

**Office of Chief Counsel
Internal Revenue Service
memorandum**

CC:PSI:7:CGabrysh
POSTN-138178-15

UILC: 4051.00-00

date: December 18, 2015

to: Barbara J. Fiebich
Director, Specialty Examination Policy and Quality, SB/SE

from: Stephanie Bland
Branch Chief, CC:PSI:7

subject: Trailer Converter Dollies

This responds to your request for non-taxpayer specific legal advice regarding the application of the retail excise tax imposed by § 4051 of the Internal Revenue Code (Code) to a trailer converter dolly (dolly). This advice may not be used or cited as precedent.

ISSUE

- (1) Is a dolly a taxable article under § 4051(a)(1)?
- (2) If the dolly is taxable, who is liable for the tax?

CONCLUSION

- (1) A dolly is a taxable article under § 4051(a)(1) and is subject to tax upon the first retail sale of the dolly unless the exclusion in § 4051(a)(3) applies.
- (2) The manufacturer of the dolly is liable for the tax unless the manufacturer has a certificate described in § 48.4052-1(a) of the Manufacturers and Retailers Excise Taxes Regulations (regulations) from the buyer.

LAW

Section 4051(a)(1)(C) imposes a 12 percent tax on the first retail sale of a truck trailer chassis.

Section 4052(a) defines the term “first retail sale” as the first sale for a purpose other than for resale after production, manufacture, or importation.

Section 4052(g) permits a person that is purchasing a taxable article for resale to execute a statement (made under penalties of perjury) on the sale invoice that such sale is for resale.

Section 48.4052-1(a) of the regulations does not impose the § 4051 tax on the sale of an article for resale if, by the time of the sale, the seller has in good faith accepted from the buyer a statement that the buyer executed in good faith and that is in substantially the same form, and subject to the same conditions, as the certificate described in §145.4052-1(a)(6) of the Temporary Excise Tax Regulations Under The Highway Revenue Act of 1982 (Pub. L. 97-424) (temporary regulations), except that the certificate must be signed under penalties of perjury and need not refer to Form 637 or include a registration number.

Rev. Rul. 54-506, 1958-2 C.B. 408, characterizes certain dollies that are used as “connectors” to convert semitrailers to full trailers, commonly and commercially known as converter dollies, as parts and accessories within the meaning of § 3404(c) of the Internal Revenue Code of 1939. (Section 4061(b)(1) of the Internal Revenue Code of 1954 essentially incorporated the provisions of § 3404(c).)

Section 48.4061(b)-2(d) lists “dollies of the type commonly known as converter dollies which are used as connectors to convert semitrailers to full trailers” as an example of articles taxable as parts or accessories under § 4061.

The Highway Revenue Act of 1982 (P. L. 97-424) repealed the manufacturers excise tax on heavy trucks and trailers under § 4061 and replaced it with the retail excise tax on heavy trucks and trailers under § 4051, effective April 1, 1983. The Tax Reform Act of 1984 (P. L. 98-369) retroactively repealed § 4061, effective April 1, 1983, because the Highway Revenue Act of 1982 obsoleted § 4061. See sections 735 and 736.

Section 145.4052-1(f)(2) of the temporary regulations provides that for purposes of the § 4051 tax on heavy trucks and trailers, rules similar to those found in § 48.4061(a)-1(a)(2) and (3) shall apply. Section 48.4061(b)-2(d) is not included in the regulation sections listed in § 145.4052-1(f) as applicable under §145.4051-1 and §145.4052-1. Therefore, both Rev. Rul. 54-506 and § 48.4061(b)-2(d), which characterize dollies as parts or accessories, are inapplicable to sales of dollies on or after April 1, 1983.

ANALYSIS

A dolly is a truck trailer with one or more axles equipped with a fifth wheel, a drawbar, and other parts necessary to convert a semitrailer to a full trailer. SAE Glossary of Automotive Terms, Second Edition (1992).

Based on the foregoing, we conclude that a dolly is a truck trailer chassis within the meaning of § 4051(a)(1)(C).¹ Therefore, tax is imposed under § 4051(a)(1) on the first retail sale of a dolly unless the exclusion in § 4051(a)(3) applies. The manufacturer of the dolly is liable for the § 4051(a)(1) tax unless the manufacturer has a certificate described in § 48.4052-1(a) from the buyer.

If you have any questions concerning this memorandum, please contact Celia Gabrysh at (202) 317-6855.

¹ A dolly is taxed only as a truck trailer chassis because it does not have a body.