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DEPARTMENT: IRS Legal Memorandums

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HEADLINE: #22 2009 TNT 232-22 VIRGINIA LOGGING TRUCKS TYPICALLY WILL QUALIFY FOR REDUCED HEAVY VEHICLE TAX RATE. (Section 4483 -- Vehicle Tax Exemptions) (ILM 200949037) (Release Date: JULY 01, 2009) (Doc 2009-26606)

CODE: *Section 4483* -- Vehicle Tax Exemptions;
Section 4481 -- Highway Use Tax

ABSTRACT: In a legal memorandum, the IRS has concluded that a state-registered logging vehicle used exclusively for transporting forested products from a forested site qualifies as a logging vehicle under *section 4483(e)* and is eligible for the reduced heavy vehicle use tax rate.

SUMMARY: Published by Tax Analysts(R)

In a legal memorandum, the IRS has concluded that a state-registered logging vehicle used exclusively for transporting forested products from a forested site qualifies as a logging vehicle under *section 4483(e)* and is eligible for the reduced heavy vehicle use tax rate.

In a request for non-taxpayer-specific legal advice, the chief of the IRS excise tax program described a typical Virginia logging operation, noting that trucks in the state are registered as logging vehicles by a check off on the annual state registration form. The trucks typically travel from a home or shop location on public roads and then enter the forest to reach the harvest or loading location. The loaded truck then travels on public roads to a mill to unload, and then travels back to its home or shop location, repeating the trip about three times a day. The truck typically travels between 40,000 miles under the threshold for the imposition of the *section 4481* heavy vehicle use tax and 30,000 miles above the threshold in an average year.

Section 4483(e) provides for a 25 percent reduction in the *section 4481* tax if qualifying vehicles are used exclusively during any tax period for the transportation of harvested products to and from a point located in a forested site and if the vehicles are registered with the state as highway motor vehicles used to transport harvested forest products. The IRS concluded that the vehicles described in Virginia logging operations qualify for the reduced tax rate based on the statutory language and its legislative history.
Internal Revenue Service

GEOGRAPHIC: United States

REFERENCES: Subject Area:
Excise taxation

TEXT:

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industry (4%) and there is Federal ownership, but harvest off Forest Service land is minutely small. None of the Virginia consuming mills are located on forestland property available for commercial harvesting. Given this ownership pattern it would be impossible for a logger hauling harvested wood to be able to "transport, to and from a point located on a forested site."

A "typical" logging truck travels from a home or shop location to the harvest site for loading each day. This truck will travel 20 - 50 miles on public roads then enter the forest where it will travel a few hundred feet to several miles to reach the harvest or loading location. This vehicle is empty and has a gross vehicle weight (GVW) of 25,000 to 28,000 lbs. The truck is then loaded with wood or it switches out with a pre loaded trailer and travels to the consuming mill on public roads at a GVW of 76,000 to 80,000 lbs. The typical haul to the mill is 50 to 75 miles. After unloading at the mill the empty truck returns to the woods on public roads, again at the empty GVW or 25,000 to 28,000 lbs. At days end the truck will return to home or shop empty.

On an average "three load day" at a 50 mile haul, this truck will travel 200 miles at the lower GVW, 25,000 - 28,000 lbs, and 150 miles above the 55,000lb HVUT weight threshold. Given an average of four days per week, 50 weeks per year, this truck will travel 40,000 miles at below the HVUT threshold and 30,000 miles above the threshold.

Virginia loggers are aware that if a truck is used to move equipment, haul wood from a secondary facility such as a wood yard, or is used for any other purpose than hauling forest products from the site this disqualifies that particular truck from the HVUT 25% reduction. For this reason loggers typically have a designated truck for moving equipment that is not claimed for the reduction, or make other arrangements through contract or other methods.

LAW AND ANALYSIS

Section 4481 provides that a tax is imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds at the rate specified in the following table:

Taxable gross weight:	Rate of tax:
At least 55,000 pounds, but not over 75,000 pounds	$ 100 per year plus $ 22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 75,000 pounds ...	$ 550

Section 4483(e) provides that the tax imposed by *section 4481* shall be reduced by 25 percent with respect to any highway motor vehicle if -- (1) the exclusive use of such vehicle during any taxable period is the transportation, to and from a point located on a forested site, of products harvested from such forested site, and (2) such vehicle is registered (under the laws of the State in which such vehicle is required to be registered) as a highway motor vehicle used in the transportation of harvested forest products.

Section 4483(e) was enacted in P.L. 98-369, *section 902* ("The Deficit Reduction Act of 1984") as part of a general strategy to reduce the heavy vehicle use tax and increase the diesel fuel tax. The Joint Committee Report explains the reason for the change as follows.

Congress believed that the highway excise taxes needed to be restructured to reduce the effect of the heavy vehicle use tax. Congress concluded that the higher rates scheduled to take effect under the Highway Revenue Act of 1982 would

have imposed a large tax on trucking operations which did not necessarily relate to the amount of business they might do, and that an alternative form of highway excise taxation should be devised which is more definitely correlated with the use of trucks. Therefore, Congress decided to substitute a higher diesel fuel tax for a lower use tax.

However, Congress did not believe that the heavy vehicle use tax should be eliminated. One objective of highway excise taxation is to impose taxes on highway users that are proportionate to the public highway costs which are allocable to their respective uses. These costs generally depend not only on mileage but also on vehicle weight. Taxes that correlate only with mileage are insufficient for satisfying the objective of cost allocation. Thus, Congress decided to retain so much of a heavy vehicle use tax that varies with vehicle weight as is necessary (when taken in combination with increases in the diesel fuel tax) to approximately maintain the prior law relation between highway taxes and allocable costs for various types of highway vehicles. Joint Committee on Taxation Staff, General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984, 98 Cong., JCS-41-84 (1984).