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## **Rev. Rul. 75-354**

Advice has been requested whether the weight of a wrecker crane and power take-off system should be included in computing the actual unloaded weight of a certain tow truck for purposes of the highway motor vehicle use tax imposed by section 4481 of the Internal Revenue Code of 1954.

The tow truck in question is equipped with a wrecker crane designed and constructed for use in recovering and towing disabled motor vehicles. The crane consists of a mast, boom, cables, and winch required for towing. The winch is activated by a power take-off system operating from the vehicle's transmission.

Section 4481 of the Code imposes a tax 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 more than 26,000 pounds.

Under the provisions of section 4482(b) of the Code, one of the factors to be taken into consideration in determining the "taxable gross weight" of a highway motor vehicle is the actual unloaded weight of the vehicle fully equipped for service.

In the case of trucks and truck-tractors, section 41.4482(b)-1(b) of the Highway Motor Vehicle Use Tax Regulations defines the term "fully equipped for service" as including the body (whether or not designed and adapted primarily for transporting cargo); all accessories; all equipment attached to or carried on the truck or truck- tractor for use in connection with the movement of the vehicle by means of its own motor or for use in the maintenance of the vehicle; and a full complement of lubricants, fuel, and water. The regulation also provides that the term does not include driver, any equipment (not including body) attached to or carried on the vehicle for use in handling, protecting, or preserving cargo; or any special equipment (such as an air compressor, crane, specialized oilfield machinery, etc.) mounted on the vehicle for use on construction jobs, in oilfield operations, etc.

In referring to the excluded equipment carried on the vehicle for use in handling, protecting or preserving cargo, the foregoing regulation does not contemplate the exclusion of equipment that also performs a significant transportation function. Further, the excluded crane specifically referred to in the regulations only functions at the jobsite when the vehicle is not in motion and not in connection with the transportation or operation of the vehicle.

Since the wrecker crane is used in the recovery and towing of disabled vehicles, the crane performs a function in connection with the transportation and operation of the tow truck. Therefore, the weight of the wrecker crane is to be included in computing the actual unloaded weight of the tow truck for purposes of the highway motor vehicle use tax.

Since the power take-off system is only used when loading and unloading the vehicle, it performs no transportation function. Therefore, the weight of the power take-off system is to be

excluded in computing the actual unloaded <Page 445> weight of the tow truck for purposes of the highway motor vehicle use tax.