

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

CC:PSI:B7:NPayne  
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date: May 15, 2017

to: Alfredo Valdespino  
Director, Specialty Exam Policy  
(Small Business/Self-Employed Division)

from: Stephanie Bland  
Branch Chief, Branch 7  
(Passthroughs & Special Industries) CC:PSI:B7

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subject: Termination of Highway Motor Vehicle Lease and Subsequent Use of Vehicle During Taxable Period

This responds to your request for assistance regarding the highway use tax imposed under § 4481(a) of the Internal Revenue Code (Code). This advice may not be used or cited as precedent.

**ISSUES**

- (1) Whether a carrier-lessee (Carrier) who, at the beginning of a taxable period, leases a highway motor vehicle, pays the highway use tax imposed by § 4481, and registers the vehicle in Carrier's name, may claim a prorated credit or refund of the tax attributable to the portion of the taxable period remaining after the termination of Carrier's lease?
- (2) Whether the owner-lessor (Owner) of the leased highway motor vehicle is liable for a prorated amount of tax if Owner uses the vehicle and the vehicle is registered, within the meaning of § 41.4481-3(a), in Owner's name for the portion of the taxable period remaining after the termination of Carrier's lease.

**CONCLUSIONS**

- (1) Carrier is not entitled to a credit or refund of a prorated amount of the highway use tax attributable to the portion of the taxable period remaining after the termination of Carrier's lease.
- (2) Owner is not liable for a prorated amount of the highway use tax if Owner uses the vehicle and the vehicle is registered, within the meaning of § 41.4481-3(a), in

Owner's name for the portion of the taxable period remaining after the termination of Carrier's lease.

### FACTS

Owner leased a highway motor vehicle with a taxable gross weight greater than 55,000 pounds to Carrier. The lease began on July 1, 2016. Carrier timely filed Form 2290, Heavy Highway Vehicle Use Tax Return, paid the associated highway use tax based on a first use of the vehicle in July, and registered the vehicle under Carrier's name with State. The lease ended April 31, 2017. Owner plans to operate the vehicle in May and June of 2017, and will seek to register the vehicle in Owner's name as required by applicable State law.

### LAW AND ANALYSIS

Section 4481(a) imposes tax on the use of any highway motor vehicle that (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds.

Section 4481(b) provides generally that the highway use tax is paid by the person in whose name the highway motor vehicle is, or is required to be, registered under state law.

Section 4481(c)(1) provides for proration of the highway use tax in any taxable period where the first use of the highway motor vehicle is after the first month in the period.

Section 4481(c)(2) provides for proration of the highway use tax in situations where a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in a taxable period and not subsequently used during the taxable period.

Section 4481(d) states that to the extent that the tax imposed by this section is paid with respect to any highway motor vehicle for any taxable period, no further tax shall be imposed by this section for such taxable period with respect to such vehicle.

Under § 41.4481-1(c)(5) of the Highway Use Tax Regulations, the computation of the tax is not affected, and no right to a credit or refund of any tax paid under § 4481 arises, if in any taxable period (i) the taxable gross weight of a highway motor vehicle is decreased; (ii) the use of a highway motor vehicle is discontinued (for reasons other than sale, destruction or theft as described in § 41.4481-1(c)(4); or (iii) the highway motor vehicle is converted to a use that is exempt from the tax imposed by § 4481(a).

Section 41.4481-2(a)(1)(i) provides, in part, that a person is liable for the § 4481 tax in a taxable period if the vehicle is registered in the person's name at the time of the first use of the vehicle in the taxable period, or at the time of any use during the taxable period, but only to the extent that the tax has not previously been paid.

Section 41.4481-3(a) defines the term “registered” to mean (i) registered under the law of any State or Territory of the United States, the District of Columbia, or contiguous foreign country, or (ii) required to be registered under the law of any State or Territory of the United States or contiguous foreign country in which such highway motor vehicle is operated or situated or, in case the vehicle is operated or situated in the District of Columbia, under the law of the District of Columbia.

In the facts presented, Carrier is liable for the tax imposed by § 4481(a) because the vehicle was registered in Carrier’s name at the time of its first use in the taxable period. See § 41.4481-2(a)(1)(i). Neither § 4481(c) nor § 41.4481-1(c)(5) permit proration of the highway use tax when a lease of a highway motor vehicle terminates before the end of the taxable period. Accordingly, the termination of Carrier’s lease of the vehicle before the end of the 2016-2017 taxable period does not give rise to a prorated credit or refund. Thus, Carrier is not entitled to claim a prorated credit or refund of the tax attributable to the portion of the taxable period remaining after the termination of its lease.

No further tax is imposed for the 2016-2017 taxable period if Owner uses the vehicle and the vehicle is registered, within the meaning of § 41.4481-3(a), in Owner’s name for the portion of the taxable period remaining after the termination of Carrier’s lease, because Carrier previously paid the tax for the taxable period and Carrier is not entitled to claim a prorated credit or refund of the tax attributable to the portion of the taxable period remaining after the termination of its lease. See § 4481(d) and § 41.4481-2(a)(1)(i).

Please call Natalie Payne at (202) 317-5262 if you have any further questions.