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NONRECOGNITION OF GAIN IN CASE OF 12-MONTH LIQUIDATIONS AND AUTOMOBILE EXCISE TAX ON CONCRETE MIXERS

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Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 18101]

The Committee on Finance, to which was referred the bill (H.R. 18101) to amend section 337 of the Internal Revenue Code of 1954 with respect to the recognition of gain or loss on sales or exchanges in connection with certain liquidations, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. SUMMARY

The committee accepted the House provision without change but added an amendment relating to another matter. With respect to the provision in the bill as passed by the House present law (sec. 337) provides that gain is not recognized to a corporation on the sale of property by it where, after it adopts a plan of liquidation, it completes its distributions within a 12-month period. Presently this nonrecognition of gain is available to a corporation which would be a "collapsible corporation" but for the fact that it had held "purchased assets" for 3 years or more. The provisions of the House bill corrects an unintended oversight in existing law which denies the benefit of this provision to "collapsible corporations" which have held "constructed or produced" assets where the construction or production has been completed for 3 years or more.

The provisions in the House bill also amend this nonrecognition of gain provision (sec. 337) to, in effect, provide that losses occurring in the 2-year period prior to the liquidation are to be offset against gains occurring in the liquidation period, to the extent they represent ordinary losses and arise out of transactions to which this provision (sec. 337) would apply. In addition, the bill provides that in taxable years in which a 12-month liquidation occurs, the character of gains or losses (under sec. 1231) is to be determined without regard to the nonrecognition of gain or loss because of the liquidation.

The Treasury Department has indicated that it has no objections to the enactment of the first of these provisions and favors the enactment of the second.

The amendment added by the committee exempts from the automobile truck tax concrete mixers where the mixing occurs in transit and also exempts from the auto parts tax parts or accessories designed primarily for use in connection with the concrete mixer. The auto chassis, however, in the case of these concrete mixers remains subject to tax. This amendment applies to articles sold after June 30, 1968.

II. TWELVE-MONTH LIQUIDATIONS

REASONS FOR PROVISION

Present law (sec. 337) in general terms provides that if a corporation adopts a plan of complete liquidation and within 12 months distributes to its shareholders all of its assets (less those retained to meet claims), then gain or loss is not to be recognized to the corporation for tax purposes with respect to property it sold (not including regular sales of inventory or similar property) during this 12-month period. The purpose of this provision (sec. 337) is to accord the same tax treatment where a corporation sells its properties and then distributes the proceeds to its shareholders as can be obtained by the corporation first distributing the properties in kind to the shareholders who then sell the property.

Before this provision (sec. 337) was enacted in 1954, the two types of distributions described above often led to quite different tax results. If a corporation sold (or was treated as having sold) the assets before the distribution, a gain (usually capital gain) was realized at the corporate level and then at the time of the distribution in liquidation the shareholders were taxed on the fair market value of the proceeds distributed to them to the extent this exceeded the basis of their stock. On the other hand, if the corporation distributed the assets in kind, there was no tax at the corporate level but the shareholders paid a capital gains tax based on the fair market value of the properties distributed to the extent this exceeded the shareholders' basis for their stock. Thus, before 1954 two taxes were generally imposed, one at the corporate level and one at the shareholder level, in the first case cited above, while only one tax was paid, the tax at the shareholder level, where the distribution occurred before the sale of the assets in kind.

As a result, Congress decided in 1954 to remove the tax at the corporate level in a complete liquidation (completed within 12 months) where the properties are sold before the distribution.

The committee understands that two problems in connection with the provision described above have been raised. One of these represents an oversight in existing law which has created hardships with respect to some taxpayers, while the other represents a tax avoidance device.

Corporation with constructed or produced assets.—The provision in present law which has resulted in hardships in certain cases involves the so-called collapsible corporation provision (sec. 341). A "collapsible corporation" in general is a corporation which shareholders have formed or used with the intention of selling the stock or distributing the property in a liquidation before the corporation has realized potential gain arising from the construction, production or purchase of property by the corporation. If a corporation is a "collapsible corporation" then gain on the sale of the corporation's stock is taxed as ordinary income rather than as capital gain. Similarly, if the corporation is liquidated the shareholders pay tax on ordinary income and not on capital gain.

Since, as indicated above, the purpose of the "collapsible corporation" provision is to prevent the avoidance of gain at the corporate level, nonrecognition of gain even though the liquidation occurs within a 12-month period (sec. 337) is not available to such a corporation, since its availability would frustrate the intent of obtaining an income tax at the corporate level. As a result, this provision (in sec. 337(c)(1)(A)) provides that the section is not to apply to a "collapsible corporation" as defined in the "collapsible corporation" provision. However, the sanctions in the case of a "collapsible corporation" are, in general, only applied for a limited period of time. A corporation which has owned "purchased assets" for more than 3 years is not, as a result of such holdings, defined as a "collapsible corporation." Therefore, such a corporation may avail itself of the benefits of nonrecognition in the case of a 12-month liquidation.

The "collapsible corporation" provision also provides relief in the case of a corporation which has "constructed or produced" its assets more than 3 years ago. In this case the statute does not exclude such a corporation from the definition of a "collapsible corporation" but, in most respects, provides what is the equivalent by providing that in such a case the sale of stock by the shareholders is not to give rise to ordinary income treatment (instead of capital gains treatment). However, since in the case of these constructed or produced assets there is no special provision in the "collapsible corporation" definition excluding these corporations, the nonrecognition provision where liquidation occurs within 12 months is not available because the corporation even 3 years after the completion of the construction or production technically is still a "collapsible corporation."

The fact that corporations with purchased assets and constructed and produced assets are given the same tax treatment under present law where stock is sold, but different treatment when there is a distribution in complete liquidation within a 12-month period, indicates an inequality in treatment in these two situations where there is a distribution in liquidation. The Committee agrees with the House that the fact that the treatment is the same in these two situations where there is a sale of the stock is an indication that there is an unintended oversight in present law. For this reason the bill amends present law to make available the nonrecognition of gain provision where a liquidation occurs within a 12-month period in the case of a corporation holding constructed or produced assets for a period of more than 3 years, in the same way as it is presently applicable in the case of a corporation holding purchased assets for a period of more than 3 years.

Losses occurring 2 years before liquidation.—The tax abuse in connection with the nonrecognition of gain provisions where a distribution occurs within a 12-month period is concerned with losses which are realized shortly before the adoption of a plan of liquidation. As indicated previously, both gain and loss are not recognized to a corporation under present law where it sells its properties and then in liquidating distributions distributes all of its assets (with exceptions for those to meet claims) to its shareholders within a 12-month period. However, some corporations have been first selling assets on which they anticipated realization of losses before adopting a plan of liquidation and then during the 12-month liquidation period selling only, or largely, assets which may be sold at a gain. Since losses on the sale of trade or business property with certain exceptions result in ordinary losses when the losses from the sale of this property (sec. 1231) exceed the gains, the result is that the corporations in this manner may create losses, which can be used either to offset any current income or are available as net operating loss carrybacks to the 3 prior years to offset income in those years, while not being required to recognize the gain on the sale of the other properties which are sold during the 12-month liquidation period. The regulations have taken the position that if some assets are sold before the formal adoption of a plan of liquidation and the remaining assets are sold after the adoption of such a plan, then from the facts and circumstances surrounding the case it may be found that all of the sales were pursuant to a single plan informally adopted at an earlier point of time. However, court cases (see, for example, *Virginia Ice and Freezing Corporation*, 30 T.C. 1251, 1958) have treated the time a plan was formally adopted under State law as the controlling factor. While the courts may not always follow this rule in the future, nevertheless, there is now considerable uncertainty on this point.

The committee agrees with the House that it is patently unfair when permitting nonrecognition of gain during a 12-month period of liquidation for a corporation to arrange its affairs so that properties resulting in a loss are sold just prior to the time of liquidation. The effect is to decrease the income in earlier periods subject to tax through losses which should have offset gains which are not recognized to the corporation in the liquidation. To overcome this avoidance device, the bill includes a provision requiring certain losses from the sale of property within 2 years prior to the adoption of a plan of liquidation to, in effect, be offset against the gains not recognized during the 12-month liquidation period. This will not apply, however, where the taxpayer can establish that the loss transactions were not in anticipation of the liquidation.

The bill also includes a provision under which the character of gain or loss from trade or business properties (sec. 1231 assets) is to be determined for the taxable years in which the 12-month liquidation occurs as if the liquidation had not been made. This means that what would otherwise be a capital loss will not be converted into an ordinary loss because a liquidation precludes the recognition of gain in the same taxable year from trade or business property which would otherwise be offset against the loss.

GENERAL EXPLANATION

Liquidation distribution of constructed or produced assets.—Present law provides that the provision providing for nonrecognition of gain in the case of a liquidation within a 12-month period is not to apply (sec. 337(c)(1)(A)) in the case of a corporation defined as a "collapsible corporation" (sec. 341(b)). Among the corporations excluded under present law from the definition of a collapsible corporation (through the interrelationship of sec. 341(b)(1) and sec. 341(b)(3)) is a corporation which owns only properties purchased 3 years or more before the sale or distribution.

This bill (sec. 1) amends the nonrecognition provision (sec. 337(c)(1)(A)) to provide that this provision is not to be available in the case of a collapsible corporation (as defined in sec. 341(b)) except in the case of a collapsible corporation the sale of whose stock would not give rise to ordinary income (by reason of sec. 341(d)(3)). The effect of this is to make the nonrecognition provision available, not only to corporations which would be collapsible corporations but for the fact that they have held their purchased assets for 3 years or more, but also available to corporations which are collapsible corporations only because they hold assets on which they completed construction or production 3 years or more ago and where ordinary income treatment would not be applied where the shareholders to sell the stock of the corporation.

This provision is to apply with respect to sales or exchanges of property made after the date of enactment of this bill.

Losses before liquidation and character of gain or loss.—To meet the problems described above, the bill (sec. 2) adds two new subsections in existing law (subsecs. (e) and (f) to sec. 337).

The first of the new subsections specifies how to determine whether gain or loss in the taxable year (or years) in which the liquidation occurs in ordinary or capital gain or loss. The new subsection provides that the character of the gain or loss which is recognized is to be determined as if this nonrecognition provision (sec. 337) had not applied.

Thus, where there is a trade or business loss in the portion of the taxable year occurring before the 12-month liquidation begins, and there is a trade or business gain in the same taxable year which is not recognized because it is in the 12-month liquidation period, the character of the loss (or losses in aggregate) is to be determined by comparing them with the gain (or gains in aggregate). Thus, if the loss on this basis exceeds the gain, the loss is to continue to be treated as an ordinary loss but if it was less than the gain, it would be treated as a capital loss. This is the general rule under present law for trade or business assets (sec. 1231). This provision does not result, however, in the recognition of any gain or loss in the 12-month liquidation period (but see discussion below).

This rule for determining character of gain or loss in the same taxable year or years in which the 12-month liquidation occurs not only prevents the liquidation provision from changing the character of other gains or losses outside the liquidation period but also provides rules for determining the character of gains or losses which, under the provision described below, are recognized even though in the period of liquidation.

The second of the new subsections amends present law to provide, in general, that the nonrecognition of gains within the 12-month liquidation period is not to apply to the extent that losses in the 2 years immediately prior to the adoption of the plan of complete liquidation were treated as ordinary losses and arose from sales of properties to which this nonrecognition provision (sec. 337) would have applied had they occurred in the liquidation period.

The gains which are to be recognized as the result of the application of this provision are first those which would result in ordinary income, and then if any gain remains to be recognized, those gains which would result in capital gain. If more than a single taxable year is involved in the period of liquidation, the ordinary-income gains are to be recognized first in the first such year and then the ordinary income in the second year are to be recognized to the extent required. Only after the recognition of ordinary income, if any, in both years is any capital gain to be recognized. The same priority rule applies in the case of capital gain as in the case of ordinary income; that is, capital gain is to be recognized first with respect to the first of the years involved and, second, with respect to the second year involved, but only to the extent necessary to equal the special losses referred to which arose in the preliquidation period.

The losses in the preliquidation period which are to result in the recognition of gain during the liquidation period are only: (1) those which give rise to ordinary loss whether representing losses arising from the sale of trade or business property in excess of gains from such property (sec. 1231 assets) or other assets resulting in ordinary loss upon their sale (such as bonds described in sec. 582(c)) and (2) those which involve losses arising from sales of types of assets which if occurring during the liquidation period would result (under sec. 337) in nonrecognition of gain or loss.

In addition, the losses which give rise to this recognition of income are not to include those which the taxpayer establishes were not in anticipation of the liquidation of the corporation. Examples of losses not in anticipation of a liquidation would be: (1) a loss from the destruction of property by fire or casualty, where the proceeds received from insurance do not cover the cost of the property and there was no indication of the intent to liquidate, (2) a loss from the sale of property while the enterprise was continuing to make a substantial profit and there was no indication of the likelihood of the liquidation, and (3) a loss where proceeds were reinvested in the business in a manner indicating an intention to continue the business indefinitely. However, these losses (which the taxpayer establishes were not in anticipation of the liquidation of the corporation) are, in effect, treated first as reducing any gains occurring in the preliquidation period. As a result, they must exceed the total of the gains from the sale of the trade or business property during the 2-year period before they will reduce any losses which are taken into account for this period in determining the amount of gain to be recognized in the liquidation period.

These provisions (sec. 2 of the bill) are to apply only in the case of plans of complete liquidation adopted during taxable years beginning after the date of enactment of this bill. However, in determining the losses in the preliquidation period which may give rise to the recognition of gain in the liquidation period, there are to be taken into account only sales or exchanges of property occurring after the date of enactment of this bill.

III. APPLICATION OF EXCISE TAX ON TRUCKS TO CONCRETE MIXERS

Until 1967, the 10 percent excise tax on the manufacture of automobile trucks has not been applied in the case of concrete mixers where the actual mixing of the concrete occurs in the tank mounted on a truck chassis. The truck chassis in such a case however is subject to the excise tax. This position was indicated in 1956 (Rev. Rul. 56–479) when the following was stated as the position of the Internal Revenue Service:

> A supplier of ready-mixed concrete accomplishes the mixing of cement, sand, crushed stone, and water through the use of a large tank mounted on a truck chassis. The tank is set on gears and is rotated by a motor in order that the concrete may be mixed in transit. *Held,* since such concrete mixers are primarily designed and adapted for mixing concrete rather than as truck bodies, they are not subject to the manufacturers excise tax imposed by section 4061 of the Internal Revenue Code of 1954. However, automobile truck chassis on which these tanks are mounted are subject to the tax when sold by the manufacturer.

This was consistent with the position taken generally on concrete mixers under earlier excise taxes imposed on the sale by the manufacturer of trucks. In 1920, for example, the Treasury regulations gave examples of items which were and were not taxable. These regulations provide:

> Self-propelling motor driven machines, such as *concrete mixers*, stone crushers, excavating shovels, ditch diggers, etc., and machines which perform a mechanical function as they move along highways and roads, such as road graders, road scrapers, street sweepers, road sprinklers and oilers, are not taxable. [Emphasis added.] (Treasury Reg. 47, art. 12 (Dec. 27, 1920)).

Thus, it has been clear in the past that facilities not primarily designed or adapted for the transportation of property but designed primarily for some other purpose such as the purpose of mixing concrete were not intended to be subject to the automobile truck tax. Although Congress has taken no action changing this policy, in 1967 (Rev. Rul. 67–282) the Internal Revenue Service reconsidered the applicability of the manufacturers' excise tax to concrete mixers designed to be mounted on truck chassis. In that ruling it stated:

> A concrete mixer mounted on an automobile truck, truck trailer, or semitrailer chassis is designed for the purpose of transporting concrete or premeasured concrete components (i.e., cement, sand, crushed stone, etc.). It is immaterial that rotational features of such concrete mixers are employed to agitate the concrete or mix the concrete components in transit or at a jobsite, since they also serve to prevent the gravity segregation of concrete, the "setting up" of premixed concrete, and to unload the mixer's contents. As such, these features aid in the transportation of property over the highway.

> After reexamination of the facts, it is concluded such concrete mixers are not designed and adapted by the manufacturer for purposes predominantly other than the transportation of property on the highway within the meaning of Revenue Ruling 57–440 and section 48.4061(a)–1(d) of the regulations. Moreover, it is concluded such concrete mixers are motor vehicle articles of a special type which by their design are intended for general use upon the highways.

Apparently this change in the ruling policy stems from an exemption for seed, feed and fertilizer spreaders added by the Congress in which in the committee report reference was made to the fact that these would not be taxable even though incidental highway use occurred. On this basis the Service apparently assumed that Congress intended to overturn the prior status of exempt equipment and upon reexamination has held that the cement mixers are taxable since more than incidental highway use occurs. It was not the intent of Congress when it provided an exemption from the excise tax on automobile trucks that the language used in connection with the provision for that exemption would result in the review of existing items not subject to tax and the reclassification of them in a taxable status. The reference to incidental highway use in this case was intended to refer only to the articles referred to in the exemption and not generally to other types of equipment. Moreover, "incidental" in such a case was not intended to tax equipment used occasionally on the highway where the greater part of its use was for other than the transporting of property.

For the reasons indicated above, your committee has added a provision to the Internal Revenue Code (sec. 4063(a)(5)) to provide an exemption from the manufacturers' excise tax on automobile chassis and bodies in the case of articles designed to be mounted on automobile, truck, truck trailer, or semitrailer chassis and are designed to be used primarily to process or prepare concrete. In addition, an exemption is provided for parts and accessories designed primarily for use on or in connection with these concrete mixers.

This amendment is to apply with respect to articles sold after June 30, 1968.

IV. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

SEC. 337. GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH CERTAIN LIQUIDATIONS.

(a) GENERAL RULE.—If—

(1) a corporation adopts a plan of complete liquidation on or after June 22, 1954, and

(2) within the 12-month period beginning on the date of the adoption of such plan, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims,

then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period.

(b) PROPERTY DEFINED.—

(1) IN GENERAL.—For purposes of subsection (a), the term "property" does not include—

(A) stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and property held by the corporation primarily for sale to customers in the ordinary course of its trade or business,

(B) installment obligations acquired in respect of the sale or exchange (without regard to whether such sale or exchange occurred before, on, or after the date of the adoption of the plan referred to in subsection (a)) of stock in trade or other property described in subparagraph (A) of this paragraph, and

(C) installment obligations acquired in respect of property (other than property described in subparagraph (A)) sold or exchanged before the date of the adoption of such plan of liquidation.

(2) NONRECOGNITION WITH RESPECT TO INVENTORY IN CERTAIN CASES.—Notwithstanding paragraph (1) of this subsection, if substantially all of the property described in subparagraph (A) of such paragraph (1) which is attributable to a trade or business of the corporation is, in accordance with this section, sold or exchanged to one person in one transaction, then for purposes of subsection (a) the term "property" includes—

(A) such property so sold or exchanged, and

(B) installment obligations acquired in respect of such sale or exchange.

(c) LIMITATIONS.—

(1) COLLAPSIBLE CORPORATIONS AND LIQUIDATIONS TO WHICH SECTION 333 APPLIES.—This section shall not apply to any sale or exchange—

(A) made by a collapsible corporation (as defined in section 341(b)) *other than a corporation to the sale or exchange of stock of which section 341(a) would not apply by reason of section 341(d)(3)*, or

(B) following the adoption of a plan of complete liquidation, if section 333 applies with respect to such liquidation.

(2) LIQUIDATIONS TO WHICH SECTION 332 APPLIES.—In the case of a sale or exchange following the adoption of a plan of complete liquidation, if section 332 applies with respect to such liquidation then—

(A) if the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 334(b)(1), this section shall not apply; or

(B) if the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 334(b)(2), this section shall apply only to that portion (if any) of the gain which is not greater than the excess of (i) that portion of the adjusted basis (adjusted for any adjustment required under the second sentence of section 334(b)(2)) of the stock of the liquidating corporation which is allocable, under regulations prescribed by the Secretary or his delegate, to the property sold or exchanged, over (ii) the adjusted basis, in the hands of the liquidating corporation, of the property sold or exchanged.

(d) SPECIAL RULE FOR CERTAIN MINORITY SHAREHOLDERS.—If a corporation adopts a plan of complete liquidation on or after January 1, 1958, and if subsection (a) does not apply to sales or exchanges of property by such corporation, solely by reason of the application of subsection (c)(2)(A), then for the first taxable year of any shareholder (other than a corporation which meets the 80 percent stock ownership requirement specified in section 332(b)(1)) in which he receives a distribution in complete liquidation—

(1) the amount realized by such shareholder on the distribution shall be increased by his proportionate share of the amount by which the tax imposed by this subtitle on such corporation would have been reduced if subsection (c)(2)(A) had not been applicable, and

(2) for purposes of this title, such shareholder shall be deemed to have paid, on the last day prescribed by law for the payment of the tax imposed by this subtitle on such shareholder for such taxable year, an amount of tax equal to the amount of the increase described in paragraph (1).

(e) COORDINATION WITH SECTION 1231.—In applying section 1231, the determination as to whether any gain or loss is a recognized gain or loss shall be made without regard to this section.

(f) EFFECT OF LOSS TRANSACTIONS BEFORE ADOPTION OF PLAN.—

(1) IN GENERAL.—If—

(A) the aggregate of the gains which would, but for this subsection, not be recognized by reason of subsection (a) exceeds the losses not recognized by reason of subsection (a), and

(B) there is an excess of preliquidation losses over preliquidation gains during the 2-year period ending on the day before the date of the adoption of the plan of complete liquidation,

then notwithstanding subsection (a) there shall be recognized so much of the gains referred to in subparagraph (A) as equals in amount whichever of the following amounts is the smaller: (i) the excess referred to in subparagraph (A) or (ii) the excess referred to in subparagraph (B).

(2) APPLICATION OF PARAGRAPH (1).—The gains which are recognized by reason of paragraph (1) shall be determined, first, by recognizing (in order of time) those gains which are not (or are considered as not) gains from sales or exchanges of capital assets held for more than 6 months, and then by recognizing (in order of time) any other gains.

(3) PRELIQUIDATION LOSSES AND GAINS.—For purposes of this subsection—

(A) A "preliquidation loss" is any loss from a sale or exchange (during the 2-year period ending on the day before the date of the adoption of the plan of complete liquidation) to

which this section would apply if occuring within the 12-month period referred to in subsection (a), other than a loss from (or considered as from) the sale or exchange of a capital asset.

(B) A "preliquidation gain" is any gain from a sale or exchange (during the 2-year period ending on the day before the date of the adoption of the plan of complete liquidation) to which this section would apply if occurring within the 12-month period referred to in subsection (a), other than a gain from (or considered as from) the sale or exchange of a capital asset.

(4) CERTAIN PRELIQUIDATION LOSSES NOT IN ANTICIPATION OF LIQUIDATION.—If the taxpayer establishes that one or more of the preliquidation losses arose from transactions which were not in anticipation of liquidation of the corporation and if the aggregate amount of such losses exceeds the aggregate amount of preliquidation gains then for purposes of this subsection—

(A) such losses shall be treated as losses which are not preliquidation losses; and

(B) the taxpayer shall be treated as having no preliquidation gains.

CHAPTER 32—MANUFACTURERS EXCISE TAXES

Subchapter A—Automotive and Related Items

PART I—MOTOR VEHICLES

SEC. 4061. IMPOSITION OF TAX.

(a) AUTOMOBILES.—There is hereby imposed upon the following articles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof) sold by the manufacturer, producer, or importer a tax equivalent to the specified percent of the price for which so sold:

(1) Articles taxable at 10 percent, except that on and after October 1, 1972, the rate shall be 5 percent—

Automobile truck chassis.
Automobile truck bodies.
Automobile bus chassis.
Automobile bus bodies.
Truck and bus trailer and semitrailer chassis.
Truck and bus trailer and semitrailer bodies.
Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

A sale of an automobile truck, bus, truck or bus trailer or semitrailer shall, for the purposes of this paragraph, be considered to be a sale of a chassis and of a body enumerated in this paragraph.

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SEC. 4063. EXEMPTIONS.

(a) SPECIFIED ARTICLES.—

(1) CAMPER COACHES: BODIES FOR SELF-PROPELLED MOBILE HOMES.—The tax imposed under section 4061 shall not apply in the case of articles designed (A) to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and (B) to be used primarily as living quarters.

(2) FEED, SEED, AND FERTILIZER EQUIPMENT.—The tax imposed under section 4061 shall not apply in the case of any body, part or accessory primarily designed—

(A) to process or prepare seed, feed, or fertilizer for use on farms;

(B) to haul feed, seed, or fertilizer to and on farms:

(C) to spread feed, seed, or fertilizer on farms;

(D) to load or unload feed, seed, or fertilizer on farms; or

(E) for any combination of the foregoing.

(3) HOUSE TRAILERS.—The tax imposed under section 4061(a) shall not apply in the case of house trailers.

(4) SMALL 3-WHEELED TRUCKS.—The tax imposed under section 4061(a) shall not apply in the case of—

(A) an automobile truck chassis which—

(i) has only 3 wheels,

(ii) is powered by a motor which does not exceed 18 brake horsepower (rated at 4,000 revolutions per minute) and

(iii) does not exceed 1,000 pounds gross weight; or

(B) a body designed primarily to be mounted on a chassis described in subparagraph (A).

(5) CONCRETE MIXERS.—The tax imposed under section 4061 shall not apply in the case of—

(A) any article designed (i) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis and (ii) to be used primarily to process or prepare concrete, and

(B) parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

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