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INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

Third Party Contact: None
Index No.: 4051.00-00
Control No.: TAM-113921-98

District Director

Taxpayer's Name:

Taxpayer's Address:

Taxpayer's Identification No.:

Years Involved:

No Conference Held

ISSUE:

Whether a self-unloading automobile truck body sold by the taxpayer is subject to the retailers tax on truck bodies imposed by §4051 of the Internal Revenue Code?

CONCLUSION:

The self-unloading automobile truck body sold by the taxpayer is subject to the retailers tax on truck bodies imposed by §4051. This technical advice memorandum revokes the technical advice memorandum issued to the taxpayer dated September 7, 1990 (TAM 9126001). This technical advice memorandum is effective from the date of its issuance. See §17.03 of Rev. Proc. 98-2, 1998-1 I.R.B. 74.

FACTS:

The taxpayer is a farm equipment dealer that sells self-unloading automobile truck bodies at retail. The models in question have a full-length high-powered conveyor belt that runs along the length of the V-shaped body that is designed to support and unload the cargo; the conveyor belt can be driven by either an electric motor or the truck's power take-off. The models also have a powered rear discharge door to assist in unloading cargo.

The bodies are designed to transport in excess of 15 tons of cargo and have sealed joints to accommodate a versatile load.

The sales literature states that the body has been designed to be versatile for hauling potatoes, beets, and small grains; it emphasizes the bodies' ability to avoid damaging potatoes and otherwise bruising the load.

The taxpayer received a technical advice memorandum dated September 7, 1990 (TAM 9126001), which held that bodies that were materially the same as the above bodies were exempt under §4053(2).

LAW AND ANALYSIS

Section 4051(a)(1)(b) imposes a tax on the first retail sale of automobile truck bodies.

Section 4053(2) provides that the tax imposed by §4051 shall not be imposed on any body primarily designed:

(A) to process seed, feed, or fertilizer for use on farms,

(B) to haul feed, seed, or fertilizer to and on farms,

(C) to spread feed, seed, or fertilizer on farms,

(D) to load or unload feed, seed, or fertilizer on farms, or

(E) for any combination of the foregoing.

Rev. Rul. 69-579, 1969-2 C.B. 200, holds that certain automotive truck bodies equipped with heavy-duty unloading equipment and used primarily for hauling feed, seed, or fertilizer to and on farms are exempt from the manufacturers tax under §4063(a)(2)(B) [now §4053(2)(B)]. The ruling states that the elaborate and expensive unloading equipment built into the bodies, and the modifications required to accommodate the unloading systems, make it impractical to purchase the bodies for use other than in hauling seed, feed, or fertilizer to, and unloading it on, farms. The equipment included heavy duty mechanical or pneumatic unloading equipment that formed an integral part of the bodies. The mechanical system employed conveyors or augurs that unloaded from the top of the bodies; the pneumatic system employed blowers and a hose and usually unloaded from the bottom and rear of the body.

Rev. Rul. 75-462, 1975-2 C.B. 419, holds that a dump truck designed for, and primarily used in, hauling grain, sugar, and beets from the field to points on or off the farm and that may also be used to haul fertilizer over the highway to the farm is

not exempt from tax under the provisions of §4063(a)(2)(B). The ruling states that highway bodies used for general hauling of feed, seed, or fertilizer over the highway are subject to the manufacturers excise tax unless they have specific features that indicate they are primarily designed to haul those items to and on farms. The ruling further states that although the bodies carry feed and fertilizer they do not have specific features that indicate they are primarily designed to haul feed and fertilizer to and on farms.

Section 17.03 of Rev. Proc. 98-2 provides that a holding that modifies or revokes a prior technical advice memorandum will be applied retroactively, with one exception. If the new holding is less favorable to the taxpayer than the earlier one, it is generally not applied to the period when the taxpayer relied on the prior holding in situations involving continuing transactions.

The exemption from tax provided by §4053(2) does not extend to truck bodies designed for general use even though the bodies may be capable of hauling feed, seed, or fertilizer to and on farms and/or performing a combination of the other purposes described in §4053(2). To be exempt, a body must be primarily designed for one or a combination of the purposes described in §4053(2).

Unlike the bodies described in Rev. Rul. 69-579, which would not be purchased for use other than in hauling feed, seed, or fertilizer, the bodies here are designed for general hauling of farm cargo such as potatoes, beets, and grain. In this connection, the bodies' versatile multipurpose design is emphasized in the taxpayer's sales literature. Moreover, the mere presence of a conveyor belt and powered rear discharge door to facilitate unloading does not establish that a body was primarily designed for an exempt purpose under §4053(2); these features are equally useful for unloading a crop at market, as emphasized in the sales literature, and for other purposes. In this respect, we note that these bodies do not have built into them substantial integrated features relating to an exempt purpose under §4053(2). Thus, the bodies are functionally similar to the bodies described in Rev. Rul. 75-462 in that they are not primarily designed to haul feed, seed, or fertilizer. Accordingly, the bodies are not exempt from tax under §4053(2).

CAVEAT:

A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(j)(3) provides that it shall not be

used or cited as precedent. In accordance with § 6110(c), names, addresses, and other identifying numbers have been deleted.

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