

Revenue Ruling 73-314

Trash containers used for solid waste to be recycled. The sale of a container, described in *section 4063 (a) (7) of the Code*, designed as a trash depository that can be picked up and transported by highway-type trucks is exempt from the manufacturers tax under *section 4061 (a)* even though the container will be used as a depository for scrap iron to be recycled.

Advice has been requested whether the manufacturers excise tax exemption provided by *section 4063 (a) (7) of the Internal Revenue Code of 1954* applies under the circumstances described below.

A company manufactures and sells containers designed to be placed at various locations for the deposit of solid waste from industrial, municipal, and other sources. The containers are generally box-shaped and constructed with a tailgate at the rear for unloading. They are specially designed for use with a highway-type truck equipped with a crane hoist. After being loaded on the truck, the containers are transported to the point of ultimate disposition of the waste, and there unloaded. The containers are not designed for the transportation of freight other than trash, nor are they [*2] designed to be permanently mounted or affixed to an automobile truck chassis or body.

The company sold one of these containers for use as a depository for scrap iron to be subjected to a recycling process. The question presented is whether a container sold for the described purpose is sold for "use as a trash container," for purposes of the exemption provided by *section 4063 (a) (7) of the Code*.

Section 4061 (a) of the Code imposes a tax on the sale by the manufacturer, producer, or importer of various articles, including automobile truck bodies suitable for use with a vehicle having a gross vehicle weight in excess of 10,000 pounds.

Section 4063 (a) (7) of the Code (effective after December 10, 1971) provides that the tax imposed under *section 4061 (a)* shall not apply in the case of any box, container, receptacle, bin, or other similar article *which is to be used as a trash container* and is not designed for the transportation of freight other than trash, and which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body, or in the case of parts or accessories designed primarily for use on, in connection with, or as a component part of [*3] any such article.

Neither the ultimate disposition of the scrap metal, nor the fact that it may have some commercial value, is solely determinative in deciding whether the scrap metal is "trash," for purposes of the exemption provided by *section 4063 (a) (7) of the Code*. In the instant case, the ultimate recycling of the scrap iron in no way alters the fact that the iron is solid "waste" that must be disposed of, and in the general sense of the word such scrap metal is considered to be "trash."

Therefore, a container of the type described in *section 4063 (a) (7) of the Code*, when used as a depository for scrap iron that is to be recycled, is being "used as a trash container" for purposes of the exemption provided by *section 4063 (a) (7)*. Accordingly, sales of such containers after

December 10, 1971, under the described circumstances are not subject to the tax imposed by *section 4061 (a) of the Code*.