

IRS COMPLIANCE FOCUS:

The Excise Tax on Heavy Trucks

There is no steering around the Federal Excise Tax (“FET”) on heavy trucks and trailers, and some companies are finding that out in the most unpleasant way possible – through an IRS audit. Similar

to states’ sales taxes, the federal government imposes a 12% tax on the sale of trucks with a gross vehicle weight (“GVW”) above 33,000 pounds, trailers above 26,000 pounds, and tractors above 19,500 pounds. Although trucks sold with a GVW of 33,000 pounds or less are exempt from the tax, if that same truck is later modified to exceed the 33,000 pound threshold, whoever owns the truck at that time becomes liable

for the tax (same goes for modifications of tractors and trailers). Enter the Cascadia by Freightliner™ and the Internal Revenue Service’s (“IRS”) focus on those who purchase it.



By John P. Dombrowski

The Cascadia has become a popular truck, in part due to the fact it can be easily modified after purchase. For

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example, a company can purchase a Cascadia with a GVW under 33,000 pounds, and if business demands, it can subsequently add an axle to increase the GVW. Once that truck is modified to have a GVW over 33,000 pounds, however, the FET kicks in and the company is on the hook for 12% of the cost to purchase the truck and any subsequent modifications.

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IRS is using state databases to identify owners of the Cascadia that have their trucks registered over the 33,000 GVW threshold. It then uses the vehicle identification number (“VIN”) to determine if the excise tax has ever been paid on that truck, and if not, an audit is initiated causing the truck’s owner to open its books.

The consequences of an audit can make or break a company. For example, one client came to us after receiving a request from the IRS for information on 13 different Cascadia trucks it had purchased. Considering the cost

of the initial sale and after-market modifications, each truck's assessable value was approximately \$234,000. If forced to pay the tax, the client would have to pay \$28,080 for the unpaid FET, in addition to penalties that can exceed 50% of that amount, and interest. Facing a potential bill for over \$450,000 for back-taxes, penalties, and interest, the client came to our firm after it determined it was facing a battle with the IRS that could potentially put it out of business.

We have heard the same story from several clients. The client goes into the dealership to purchase a new truck, and the salesman introduces them to the Cascadia with a GVW under 33,000 pounds. The client tells the salesman they need a truck with a GVW over 33,000 pounds, so the salesman brings the client into an office and calls up a modification company down the street to make arrangements to add an axle and increase the GVW over the threshold. The client pays the dealer for the truck and pays the modification company over the phone with a credit card. The client leaves the office, and once the dealer receives the truck from Freightliner, it sends it to the modification company. Once the modifications are complete, the truck is sent back to the dealer where the client picks it up.

The dealer does not believe it is liable for the tax because it sold a truck to the client that was originally under the 33,000 pound threshold, and it was the client who paid for the modifications. The client was unaware the tax even existed; however, the IRS has correctly determined the tax is owed, so the only question remaining is "who owes the tax?"

Under IRS regulations, the person who owns the truck at the time the modifications are made owes the tax. Unfortunately, the question of "who" owes the tax is a fact-intensive determination based on a complicated mix of federal and local law. The IRS requires a company under audit to specify the facts surrounding the purchase and modification of each truck, including invoices for purchase and modification, amounts paid on those invoices, title certificates, registration certificates and depreciation schedules. Depending on the facts surrounding the purchase and modification of each truck, either the trucking company or the dealer will be liable for the tax.

As our client base has grown in this area, we have refined our method of analysis to determine if the FET is owed and by whom.

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