

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

CC:PSI:B07:RSmith  
POSTN-114717-16

Third Party Communication: None  
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date: June 10, 2016

to: Alfredo Valdespino  
Director, Specialty Examination Policy

from: Stephanie Bland  
Branch Chief, Branch 7  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

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subject: Trailer Converter Dollies

This responds to your request for non-taxpayer specific legal advice with respect to whether a trailer converter dolly (dolly) described below meets the exclusion in § 4051(a)(3) of the Code. This advice serves as a follow up to the advice we provided on December 18, 2015, in POSTN-138178-15 (PMTA 2015-22) in which we took the position that a dolly is a trailer chassis.

This advice may not be used or cited as precedent.

**ISSUES**

1. For purposes of the tax imposed by § 4051(a)(1), does a dolly with a gross vehicle weight assigned by the manufacturer (herein referred to as the "GVW") of 20,000 pounds qualify for the exclusion in § 4051(a)(3)?
2. For purposes of the tax imposed by § 4051(a)(1), does a dolly with a GVW of 40,000 pounds qualify for the exclusion in § 4051(a)(3)?

**CONCLUSIONS**

1. A dolly with a GVW of 20,000 pounds qualifies for the exclusion in § 4051(a)(3) if it is suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less. A dolly with a GVW of 20,000 pounds does not qualify for the exclusion in § 4051(a)(3) if it is suitable for use with a trailer or semitrailer that has a gross vehicle weight of greater than 26,000 pounds.

2. A dolly with a GVW of 40,000 pounds qualifies for the exclusion in § 4051(a)(3) if it is suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less. A dolly with a GVW of 40,000 pounds does not qualify for the exclusion in § 4051(a)(3) if it is suitable for use with a trailer or semitrailer that has a gross vehicle weight of greater than 26,000 pounds.

### LAW

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

Section 4051(a)(3) states that the tax imposed by § 4051(a)(1) shall not apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

Section 145.4051-1(a)(4) of the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982 provides rules for determining whether truck trailer or semitrailer chassis and bodies are suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less. That regulation defines the term “suitable for use” as practical and commercial fitness for such use. A chassis or body possesses practical fitness for use with a vehicle if it performs its intended function up to a generally acceptable standard of efficiency with the vehicle, and a chassis or body possesses commercial fitness for use with a vehicle if it is generally available for use with the vehicle at a price that is reasonably competitive with other articles that may be used for the same purpose.

### ANALYSIS

A dolly is a truck trailer chassis within the meaning of § 4051(a)(1)(C). The GVW of a dolly does not determine whether the dolly qualifies for the exclusion in § 4051(a)(3). Instead, the exclusion in § 4051(a)(3) is based on whether or not the dolly is suitable for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less.

As noted above, the term “suitable for use” means practical and commercial fitness for such use. See § 145.4051-1(a)(4). Therefore, if a dolly has practical and commercial fitness for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less within the meaning of § 145.4051-1(a)(4), the dolly qualifies for the exclusion in § 4051(a)(3). Likewise, if a dolly has practical and commercial fitness for use with a trailer or semitrailer that has a gross vehicle weight greater than 26,000 pounds within the meaning of § 145.4051-1(a)(4), the dolly does not qualify for the exclusion in § 4051(a)(3). Whether a dolly has practical and commercial fitness for use with a trailer or semitrailer that has a gross vehicle weight of 26,000 pounds or less depends on the facts and circumstances of each case.

Please call Rachel Smith at (202) 317-6855 if you have any further questions.