INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

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District Director

Taxpayer Name: .
Taxpayer Address:

Taxpayer Identification No.:
Periods Involved:
No Conference Held

ISSUE:

Is the taxpayer primarily liable for the tax imposed by § 4051 of the Internal Revenue Code on the sale and installation of a truck axle when a truck dealer (the taxpayer) that sells a new taxable truck body and installs it on a new customer-owned chassis also installs on the chassis a truck axle that it sells to the customer?

CONCLUSION:

The taxpayer is not primarily liable for the tax imposed by § 4051 on the sale and installation of a truck axle when the taxpayer sells a new taxable truck body and installs it on a new customer-owned chassis and also installs on the chassis a truck axle that it sells to the customer.

FACTS:

The taxpayer manufactures and sells at retail taxable truck bodies that it installs on customer-owned chassis. Sometimes, In conjunction with the installation of a body, the taxpayer also installs an additional axle or axles on the chassis to increase the load carrying capacity of the vehicle.

LAW AND ANALYSIS:

Section 4051(a) imposes a tax of 12 percent on the first retail sale of certain enumerated articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof), including automobile truck chassis and

bodies.

Section 4051(b) imposes a tax of 12 percent of the price of any part or accessory and its installation if the owner of any vehicle that contains an article taxable under § 4051(a) installs or causes to be installed any part or accessory on the vehicle within six months after the date the vehicle is placed in service. The installer of the part or accessory is secondarily liable.

Section 145.4051-1(a)(3) of the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982 provides that with regard to parts or accessories sold on or in connection with chassis, bodies, or tractors, if a taxable chassis, body, or tractor is sold by a retailer without parts or accessories essential for the operation or appearance of the taxable article, the sale of such parts or accessories by the retailer will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the taxable article even though they are shipped separately, at the same time or on a different date.

The District argues that the axle is sold in connection with the sale of the truck body, because the additional axle increases the weight carrying capacity of the vehicle, providing additional support for the body. We disagree.

Axles are components of a truck chassis rather than a truck body. See, for example, Rev. Rul. 75-129, 1975-1 C.B. 336. Accordingly, when an axle or axles are installed on a truck chassis, the installation is not in connection with the sale of a body within the meaning of § 4051(a)(1) but with the chassis, a different taxable article under § 4051(a) and the temporary regulations. Thus, the owner of the chassis at the time of installation is the owner of a vehicle to which the parts or accessories are installed within the meaning of § 4051(b) and is the person on whom the tax imposed by § 4051(b) is primarily imposed.[1]

CAVEAT:

A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(k)(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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[1] As provided in § 4051(b)(3), the taxpayer is secondarily liable as installer of the axle.