

§ 48.4061(b)-3 Rebuilt, reconditioned, or repaired parts or accessories.

(a) *Rebuilt parts or accessories.* Rebuilding of automobile parts or accessories, as distinguished from reconditioning or repairing, constitutes manufacturing, and the rebuilder of such parts or accessories is liable for the tax imposed by section 4061(b) with respect to his sales of such rebuilt parts or accessories. Reboring or other machining, rewinding, and comparable major operations constitute rebuilding. The person owning the part or accessory being rebuilt is the manufacturer of the article and is liable for the tax on his sale of the rebuilt part or accessory. The tax attaches whether the machining or other operation is performed by the rebuilder himself or by some other person in his behalf. For example, the tax attaches with respect to sales of (1) rebuilt batteries, (2) rebabbited or machined connecting rods, (3) reassembled clutches after operations such as the resurfacing of clutch plates, (4) rewound armatures, (5) reassembled generators with armatures rewound by or for the person reassembling the generator, (6) reground or remetalized crankshafts, and (7) engines in which blocks are machined (such as cylinders rebored or new sleeves inserted with or without cylinders being rebored) or new blocks installed. For provisions relating to the sale price of rebuilt parts or accessories, see § 48.4062(b)-1.

(b) *Reconditioned parts or accessories.* The mere disassembling, cleaning, and reassembling (with any necessary replacements of worn parts) of automobile parts or accessories, such as fuel pumps, water pumps, carburetors, distributors, shock absorbers, windshield-wiper motors, brake shoes, clutch disks, voltage regulators, and other parts or accessories, are regarded as reconditioning operations rather than the manufacturing or production of rebuilt parts or accessories. The sale of a reconditioned part or accessory is not subject to tax if previous to the reconditioning there had been a prior sale of such part or accessory in the United States. Any new taxable parts or accessories produced, or purchased tax free for use in further manufacture, and used as replacements in recondi-

tioning such units are subject to tax when used by the reconditioner.

(c) *Repaired parts or accessories.* The tax does not apply to the amount paid for the repair of automobile parts or accessories for the owner thereof. Repairing consists of the restoration, whether by rebuilding or reconditioning, of an owner's part or accessory to usable condition for his own use rather than for sale. The person who performs the repairing must retain in his possession evidence or documents from which the nontaxable nature of the operation can be ascertained. Any person engaged in rebuilding parts or accessories for purposes of sale incurs liability for tax with respect to his own use of any part or accessory rebuilt by him for sale.

§ 48.4061-1 Temporary regulations with respect to floor stock refunds or credits on cement mixers.

(a) *In general*—(1) *Refund or credit.* Pub. L. 91-678 (84 Stat. 2062, Jan. 12, 1971) provides that if:

(i) A manufacturer, producer, or importer paid the tax imposed by section 4061 (relating to imposition of tax on motor vehicles) on the sale of a cement mixer after June 30, 1968, and before January 1, 1970, and

(ii) Such cement mixer was held by a dealer on January 1, 1970, for purposes of resale and was not used,

the manufacturer, producer, or importer is entitled to a credit or refund (without interest) of the amount of tax he paid on his sale of such cement mixer.

(2) *Time for filing claim.* The manufacturer, producer, or importer entitled to a credit or refund under subparagraph (1) of this paragraph shall file his claim for credit or refund on or before October 31, 1971, based upon a request submitted to the manufacturer, producer, or importer on or before July 31, 1971, by the dealer who held the cement mixer in respect of which the credit or refund is claimed. Before he files his claim for credit or refund, the manufacturer, producer, or importer shall either reimburse the dealer for the amount of tax he is claiming with respect to the cement mixer or obtain written consent from the dealer to claim such tax.

(3) *Other provisions applicable.* All provisions of law, including penalties, applicable in respect of the taxes imposed by section 4061 of such Code shall, insofar as applicable and not inconsistent with Pub. L. 91-678 apply in respect of the credits and refunds provided for in this section to the same extent as if the credits or refunds constituted overpayments of the taxes.

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

(1) *Cement mixer.* The term “cement mixer” means:

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

(ii) Parts or accessories designed primarily for use on or in connection with an article described in subdivision (i) of this subparagraph.

(2) *Dealer.* The term “dealer” includes a wholesaler, jobber, distributor, or retailer.

(3) *Held by a dealer.* A cement mixer shall be considered as “held by a dealer” if title thereto has passed to the dealer (whether or not delivery to him has been made), and if for purposes of consumption title to the cement mixer or possession thereof had not at any time prior to January 1, 1970, been transferred to any person other than a dealer. For purposes of paragraph (a) of this section and notwithstanding the preceding sentence, a cement mixer shall be considered as “held by a dealer” and not to have been used, although possession of such cement mixer has been transferred to another person, if such cement mixer is returned to the dealer in a transaction under which any amount paid or deposited by the transferee for such cement mixer is refunded to him (other than amounts retained by the dealer to cover damage to the cement mixer). Moreover, such a cement mixer shall be considered as held by a dealer on January 1, 1970, even though it was in the possession of the transferee on such day, if it was returned to the dealer (in a transaction described in the preceding sentence) before January 31, 1970. The determination as to the time title passes or possession is obtained for purposes of consumption shall be

made under applicable local law. (See subdivisions (iii), (iv), and (v) of paragraph (b)(4) of §145.2-1 of this subchapter for examples illustrating the provisions of this subparagraph.)

(c) *Other requirements.* All the requirements of paragraph (c) (relating to participation of dealers), paragraph (d) (relating to claim for credit or refund), paragraph (e) (relating to evidence to be retained), and paragraph (f) (relating to effect on other claims for refund or credit) of §48.6412-1 are applicable (to the extent they are not inconsistent with section 4061 and Pub. L. 91-678) with respect to a claim for credit or refund under this section. With respect to claims for credit or refund under this section, the term “dealer request limitation date” and “claim limitation date” used in paragraphs (c) and (d) of §48.6412-1 means July 31, 1971, and October 31, 1971, respectively.

[T.D. 7090, 36 FR 3893, Mar. 2, 1971]

§ 48.4062(a) [Reserved]

§ 48.4062(a)-1 Specific parts or accessories.

Spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, automobile trucks, other automobiles, tractors, or other vehicles enumerated in section 4061(a), are considered parts of, or accessories for, such articles whether or not primarily designed or adapted for such use.

§ 48.4062(b) [Reserved]

§ 48.4062(b)-1 Rebuilt parts or accessories sold on an exchange basis.

The sale price of a rebuilt part or accessory on which the tax is to be computed shall not include the value of a like part or accessory accepted in exchange. The total amount charged in excess of the amount allowed for a like article accepted in an exchange will be the basis for tax. For example, if a rebuilt automobile engine is sold for \$100, plus another automobile engine, the tax on the rebuilt engine will be computed on the basis of \$100.