



June 19, 2013
Pennsylvania Sales and Use Tax
No. SUT-13-001
Purchase Price

ISSUE

Is the federal excise tax, imposed upon vehicle sales pursuant to Section 4051 of the Internal Revenue Code ("IRC"), subject to Pennsylvania Sales Tax when separately stated on an invoice?

CONCLUSION

The federal excise tax, imposed upon vehicle sales pursuant to Section 4051 of the IRC, is not subject to Pennsylvania Sales Tax when separately stated on the invoice.

FACTS

Pursuant to Section 4051 of the IRC, a Federal excise tax is imposed upon the retail sale of automotive truck chassis' and automotive truck bodies having a gross weight in excess of 33,000 pounds. The tax is imposed upon retail sales of tractor trailers, semi-trailer chassis' and truck bodies having a gross weight in excess of 26,000 pounds and truck tractors having a gross weight in excess of 19,500 pounds. In addition, the tax is imposed on the installation of parts for such vehicles when installed within six months of the original date of purchase. The tax is imposed upon the purchaser at the time of sale.

DISCUSSION

The Pennsylvania Tax Reform Code ("Code") and Department Regulation impose sales tax upon separately stated Pennsylvania taxes paid by the purchaser at the time of purchase. See 72 P.S. § 7201(g) and 61 Pa. Code § 33.2(a)(4). Concerning federal excise taxes, the regulations are less clear. Department regulation provides that the taxable purchase price of vehicles includes the "Federal Excise Tax, since it is not a tax at the retail level." 61 Pa. Code § 31.44(a)(1). However, there are several federal excise taxes imposed on vehicles and it is unclear to which tax this provision is referring. The general purchase price regulation includes the following in the taxable purchase price:

(6) Amounts representing costs to vendor. Charges, whether or not separately stated, representing reimbursement to the vendor for expenses paid by the vendor, such as manufacturer's excise tax, gross receipts tax, fuel adjustment charges, mercantile tax, insurance, meals, lodging, mileage or similar expenses. (Emphasis added.)

61 Pa. Code § 33.2.

Reading these provisions together, it is clear that there is a difference between a federal excise tax imposed at the manufacturer's level and a Federal excise tax imposed at the retail level. The regulations imply that Federal excise taxes imposed at the manufacturer's level are included in the taxable purchase price and federal excise taxes imposed at the retail level are not included in the taxable purchase price. Therefore, it is the opinion of this Office that separately stated federal excise taxes including the excise taxes imposed under Section 4051 of the IRC, imposed upon a purchaser of taxable tangible personal property are not subject to sales tax. However, if the federal excise tax is not separately stated and identified on an invoice, but is included in the total purchase price paid by the purchaser, the amount of the federal excise tax so included in the single charge would be subject to sales tax.