

Part I

Section 4051.--Imposition of Tax on Heavy Trucks and Trailers Sold at Retail

145 CFR 145.4051-1: Imposition of tax on heavy trucks and trailers sold at retail.

Rev. Rul. 2004-80

ISSUE

Is the vehicle described below a truck or a tractor for purposes of the retail excise tax imposed by § 4051 of the Internal Revenue Code?

FACTS

The vehicle tows trailers and semitrailers (trailers); the trailers exceed 35 feet in length and have a gross vehicle weight (GVW) rating of 20,000 pounds. The vehicle has a standard chassis cab (4-door with crew cab), accommodating five passengers, and is outfitted with certain luxury features. The cab has an electric trailer brake control that connects to the brakes of a towed trailer and to a hook up for trailer lights. The vehicle has two storage boxes behind the cab that can accommodate incidental items such as small tools and vehicle repair equipment.

The chassis cab has a GVW rating of 23,000 pounds and a gross combination weight (GCW) rating of 43,000 pounds. The vehicle is equipped with hydraulic disc brakes with a four wheel automatic braking system, a 300 horsepower engine, and a six-speed automatic transmission. The front axle of the vehicle has an 8,000 pound rating and the rear axle has a 15,000 pound rating.

The vehicle has three types of hitching devices: a removable ball gooseneck hitch, a fifth wheel hitch, and a heavy duty trailer receiver hitch. The vehicle's platform, which is approximately 139 inches long, is designed with a rectangular well to accommodate the gooseneck and fifth wheel hitches (bed hitches). This platform slopes at the rear of the rectangular well and has tie-down hooks. Optional removable steel stake rails can be placed around the platform.

LAW AND ANALYSIS

Section 4051(a)(1) imposes an excise tax on the first retail sale of automobile truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. The tax is not limited to commercial vehicles. Thus, a vehicle may be subject to tax even if sold for use or used as a recreational or private tow vehicle rather than for commercial purposes.

Section 145.4051-1(e)(1)(i) of the Temporary Excise Tax Regulations Under the

Highway Revenue Act of 1982 (Pub. L. 97-424) defines “tractor” as a highway vehicle primarily designed to tow a vehicle, such as a trailer or semitrailer, but does not carry cargo on the same chassis as the engine. A vehicle equipped with air brakes and/or towing package will be presumed to be primarily designed as a tractor.

Section 145.4051-1(e)(2) defines “truck” as a highway vehicle that is primarily designed to transport its load on the same chassis as the engine even if it is also equipped to tow a vehicle, such as a trailer or semitrailer.

“Primarily” means “principally” or “of first importance.” See Malat v. Riddle, 383 U.S. 569 (1966), 1966-1 C.B. 184. “Primarily” does not mean “exclusive.” See Rev. Rul. 77-36, 1977-1 C.B. 347. Therefore, in the context of the primarily designed test, the reference in § 145.4051-1(e)(1)(i) to vehicles not carrying cargo on the same chassis as the engine does not require an absolute inability to carry any cargo on the vehicle’s chassis. This limitation may be satisfied even if the vehicle can carry incidental items of cargo when towing a trailer or semitrailer or is capable of carrying limited amounts of cargo when not engaged in its primary function of towing a trailer or semitrailer.

Under the primarily designed test, a vehicle that can both carry cargo on its chassis and tow a trailer is characterized as either a truck or tractor depending on which function is of greater importance. The function for which a vehicle is primarily designed is evidenced by physical characteristics such as the vehicle’s capacity to tow a vehicle, carry cargo, and operate (including brake) safely when towing or carrying a cargo. Cargo carrying capacity depends on the vehicle’s GVW rating and the configuration of the vehicle’s bed or platform. Towing capacity depends on the vehicle’s GVW and GCW ratings and whether the vehicle is configured to tow a trailer or semitrailer.

Some characteristics of the vehicle such as its chassis cab with a GVW rating of 23,000 pounds, a 300 horsepower engine, a front axle with an 8,000 pound rating, and a rear axle with a 15,000 pound rating are consistent with either a cargo carrying or a towing function. In this case, however, the vehicle also has a GCW rating of 43,000 pounds and its engine, brakes, transmission, axle ratings, electric trailer brake control, trailer hook up lights, and hitches enable it to tow a 20,000 pound trailer that may exceed 35 feet in length.

When the vehicle’s bed hitches are used to tow, the cargo carrying capacity of the vehicle is limited to the storage boxes behind the cab and is minimal in comparison to the GVW of the towed trailer or semitrailer. Neither the steel stake bed rails nor the tie down hooks significantly increase cargo carrying capacity when either of the bed hitches is used. Even if neither of the vehicle’s two bed hitches is used, the design of the vehicle significantly reduces its cargo carrying capacity when compared to the cargo carrying capacity of a pickup truck body or a flatbed truck body installed on a comparable chassis. The significant reduction in cargo carrying capacity resulting from the vehicle’s platform with its rectangular well and sloping platform at the rear of the rectangular well is evidence that the vehicle is not primarily designed to carry cargo. By accommodating the bed hitches, however, this platform configuration increases the vehicle’s towing capacity and, in conjunction with the other features described above, makes it possible to safely tow a 20,000 pound trailer.

The vehicle’s physical characteristics, which maximize towing capacity at the expense of carrying capacity, establish that the vehicle is primarily designed to tow a

vehicle, such as a trailer or semitrailer, rather than to carry cargo on its chassis.

HOLDING

The vehicle is a tractor for purposes of § 4051.

DRAFTING INFORMATION

The principal author of this revenue ruling is Celia Gabrysh of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling contact Celia Gabrysh at (202) 622-3130 (not a toll-free call).