

this section is made by filing two copies of a written statement with the Office of the Assistant Commissioner (Technical), Internal Revenue Service, Washington, DC 20224.

(c) *Additional copies.* The individual filing the written statement referred to in paragraph (b) of this section shall submit a copy of the statement to the private foundation with respect to which the election is being made and to the management of such business enterprise.

(d) *Content of statement.* The statement shall indicate that an election is being made under section 4943(c) (4)(E) of the Code, and shall be signed by each of the individuals making the election, and, in addition shall contain the following information:

(1) The name, address, and taxpayer identification number of each of the individuals making the election;

(2) The name and address of the foundation with respect to which such election is being made;

(3) The name and address of the business enterprise with respect to which the election is being made;

(4) The aggregate number of shares of voting stock in the business enterprise that were held on May 26, 1969, by each individual making the election, and, in addition, the percentage that such voting stock is of the total number of shares of voting stock issued and outstanding on such date;

(5) The aggregate number of shares of voting stock in the business enterprise held by the private foundation on May 26, 1969, and, in addition, the percentage that such voting stock is of the total number of shares of voting stock issued and outstanding on such date; and

(6) The total number of shares of voting stock in the business enterprise or the best available estimate thereof, that were issued and outstanding on May 26, 1969.

(e) *Time for making election.* The statement referred to in paragraph (b) of this section shall be filed before January 1, 1971.

[T.D. 7038, 35 FR 6962, May 1, 1970]

## PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 (PUB. L. 97-424)

Sec.

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

145.4052-1 Special rules and definitions.

145.4061-1 Application to manufacturers tax.

AUTHORITY: 26 U.S.C. 7805.

Sections 145.4051-1 and 145.4052-1 also issued under 26 U.S.C. 4051 and 4052.

SOURCE: T.D. 7882, 48 FR 14362, Apr. 4, 1983, unless otherwise noted.

### § 145.4051-1 Imposition of tax on heavy trucks and trailers sold at retail.

(a) *Imposition of tax—(1) In general.* Section 4051(a)(1) imposes a tax on the first retail sale (as defined in § 145.4052-1(a)) of the following articles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof):

(i) Automobile truck chassis and bodies;

(ii) Truck trailer and semitrailer chassis and bodies; and

(iii) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A sale of an automobile truck, truck trailer or semitrailer, shall be considered to be a sale of a chassis and of a body enumerated in this paragraph (a)(1).

(2) *Special rule applicable to chassis and bodies.* A chassis or body enumerated in paragraph (a)(1) of this section is taxable under section 4051(a)(1) only if such chassis or body is sold for use as a component part of a highway vehicle (as defined in paragraph (d) of § 48.4061(a)-1 (Regulations on Manufacturers and Retailers Excise Taxes)), which is an automobile truck, truck trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. Furthermore, a chassis or body which is not enumerated in paragraph (a)(1) of this section is not taxable under section 4051(a)(1) even though such chassis or body is used as a component part of a highway vehicle (e.g., a chassis or body of a passenger automobile). See paragraphs

(e)(1) and (e)(2) of this section for the definitions of a tractor and truck. See paragraphs (e) (1) through (5) of §145.4052-1 for other provisions applicable to this section. See paragraph (f) of this section, relating to tax-free sales of non-highway vehicles.

(3) *Parts or accessories sold on or in connection with chassis, bodies, etc.* The tax applies in respect of parts or accessories sold on or in connection with or with the sale of the vehicles specified in section 4051(a)(1). Thus, for example, if at the time the article is sold by the retailer, the part or accessory has been ordered from the retailer, the part or accessory will be considered as sold in connection with and with the sale of the vehicle. The tax applies in such a case whether or not the parts or accessories are billed separately by the retailer. If a taxable chassis, body, or tractor is sold by the retailer, without parts or accessories which are considered equipment essential for the operation or appearance of the taxable article, the sale of such parts or accessories by the retailer to the purchaser of the taxable article 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. For example, if a retailer sells to any person a chassis and the bumpers for such chassis, or sells a taxable tractor and the fifth wheel and attachments, the tax applies to such parts or accessories regardless of the method of billing or the time at which the shipments were made. Parts and accessories that are spares or replacements are not subject to tax.

(4) *Exclusions.* No tax is imposed by section 4051(a)(1) on the sale of automobile truck chassis and bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less, or truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less. For purposes of this paragraph (a)(4) the term *suitable for use* means practical and commercial fitness for such use. A chassis or body possesses practical fitness for use with a vehicle if it performs its intended function up

to a generally acceptable standard of efficiency with the vehicle, and a chassis or body possesses commercial fitness for use with a vehicle if it is generally available for use with the vehicle at a price that is reasonably competitive with other articles that may be used for the same purpose. Thus, a truck chassis which is suitable for use with a vehicle having a gross vehicle weight of 33,000 pounds or less, is not subject to the tax imposed by section 4051(a)(1) regardless of the body actually mounted thereon. A truck trailer or semitrailer chassis suitable for use with a vehicle having a gross vehicle weight of 26,000 pounds or less, is not subject to tax regardless of the body actually mounted thereon. Where an exempt body is mounted on a taxable chassis, or a taxable body is mounted on an exempt chassis, the taxable chassis or body, as the case may be, nevertheless remains subject to such tax, if the resulting vehicle is a highway vehicle as defined in §48.4061(a)-1.

(b) *Rate of tax.* With respect to the articles enumerated in paragraph (a)(1) of this section, the rate of tax imposed by section 4051(a)(1) is 12 percent of the price for which the article is sold on or after April 1, 1983. See paragraph (d) of this section relating to vehicles on which a 10 percent tax was imposed under section 4061(a)(1).

(c) *Separate purchase of truck or trailer and parts and accessories therefor*—(1) *In general.* If the owner, lessee, or operator of any vehicle, which contains an article taxable under paragraph (a)(1) of this section, installs (or causes to be installed) any part or accessory on such vehicle, and such installation is not later than 6 months after the date such vehicle (as it contains such article) was first placed in service, section 4051(b)(1) imposes a tax on such installation equal to 12 percent of the price of such part or accessory and its installation. For purposes of the tax imposed by section 4051(b)(1) and this paragraph (c)(1) the term “parts and accessories” does not include those parts and accessories which were previously exempt from tax under sections 4061(b) (1) and (2) as in effect prior to January 7, 1983. Thus, for example, articles of general use are exempt from tax. See §48.4061(b)-2 (b). See paragraphs (d) (1)

through (4) of § 145.4052-1 for determination of price.

(2) *Placed in service.* For purposes of paragraph (c)(1) of this section, a vehicle shall be considered placed in service on the date on which the owner of the vehicle took actual possession of the vehicle. This date can be established by the delivery ticket signed by the owner or other comparable document indicating delivery to and acceptance by the owner.

(3) *Exceptions.* The tax imposed by section 4051(b)(1) and paragraph (c)(1) of this section shall not apply if:

(i) The part or accessory intalled is a replacement part or accessory, or

(ii) The aggregate price of the parts and accessories (and their installation) described in paragraph (c)(1) of this section with respect to any vehicle does not exceed \$200.

For purposes of paragraph (c)(3)(i) of this section, a part is a replacement part, regardless of when it is ordered, if its use with a vehicle is as a replacement for a part on such vehicle. For purposes of paragraph (c)(3)(ii) of this section, the term *aggregate price of parts and accessories (and their installation)* refers to all purchases and installation charges, not including replacement parts and accessories, made with respect to a vehicle within the 6 month period provided for in paragraph (c)(1) of this section. If the aggregate price of parts and accessories (and their installation) during the 6 month period exceeds \$200, the tax imposed under section 4051(b)(1) and paragraph (c)(1) of this section shall apply to the cost of all parts and accessories (and their installation) during such period. For example, a vehicle is purchased and placed in service on July 1, 1983. On August 1, 1983, the owner purchases and has installed parts and accessories at a cost of \$150. On September 1, 1983, the owner purchases and has installed parts and accessories at a cost of \$300. On September 1, 1983 a tax of \$54 will be imposed (12 percent  $\times$  \$450). Any costs of additional parts and accessories installed with respect to the vehicle before January 1, 1984 (and the cost of installation) will also be subject to the 12 percent tax.

(d) *Transitional rule.* In the case of an article taxable under paragraph (a)(1)

of this section, on which a tax was imposed under section 4061(a)(1), the rate of tax set forth in paragraph (b) shall be applied by substituting "2 percent" for "12 percent." For example, if a manufacturer sells a tractor to a dealer on February 1, 1983, for \$20,000 (which includes the Federal excise tax), for which a 10 percent tax was paid, and the dealer sells the tractor on April 10, 1983 for \$25,000, a tax of 2 percent will be imposed on the \$25,000 sales price. See paragraphs (d) (1) through (4) of § 145.4052-1 relating to determination of price.

(e) *Definitions.* For purposes of this section:

(1) *Tractor.* (i) The term "tractor" means 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.

(ii) An incomplete chassis cab shall be treated as a tractor if it is equipped with one or more of the following:

(A) A device for supplying pressure from the chassis cab to the brake system (air or hydraulic) of the towed vehicle;

(B) A mechanism for protecting the chassis cab brake system from the effects of a loss of pressure in the brake system of the towed vehicle;

(C) A control linking the brake system of the chassis to the brake system of the towed vehicle;

(D) A control in the cab for operating the towed vehicle's brakes independently of the chassis cab's brakes; or

(E) Any other equipment designed to make it suitable for use as a tractor.

An incomplete chassis cab which is not equipped with any of the devices set forth in paragraphs (e)(1)(ii) (A) through (E) of this section shall be treated as a truck if the purchaser certifies in writing that the vehicle will not be equipped for use as a tractor.

(2) *Truck.* The term "truck" refers to 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.

(3) *Gross vehicle weight.* (i) For purposes of this section the term “gross vehicle weight” means the maximum total weight of a loaded vehicle. Except as otherwise provided in paragraphs (e)(3) (ii) through (v) of this section, such maximum total weight shall be the gross vehicle weight rating of the article as specified by the manufacturer or established by the seller of the completed article, unless the Commissioner finds that such rating is unreasonable in light of the facts and circumstances in a particular case.

(ii) A seller must specify or establish a weight rating for each chassis, body, or vehicle sold on or after April 1, 1983 if such article requires no additional manufacture other than (A) the addition of readily attachable articles, such as tire or rim assemblies or minor accessories, (B) the performance of minor finishing operations, such as painting, or (C) in the case of a chassis, the addition of a body. If an article is specially equipped to the purchaser's specifications, such specifications may be used to establish the gross vehicle weight of the article.

(iii) A seller shall maintain a record of the gross vehicle weight rating of each truck, trailer and semitrailer sold and excluded from the tax imposed by section 4051(a)(1) by reason of sections 4051(a) (2), (3) and paragraphs (e)(3) (i) through (v) of this section. For this purpose, a record of the serial number of each such article shall be treated as a record of the gross vehicle weight rating of the article if such rating is indicated by the serial number.

(iv) If (A) the seller's rating indicated in a label or identifying device affixed to an article, (B) the rating set forth in the sales invoice or warranty agreement, and (C) the advertised rating for that article (or two or more identical articles) are inconsistent, the highest of such ratings will be considered to be the seller's gross vehicle weight rating specified or established for purposes of the tax imposed by section 4051(a)(1).

(v) The seller's gross vehicle weight rating must take into account, among other things, the strength of the chassis frame and the axle capacity and placement. The Commissioner may exclude from the gross vehicle weight rating any readily attachable parts to

the extent the Commissioner finds that the use of such parts in computing the gross vehicle weight rating is unreasonable.

(f) *Tax-free sales.* With respect to tax-free sales of a chassis or body for use as a component of a vehicle other than a highway vehicle, similar provisions to paragraphs (e)(2) (ii), (iii), and (iv) of § 48.4061(a)-1 shall apply.

(g) *Effective date.* The provisions of this section shall be effective for articles sold on or after April 1, 1983.

[T.D. 7882, 48 FR 14362, Apr. 4, 1983, as amended by T.D. 8879, 65 FR 17164, Mar. 31, 2000]

#### § 145.4052-1 Special rules and definitions.

(a) *First retail sale*—(1) *General rule.* For purposes of section 4051(a)(1) and § 145.4051-1, the term “first retail sale” means a taxable sale described in paragraph (a)(2) of this section.

(2) *Taxable sale.* The sale of an article is a taxable sale unless—

(i) The sale is a tax-free sale under section 4221,

(ii) [Reserved]. For sales after June 30, 1998, see § 48.4052-1 of this chapter.

(iii) There has been a prior taxable sale of the article. Notwithstanding the preceding clause, the sale of a chassis or body of a trailer or semitrailer (“trailer or semitrailer”) less than six months after a taxable sale of the article shall be treated as a taxable sale.

(3) *Computation of tax*—(i) *In general.* If the sale of an article is a taxable sale under paragraph (a)(2) of this section, the tax shall be computed on the price as determined under paragraph (d) of this section.

(ii) *Exception.* If the taxable sale of an article is a taxable use of such article under paragraph (c) of this section, the tax shall be computed on the price as determined under paragraph (c) of this section.

(4) *Special rule for tax-paid trailer and semitrailer.* In the case of a taxable sale of a trailer or semitrailer less than six months after a taxable sale of the article, the seller in the subsequent sale (“the subsequent seller”) may claim a credit equal to the amount of tax previously paid by another person (“the previous taxpayer”) under section 4051(a)(1) with respect to the prior taxable sale of the article. The credit for