump; (3) an integrated sub-frame; (4) outrigger assemblies; (5) aluminum walkways (not suitable for bearing cargo weight); and (6) Crane's superstructure. Taxpayer's integrated sub-frame is a design that has the outrigger boxes directly welded to the front and rear of the steel torque-box frame. The steel torque-box frame is 34 inches wide, 18.5 inches tall, 240 inches wide, and weighs approximately 5,000 pounds (excluding outrigger beam installation). The integrated sub-frame is permanently attached to the chassis by the predrilled holes using huck bolts. Crane's superstructure is then bolted to the carrier bearing plate on top of the sub-frame using 36 bearing bolts. The design of Crane's superstructure with boom provides for virtually no useable cargo space.

Substantial structural modifications would be needed for Vehicle to carry a load other than Crane. After removal of the crane, the notches in the chassis would need to be repaired in order to be structurally sound, as the notches severely weaken the frame rails. Neither Chassis Manufacturer nor Taxpayer recommend restoration of the frame rails due to large stress risers and the potential for fatigue cracking. Taxpayer estimates that modification of the chassis for carrying a load other than the crane cost approximately 16.5% - 18.5% of the original price of the chassis.

Law and Analysis

Section 4051(a)(1) of the Internal Revenue Code imposes a 12 percent ad valorem excise tax on the first retail sale of automobile truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

Section 4053(8) provides an exemption from the tax imposed by § 4051 on mobile machinery. Specifically, no tax is imposed on a vehicle that consists of a chassis: (A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways; (B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation; and (C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

Section 4053(8) was added to the Code by section 851(a)(1) of the American Jobs Creation Act of 2004, Pub. L. 108-357. This provision essentially codified the regulatory mobile machinery exception to the definition of highway vehicle in section 48.4061(a)-1(d)(2)(i) of the Manufacturers and Retailers Excise Taxes Regulations.

Section 48.4061(a)-1(d)(1) provides that the term “highway vehicle” means any self-propelled vehicle, or any trailer or semitrailer, designed to perform a function of transporting a load over public highways, whether or not also designed to perform other functions.

Vehicle is not subject to tax under section 4051. Vehicle is a highway vehicle under § 48.4061(a)-1(d)(1). It is a self-propelled vehicle designed to transport a crane over the public highways and is taxable under section 4051 unless it meets the mobile machinery exemption under section 4053(8).

The chassis has permanently mounted machinery or equipment to perform construction operations unrelated to transportation on or off the public highways under section 4053(8)(A). The crane is permanently mounted to the chassis with bolts. The crane performs jobsite construction operations. The jobsite construction operations are unrelated to the transportation on or off the highway.

The chassis is specially designed to serve only as a mobile carriage and mount for the crane under section 4053(8)(B). While most of the modifications Chassis Manufacturer and Taxpayer make to the chassis are standard options or upgrades and not a special design, the four notches in the frame rail are a special design to serve only

as a mobile carriage and mount for the crane. The notches are cut only to carry the crane designed and manufactured by Taxpayer. Notching the frame rails permits the outriggers to be placed closer to the ground to provide stability for the crane while in operation. The notching also allows Taxpayer to reduce the weight of the outrigger jacks and beams, thus permitting Taxpayer to use its standard outrigger design. The strength of the chassis after the four notches are cut is severely reduced. The chassis's strength is only reinforced when the crane is mounted to it.

The chassis, by reason of the special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting a load other than the crane under section 4053(8)(C). While Chassis Manufacturer generally manufactures this type of chassis for refuse vehicles, the four notches are only placed in the chassis designed for Taxpayer. The notches significantly weaken the frame of the chassis. If a permanently mounted crane were removed from the chassis, the notches would need to be repaired before another body could be mounted. Neither Chassis Manufacturer nor Taxpayer would recommend this repair.

Accordingly, Vehicle is mobile machinery under section 4053(8) and not subject to tax under section 4051.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that this document may not be used or cited as precedent.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Barbara Franklin
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cc: