Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:

Telephone Number:

Refer Reply To:
CC:PSI:8
PLR-129847-06
Date:
December 07, 2006

In Re:

Taxpayer =

Dear:

This responds to your letter ruling request that asks whether Taxpayer will be liable for
the tax imposed by § 4051(b) of the Internal Revenue Code on its installation of
auxiliary power unit packages (APU packages) on its taxable tractors within six months
after the tractors were first placed in service. Your authorized representative submitted
this request on your behalf.

Taxpayer is a transportation services company that specializes in hauling freight.
Taxpayer owns highway tractors (tractors) of the type taxable by § 4051(a) that it uses
in its freight hauling business. Last year Taxpayer began installing APU packages on
its fully equipped tractors. In almost all cases, Taxpayer installed an APU package
more than six months after a tractor was placed in service. Taxpayer proposes to install
an APU package on every tractor in its fleet within six months of placing a tractor in
service.

The APU package that Taxpayer installs on its tractors includes: (1) a two cylinder
diesel engine and an air conditioning compressor (together, the APU) that is mounted
on the side of the tractor's frame rails; (2) a fuel-fired bunk heater, evaporator, and
controller that are installed in either the cab, the sleeper compartment, or tractor tool
box; and (3) a condenser usually mounted on the back of a tractor cab. The cost of an
APU package exceeds $1,000.

When a tractor's engine is off, an APU package heats or air conditions a tractor cab or sleeper compartment and operates small appliances such as a coffee maker or microwave oven that are in the tractor cab or sleeper compartment. An APU can charge a tractor's battery or preheat a tractor's engine. A tractor's idling engine can provide the same power provided by the APU. The use of an APU, however, significantly reduces a tractor's idling time; thereby, reducing fuel consumption and emissions.

Section 4051(a) imposes an excise tax on the first retail sale of automobile truck chassis, automobile truck bodies, truck trailer and semitrailer chassis, truck trailer and semitrailer bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. Generally, trucks with a gross vehicle weight rating of 33,000 pounds or less and trailers with a gross vehicle weight rating of 26,000 pounds or less are not subject to this tax. Tractors with a gross vehicle weight rating of 19,500 pounds or less and a gross combined weight of 33,000 pounds or less are not subject to this tax.

Section 4051(b) imposes an excise tax on the installation of a part or accessory (other than a replacement part or accessory) installed, or caused to be installed, by the owner, lessee, or operator of any vehicle that contains an article described in § 4051(a). For this tax to apply, the aggregate price of the parts and accessories (and their installation) must be greater than $1,000 and the installation must be made not later than six months after the date the vehicle was first placed in service.

Section 145.4051-1(c)(1) of the Temporary Excise Tax Regulations Under the Highway Revenue Act of 1982 (Pub. L. 97-424) provides that for purposes of the tax imposed by § 4051(b), the term "parts and accessories" does not include those parts and accessories that were previously exempt from tax under §§ 4061(b)(1) and (2) as in effect before January 7, 1983. Thus, for example, articles of general use are exempt from tax. See § 48.4061(b)-2.

Section 48.4061(b)-2 of the Manufacturers and Retailers Excise Tax Regulations provides that the term "parts and accessories" includes (1) any article the primary use of which is to improve, repair, replace, or serve as a component part of an automobile truck or bus chassis or body, or other automobile chassis or body, or taxable tractor, (2) any article designed to be attached to or used in connection with such chassis, body, or tractor to add to its utility or ornamentation, and (3) any article the primary use of which is in connection with such chassis, body, or tractor, whether or not essential to its operation or use. The term "parts or accessories" includes all articles that have reached such a stage of manufacture as to be commonly known as parts or accessories whether or not fitting operations are required in connection with their installation.

Rev. Rul. 74-313, 1974-2 C.B. 351, holds that heaters designed for truck cab use to supplement an existing heater installation or provide the primary heat source where defrosters are not required are parts and accessories as described in § 48.4061(b)-2.

The APU package is designed to be attached to or used in connection with a tractor. It adds to the tractor's utility by providing the occupant of the tractor cab or sleeping compartment with a comfortable living environment whether by air conditioning or heating the cab or sleeping compartment. The APU also provides power for small appliances such as a coffee maker or microwave oven. These appliances enhance the utility of the tractor by providing conveniences for the occupant. The power generated by the APU can also be used to charge the tractor battery or preheat the tractor's engine, which adds to the utility of the tractor. Thus, the APU package is a part or accessory as defined in § 48.4061(b)-2.

Accordingly, Taxpayer will be liable for the tax imposed by § 4051(b) on its installation of APU packages on its taxable tractors within six months after the tractors were first placed in service.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: Frank Boland
       Chief, Branch 8

Enclosures (2):
Copy of this letter
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