

Field Directive

Federal Excise tax on the importation and manufacture of fishing and archery products

**Carole Sheets
Excise Policy Analyst
Sport fishing and Archery issues
Phone: (202) 431-3310**

**Jack Brown
IRS – Excise Tax Specialist
(231) 932-2057**



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224**

SMALL BUSINESS/SELF-EMPLOYED DIVISION

{7/7/06}

MEMORANDUM FOR EXCISE FIELD OPERATIONS

FROM: Bill Conlon
Director, Specialty Tax

SUBJECT: Field directive on Federal Excise tax on the importation and manufacture of fishing and archery products

This memorandum is intended to provide guidance for determinations made in examination of taxpayers who import and/or manufacture taxable fishing and archery products. This directive is not an official pronouncement of the law or the position of the Service and cannot be used, cited, or relied upon as such.

In February 2005, The Trust Fund Collection Working Group (TFCWG) representing manufacturers, government, and trade associations was formed to encourage cooperation and enhance communication among parties with interests and roles in the payment, prediction, collection, management, administration, and expenditures of excise taxes and import duties that finance the Aquatic Resources Trust Fund (20X8147) and the Federal Aid to Wildlife Restoration Fund of 1975.

The strategies to support the goals of the Trust Fund Collection Working group included:

- Formalizing communication among interested parties
- Identifying, documenting, and prioritizing key issues of common concern or interest
- Establishing cooperative efforts to resolve identified key issues
- Expanding membership or inviting ex officio participation in the TFCWG to resolve identified key issues
- Communication tools for tax requirements
- Producing clear compliance and application messages
- Communicating benefits of increased compliance for industry and wildlife
- Answers/clarification on commonly misunderstood tax code terms

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Some ways the group intended to achieve this goal was to:

- Develop tools to communicate the requirements of the tax code to manufacturers;
- Identify how greater compliance with the tax code by industry benefits fish and wildlife restoration programs
- Provide answers to questions regarding the most commonly misunderstood provisions or tax terminology.

The IRS has been asked to “level” the playing field by applying the tax laws uniformly and consistently across the United States in complex areas of the manufacturer’s excise tax law:

- Who is the manufacturer?
- Who is the importer?
- What is the constructive sales price?
- What constitutes related party sales?
- How to determine who pays the tax on sales to “Big Box” retailers

To that end we have developed the Archery and Sport Fishing Quick Reference Guide, Attachment 1, and Archery and Sport Fishing Scenarios, Attachment 2, which define and illustrate the appropriate application of these terms and their affect on the taxability of transactions. Much of the background information for these scenarios was obtained from industry and association representatives.

This Directive is not an official pronouncement of law or the position of the Internal Revenue Service, and cannot be used, cited, or relied upon as such.

If you have any questions, please contact W. Ricky Stiff, Chief, Excise Tax Program at (202) 622-5581.

Attachments (2)

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Who is liable for the Federal Excise Tax (FET)?

IRC 4161 imposes an excise tax on the sale of sport fishing equipment, bows, archery equipment and arrow shafts. This tax is imposed on the manufacturers (a term which includes producers and importers) of these products. In order to determine the proper taxpayer we must understand how the code defines these terms.

Manufacturer:

Regulation Section 48.0-2(a)(4)(i) defines a “manufacturer” to include any person who produces a taxable article from scrap, salvage, or junk material, or from new or raw material, by processing, manipulating, or changing the form of an article or by combining or assembling two or more articles. The term also includes a “producer” and an “importer”.

Regulation Section 48.0-2(a)(4)(ii) states that under certain circumstances, as where a person manufactures or produces a taxable article for another person who furnishes materials under an agreement whereby the person who furnished the materials retains title thereto and to the finished article, the person for whom the taxable article is manufactured or produced, and not the person who actually manufactures or produces it, will be considered the manufacturer.

Importer:

Regulation Section 48.0-2(a)(4)(i) defines an “importer” as any person who brings a taxable article into the United States from a source outside the United States, or who withdraws a taxable article from a customs bonded warehouse for sale or use in the United States. If the nominal importer of the taxable article is not its beneficial owner (for example, the nominal importer is a customs broker engaged by the beneficial owner), the beneficial owner is the importer of the article and liable for tax on its sale or use of the article in the United States.

Rev. Ruling 67-209, 1967 -1C.B.297, held that it is necessary to look through the form of the substance of the transaction to determine whether the nominal importer actually functions as a typical import merchant, or merely serves in a representative capacity, charged only with the responsibility for bringing the goods into the commerce of the United States, after a sale contract has been negotiated independently by the principals involved.

Archery and Sport Fishing Quick Reference Guide

Determination of Sale Price

In General. The tax on sport fishing equipment, electric outboard motors, and bows is based on the price for which the article is sold.

The price for which an article is sold includes the total consideration paid for the article, whether that consideration is in the form of money, services, or other things. Section 4216(a).

Include the following in the sale price:

- Any charge for coverings or containers (regardless of their nature).
- Any charge incident to placing the article in a condition packed ready for shipment.

Exclude the following from the sale price:

- The manufacturer's excise tax, whether or not it is stated as a separate charge.
- The actual cost of transportation, delivery, insurance, installation, and other expenses incurred by the manufacturer or importer in placing the article in the hands of the purchaser pursuant to a bona fide sale. (The costs of transportation of goods to a warehouse before their bona fide sale are not excludable.)
 - Discounts, rebates, and similar allowances actually granted to the purchaser.
 - Local advertising charges.
 - Charges for warranty paid at the purchaser's option.

Constructive sale price; background. The basic sale price rules assume that the manufacturer sells the article in an arm's length transaction (that is, in a transaction between two unrelated parties) to a wholesale distributor that then sells it to a retailer that resells to consumers.

However, if an article is sold other than to a wholesale distributor or at less than a fair market arm's length price, the law requires that the tax calculation be made on a constructive sale price (CSP) rather than the actual sale price.

Constructive sale price; general rule; § 4216(b)(1). If a manufacturer sells an article--

- At retail,
- On consignment, or
- At less than fair market price and in other than an arm's length transaction,

then the tax is to be computed on the highest price for which the article is sold to wholesale distributors, in the ordinary course of trade, by manufacturers as determined by the IRS. For articles sold at retail, the tax is computed on the lower of

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

the price for which the article is sold or the highest price for which the article is sold to wholesale distributors, in the ordinary course of trade, by manufacturers as determined by the IRS.

Constructive sale price; special rule; § 4216(b)(2). There is a special rule for determining the CSP for certain arm's length sales. If an article is sold at retail or to a retailer, and if--

- The manufacturer regularly sells taxable articles at retail, or to retailers, or to both,
- The manufacturer regularly sells the articles to one or more wholesale distributors in arm's length transactions and establishes that its prices are determined without regard to any tax benefit to be derived from the sale, and
- The transaction is an arm's length transaction,

then, the tax is computed on the lower of--

- The actual sale price, or
- The highest price for which the articles are sold by the manufacturer to wholesale distributors.

Constructive sale price; certain sales to affiliates.

Sections 4216(b)(3), (4), and (5) provide for constructive sale prices when articles are sold by the manufacturer to a related distributor, who, in turn, sells to independent retailers. However, under those sections, the related parties must be members of an affiliated group as defined in § 1504(a).

Section 4216(b)(3) provides that if a manufacturer, producer, or importer of a sport fishing or archery equipment regularly sells such article to a related distributor in other than arm's length transactions and at less than fair market price, and such distributor regularly sells such article to one or more independent retailers but does not regularly sell to wholesale distributors, the constructive sale price shall be 90 percent of the lowest price for which the related distributor regularly sells such article in arm's length transactions to such independent dealers.

An exception to this rule is found in § 4216(b)(4).

Also see Rev. Rul. 82-211, 1982-2 C.B. 296, for an application of the rules for sales to affiliates.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Factors to consider when determining who is the taxpayer in the case of importers and manufacturers in sport fishing and archery cases.

Product/Manufacture

- 1) Who develops the product?
- 2) What has been the historical development of the products?
 - ◆ Detail the product development, manufacturing and importation process for both taxable and non taxable products
- 3) Who provides the capital for the transaction?
- 4) Who paid for Research and Development of the product?
- 5) Who owns or controls patents used in the product?
- 6) Does one party have exclusive rights to the entire production output?
- 7) With respect to the imported products who controls the following:
 - ◆ Quantity of production
 - ◆ Quality of the product.
 - ◆ Design specifications of product
- 8) Who is responsible for product warranty?
- 9) Who negotiated original and subsequent contracts with the manufacturer?
- 10) Who were the parties to the contracts with the manufacturer?
- 11) Who owns equipment used for manufacture (molds, etc.)?
- 12) Who supplies the raw materials for the manufacturing process?
- 13) Who holds title to product when:
 - ◆ Manufactured
 - ◆ Imported
 - ◆ Inventoried
 - ◆ Sold to the public
- 14) Who holds themselves out as the manufacturer of the product for the purposes of brand support and advertising?
 - ◆ Who actively promotes the sale of the product in the US?
- 15) Does customer pay any fees to the manufacturer to develop products?
- 16) Does the product bear the trademark of someone other than the person who pays the FET?

Inventory

- 17) Who is responsible for maintaining or warehousing inventory (finished goods) and in whose name is it held?
- 18) Who inventories the products for sale to vendors?

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Importation

- 19) Who bears the economic risk of importation expenses, including but not limited to:
 - ◆ Shipping
 - ◆ Freight
 - ◆ Insurance
 - ◆ Customs fees
 - ◆ Late delivery
- 20) Does the importer possess extensive knowledge of the market?
- 21) How does the importer establish its sales price?
 - ◆ Is the rate of return guaranteed or does it depend on the profits from the venture?
- 22) Does the importer have more than one US customer?
- 23) Does the importer conduct all importation and other documentation in its own name?
- 24) Does the importer maintain employees?

Relationship

- 25) Do the parties to the transaction share any assets, expenses, etc.?
- 26) Are sales among the parties at Fair Market Value?
- 27) What is the relationship among the parties involved in the transaction?

Glossary of Terms

Arm's length transaction – a sale between non related parties at fair market value.
Arrow fletching is natural feathers (or man-made substitutes) processed for application to arrows.
Arrow head. See point .
Arrow holder is an item affixed to a bow to hold an arrow in ready position.
Arrow includes all articles designed or constructed to be propelled by a bow in the sport of archery (target shooting), or in hunting or fishing. The overall length of the arrow is to be measured from the point of the tip or arrowhead to the end of the arrow nock. In the case of arrows sold by the manufacturer without heads, tips, or nocks, the overall length is to include the length of the shaft plus the length of the nock and head or tip that is normally used with the particular type of arrow shaft. Reg. Section 48.4161(b)-2(a)(2).
Arrow nock is the string notch at the end of the arrow.
Arrow rest is an article used to support an arrow while it is attached to the bow string.
Artificial bait is any bait that simulates an article considered edible to fish and that is designed to be attached to a hook or lure. The term does not include preserved packaged natural baits. Rev. Rul. 88-52 1988-1 C.B. 356
Artificial fly consists of a hook to which feathers, beads, lead, or other items are attached to make the article resemble an insect or any other organism considered

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

<p>edible to fish. An artificial fly is usually designed to be attached to a fishing line, leader, swivel, or snap. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Artificial lures are all devices (from whatever materials made) that are designed to be attached to a fishing line and that simulate an article considered edible to fish or that otherwise are intended to induce a fish to attempt to confront, swallow, bite, or consume the device. An artificial lure usually includes one or more attached hooks. Artificial lures include, but are not limited to, plugs, spoons, jigs, feathers, spinners, soft-plastic lures, and spear fishing decoys. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Bag, basket, or other container designed to hold fish is a container designed to be hung over the side of a boat or other structure to keep fish captive and alive in the water. These containers may be made of any material. The term includes collapsible baskets or any similar device designed for the same purpose. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Beneficial owner is the “importer” of the article for purposes of chapter 32 and is liable for tax on his sale or use of the article in the United States. Regulation 48.0-2(a)(4)</p>
<p>Bobber is any device used as a means to suspend a fishing line or lure in the water column or that can be used to visually track the location and status of fishing line and associated hooks and bait. A bobber can be attached to fishing line and is made of wood, cork, plastic, Styrofoam, or other material. It can be any size, shape, or color. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Bow includes all articles made of flexible materials, that are designed to be equipped with a string and used for the propelling of arrows in the sport of archery (target shooting), or in hunting or fishing. Reg. Section 48.4161(b)-2(a)(1)</p>
<p>Bow nocks are the string grooves cut into the bow near the tips of the bow.</p>
<p>Bow shot is the distance a bow shoots an arrow.</p>
<p>Bow sight is a device that can be attached to the handle of a bow above the arrow rest to give one or more points of reference.</p>
<p>Bow stabilizer is any attachment or weight for use on bows to effect stabilization, counterbalancing, or modification of weight distribution.</p>
<p>Bow string is the string of an archer’s bow.</p>
<p>Broadhead is an arrow point designed for hunting fish or large animals.</p>
<p>Component part of a fishing rod or pole is a rod handle, guide, reel seat, blank rod, tip top, ferrule, or any other device that is designed to be attached to a pole or rod for use in fishing. No tax is imposed on the sale of strike indicators (alarm switches that attach to a fishing rod) and carrying cases for fishing rods. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Compound bow is a bow that is equipped with a cam-type wheel and cable system instead of a single bowstring. The force needed to draw a compound bow increases until the cams turn over, after which it decreases. Thus the draw weight of a compound bow at full draw is less than the draw weight at approximately the mid-point of the draw.</p>
<p>Creel is any portable container designed for storing and carrying fish from the time they are caught until the time they are removed from the container for consumption or preservation. A creel can be made of any material. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Disgorger is any implement designed to remove fishing hooks from the mouth, gill, arches, or stomach of fish. A fishing hook disgorger can be made of any material.</p>

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Pliers are not considered fishing hook disgorgers for purposes of IRC section 4161(a). Rev. Rul. 88-52 1988-1 C.B. 356
Downrigger is a device used for submerging and lowering a fishing line and bait down and away from a boat while trolling. A downrigger usually consists of a boom and reel attached to the boat supporting a cable (downrigger line) and weight (sinker), with a means for attaching fishing line in such a way that when a fish strikes the trolled bait the line is released from the weight so that the fish may be fought directly with a rod and reel. Rev. Rul. 88-52 1988-1 C.B. 356
Draw check is any device attached to a bow or sting to ensure consistent draw length.
Draw length is the distance, usually measured in inches, from the back of the bow at the grip to the maximum distance the bow is designed to be drawn.
Draw weight is the amount of power, usually measured in pounds, that is required to draw the bow to its maximum draw length. Section 4161(b)(1)(A) imposes a tax on certain sales of bows having peak draw weight of 30 pounds or more.
Drayle (or drail) is any article made, wholly or in part, of lead or another metallic substance that can be tied or otherwise attached to the end of a fishing line to which are attached leaders or other items of terminal tackle. A drayle is designed to be trolled behind a boat so that the line or terminal tackle descends into the water column. Rev. Rul. 88-52 1988-1 C.B. 356
Dressing for fishing lines and artificial flies is any substance designed to be applied to a fishing line or an artificial fly to enhance the flotation of the line or fly or that is otherwise designed to attract fish to the artificial fly. Rev. Rul. 88-52 1988-1 C.B. 356
Electric outboard boat motor includes an electric powered motor designed to be attached to the outer surface of a boat to facilitate the movement of the boat through the water. Rev. Rul. 88-52 1988-1 C.B. 356
Exportation means the severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States. Regulation 48.0-2(a)(10)
Exporter means the person named as shipper or consignor in the export bill of lading. Regulation 48.0-2(a)(9)
Fish fighting chair is a heavily built chair usually designed to have a footrest, rod holder, and swivel base attached. A fish fighting chair is usually permanently installed in a fishing boat for the purpose of fighting deep sea fish with rod and reel. However, the chair may be mounted in the boat so as to be removable. Rev. Rul. 88-52 1988-1 C.B. 356
Fish stringer is any article designed or sold as a device for attaching fish through the opercular opening and mouth. The term includes any device consisting of a series of metal or plastic clips, as well as a cord consisting of a ring and threader connected by the cord. Rev. Rul. 88-52 1988-1 C.B. 356
Fishing downrigger is a device used for submerging and lowering a fishing line and bait down and away from a boat while trolling. A downrigger usually consists of a boom and reel attached to the boat supporting a cable (downrigger line) and weight (sinker), with a means for attaching fishing line in such a way that when a fish strikes the trolled bait the line is released from the weight so that the fish may be fought directly with a rod and reel. Rev. Rul. 88-52 1988-1 C.B. 356

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

<p>Fishing harness is any article worn by the person fishing to transmit muscular power to the rod or to absorb strain. Fishing harnesses are usually made of canvas, leather, and/or similar materials, and have straps with devices that can be fastened to the reel and/or sockets into which the rod butt may be seated. A fighting chair harness is an example of a fishing harness. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing hook disgorgers is any implement designed to remove fishing hooks from the mouth, gill, arches, or stomach of fish. A fishing hook disgorgers can be made of any material. Pliers are not considered fishing hook disgorgers for purposes of IRC section 4161(a). Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing hook is any curved or bent metallic device that terminates in a sharp point and is designed for the purpose of catching, holding, or pulling fish or fishing bait. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing outrigger is a device, or pair of devices, attached to a boat consisting of a braced rod or tube, with a means for attaching a fishing line out and away from the boat for trolling purposes. A fishing line is attached to a fishing outrigger in such a way that when a fish strikes the bait the line is released from the outrigger so that the fish may be fought directly with rod and reel. A fishing outrigger can be of any size. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing reel is any mechanical device that can be attached to a rod or pole and is used or designed for dispensing and retrieving fishing line. The term includes reels used in fly fishing, reels or spools employed for dispensing and retrieving the line attached to arrows and spears used in fishing, and reels or spools designed for use in ice fishing. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing rod belt is an article that fastens around or near the waist of the person fishing. It is designed for holding the butt end of a rod or pole in a cup-like depression to aid in the handling of the rod or reel. A gimbal belt is an example of a fishing rod belt. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing rod holder is a device that is portable and can be inserted into a beach, clamped onto a boat, or mounted onto any structure. A fishing rod holder holds a rod or pole in a stationary position relative to the beach, boat, or structure. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing rod or pole (and component parts therefor) is any tube or shaft-like device (regardless of size or length) made of natural, synthetic, or other material that is designed or used to cast, troll, or otherwise present a bait or lure to fish. The term fishing rods and poles does not include bamboo poles that are not designed or intended for use in fishing. Any pole intended for attaching a fishing line to or through is considered a fishing rod or pole. Jigsticks and other similar devices used in ice fishing are considered fishing rods or poles. See Component Parts. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing spear is any tube or shaft-like device that ends in a sharp tip and is designed for the purpose of spearing fish. Fishing spears, spear guns, and spear tips do not include bows and fishing arrows used in the sport of bowfishing. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing tip-up or tilt is a device used in ice fishing that is designed to alert the person fishing that a fish is hooked in the process of attempting to eat bait on a hook or in the process of attempting to bite a bait or lure. A fishing tip-up or tilt consists of parts such</p>

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

<p>as a spool on a spindle and a spring-mounted flag on opposite ends of a vertical pole or arm, with cross members to support the pole or arm over a hole in the ice. A fishing tip-up or tilt need not have a spring-mounted flag to be considered taxable under IRC section 4161(a). Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fishing vest is a garment designed for storing various lures, flies, hooks, or other fishing paraphernalia. A fishing vest may also have the capacity to store fish. A fishing vest is usually made from durable, water-repellent material. The term fishing vest includes vests with flotation capacity, but not vests that are intended solely as flotation devices. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Flies. (Artificial flies) is any bait that simulates an article considered edible to fish and that is designed to be attached to a hook or lure. The term does not include preserved packaged natural baits. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Fly fishing lines and other fishing lines not over 130 pounds test include all lines, either monofilament, multifilament, synthetic, metal, organic, or inorganic, that are used or designed for the purpose of attaching lures, hooks, flies, bobbers, sinkers, or any other item of terminal tackle, including lines used to attach items of terminal tackle to one another, such as leaders. Fishing lines over 130 pounds test are not taxable. (These lines are able to suspend a 130 pound weight without breaking or stretching more than five percent of line length while suspending that weight.) Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Flying gaffs. See gaff hook.</p>
<p>Gaff hook consists of a handle and a hook. A gaff hook is primarily designed for holding or lifting fish onto shore, into a vessel, or onto any structure once a fish is brought to the shore, boat, or structure on the end of a fishing line. A gaff hook can be made of any material and can be any size. The hook on a gaff hook may or may not be barbed. The term gaff hook includes, but is not limited to, straight or fixed-head gaffs, flying gaffs, and tuna hooks. Rev. Rul. 88-52 1988-1 C.B. 356</p>
<p>Gimbal belt. See fishing rod belt.</p>
<p>Grasshopper cages. See portable bait container.</p>
<p>Ground quiver is a device that is stuck into the ground to hold the bow and/or arrows when not in use; a type of quiver.</p>
<p>Head. See point.</p>
<p>Importer of a taxable article is any person who brings such an article into the United States from a source outside the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States. Regulation 48.0-2(a)(4)</p>
<p>Insert is an internal adapter used to attach a point or nock to an arrow shaft.</p>
<p>Jigsticks. See fishing rods or poles.</p>
<p>Killy cars. See portable bait container.</p>
<p>Kisser buttons are all items attached to a bowstring to establish consistent anchor point.</p>
<p>Landing net consists of a handle connected to a hoop that is covered by a bag-type net. A landing net is primarily designed for scooping fish out of the water and onto shore, into a vessel, or onto any structure. Any fishing net is taxable as a landing net if it can be used as a landing net and if it incorporates in its design the three major</p>

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

components of a landing net -- a handle, a hoop, and a bag-type net. A landing net may have a telescoping handle or may be made of material that floats. Rev. Rul. 88-52 1988-1 C.B. 356
Leader is any article used for attaching the end of a fishing line to a hook or lure or any other device of terminal tackle. The term includes, but is not limited to, swivels and snaps. Rev. Rul. 88-52 1988-1 C.B. 356
Lures. See artificial lures.
Manufacturer includes a person who produces a taxable article from scrap, salvage, or junk material, as well as from new or raw material, (1) by processing, manipulating, or changing the form of the article, or (2) by combining or assembling two or more articles. See Treas. Reg. section 48.0-2(a)(4)(i).
Minnow bucket. See portable bait container.
Nocking points are all items attached to a bowstring to establish arrow positioning.
Nominal importer of a taxable article is not its beneficial owner (for example, the nominal importer is a customs broker engaged by the beneficial owner) Regulation 48.0-2(a)(4)
Outrigger. See fishing outrigger.
Outsert is an external adapter used to attach a point or nock to an arrow shaft.
Parts and accessories for bows include all articles (other than fishing reels) suitable for inclusion in, or attachment to, a taxable bow. Regulation section 48.4161(b)-(2)(b)1.
Point is the tip of an arrow.
Portable bait container is any portable device designed or sold as an article to hold or transport bait in connection with recreational fishing activities. Examples of portable bait containers are minnow buckets, killy cars (floating cages), and grasshopper cages. Rev. Rul. 88-52 1988-1 C.B. 356
Purchaser includes a lessee except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article. Regulation 48.0-2(a)(8)
Quiver includes all articles, of whatever material made, that are designed to contain, and to provide ready access to, taxable arrows during the time an archer is engaged in target shooting, hunting, or fishing. The term does not include any article designed solely for storing or transporting arrows during times when the arrows are not in use.
Recurve bow is a bow with curved-tip limbs that bend away from the archer. The draw weight of a recurve bow increases as the bowstring is pulled to reach "full draw."
Reels. See fishing reels.
Retail dealer is a person engaged in the business of selling articles at retail.
Rod constitutes a fishing rod within the meaning of IRC section 4161 if it is designed by the manufacturer for fishing purposes and is suitable for such purposes. See Rev. Rul. 58-425, 1958-2 C.B. 804.
Rod holder. See Fishing rod holder.
Rod rack is a storage rack for rods.
Sale at retail is a sale to a purchaser who intends to use the article (A sale to the end user).
Sale means an agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership) in goods to the buyer for a consideration called

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

the price, which may consist of money, services, or other things. Regulation. 48.0-2(a)(5)
Sale on credit , the tax attaches whether or not the purchase price is actually collected. Regulation 48.0-2(b)(4).
Shaft is the body or main section of an arrow, extending between the nock and the point.
Sinker is any device wholly or in part made of lead or another metallic substance designed to attach to a fishing line or to items of terminal tackle in order to cause the terminal tackle to descend into the water column. A sinker can be of any size or shape. Rev. Rul. 88-52 1988-1 C.B. 356
Snap is a catch, clip, or fastening device. It is designed at one end to attach to a swivel or tie onto the end of a fishing line and to attach, by means of a clasp at the other end, to items of terminal tackle. Rev. Rul. 88-52 1988-1 C.B. 356
Spear gun is any device designed for propelling a shaft or tube-like device through the water for the purpose of spearing fish. Rev. Rul. 88-52 1988-1 C.B. 356
Spear tip is any device that ends in one or several sharp tips, that may be attached to a shaft or tube-like device and that is designed for the purpose of spearing fish. Rev. Rul. 88-52 1988-1 C.B. 356
Straight or fixed-head gaff. See gaff hook .
Strike indicator is an alarm switch that attach to a fishing rod to alert the person fishing when a fish strikes the bait.
String peeps are all items attached to a bowstring for use in sighting.
Stringer. See fish stringer .
Swivel is any device designed so that fishing line and/or items of terminal tackle can be attached to one or more of the ends of the device. The device is also designed so that the ends of the fishing line and/or items of terminal tackle attached to the ends of the device can pivot freely. Rev. Rul. 88-52 1988-1 C.B. 356
Tackle box is a portable container primarily designed, intended for use, or sold as an item in which to store or organize fishing paraphernalia like hooks, lures, flies, sinkers, or bobbers, until the items are placed on a fishing line, rod, or reel. A tackle box can be made of any material. Rev. Rul. 88-52 1988-1 C.B. 356
Taxable article means any article taxable under section 4041 or chapter 32, Subtitle D, of the Code. Regulation 48.0-2(a)6
Terminal tackle includes, but is not limited to the following items: leaders, artificial lures, artificial baits, artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels. The term terminal tackle does not include natural baits. Rev. Rul. 88-52 states that no tax is imposed on the sale of items otherwise considered to be terminal tackle if they are designed for use and ordinarily are used on fishing line over 130 pounds test.
Title passes depending upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes. Regulation 48.0-2(b)(2)
Tuna hook. See gaff hook .
Utility box. See tackle box .
Vane is the web or flat expanded part of a feather. The term also describes the

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

synthetic fletching that replaces feathers on modern arrows.

Wholesale distributor is a person engaged in the business of selling articles to persons engaged in the business of reselling such articles.

Archery and Sport Fishing Quick Reference Guide

FISHING ITEMS SUBJECT TO TAX	
Items	Description and Cite
Bags, baskets, and other containers	A container, made of any material, primarily designed to hang over the side of a boat or other structure to keep fish captive and alive in the water. Includes collapsible baskets or any similar device designed for the same purpose. Rev. Rul. 88-52
Bags, canvas	Designed and sold for use by anglers for carrying fish. Rev. Rul. 58-187
Bait containers, portable	Any portable device designed or sold to hold or transport bait. Rev. Rul. 88-52
Baits, artificial	Simulates an article considered edible to fish and designed to be attached to a hook or lure. Rev. Rul. 88-52
Baits, manufactured from various edible foods	Made from edible food ingredients and formed to resemble fish eggs, frogs, eels and tadpoles, etc. Rev. Rul. 71-321;
Baits, semi-soft processed cheese	Semi-soft cheese with additional ingredients added to provide desired consistency, color, scent and buoyancy, and packaged by weight and sold in a solid form so that it may be shaped or used as is. Rev. Rul. 77-302
Bobbers	Any device used as a mean to suspend a fishing line or lure, or can be used to visually track a fishing line. It can be any size, shape, color or material. Rev. Rul. 88-52
Creels	A portable device, made of any material, designed for storing and carrying fish after they are caught. Rev. Rul. 88-52
Drayles	Any size or shape device made wholly or in part of lead or other metallic substance designed to be attached to a line. Rev. Rul. 88-52
Dressing for fishing lines and artificial flies.	Any substance designed to be applied to a fishing line or an artificial fly to enhance the flotation of the line or fly or that is otherwise designed to attract fish to the artificial fly. Rev. Rul. 88-52
Electric outboard boat motors	An electric powered motor designed to be attached to the outer surface of a boat to facilitate the movement of the boat. Rev. Rul. 88-52
Fish fighting chairs	A heavily built chair usually designed to have a footrest, rod holder, and swivel base attached. It is usually permanently installed in a boat, but may be mounted so as to be removable. Rev. Rul. 88-52
Fish stringers	Any device designed or sold for attaching fish through the opercular opening and mouth. Rev. Rul. 88-52
Fishing blades	Blades stamped from copper or brass sheets and plated or lacquered. Rev. Rul. 85-152
Fishing downriggers	A device used for submerging and lowering a fishing line and bait down and away from the boat while trolling. Rev. Rul. 88-52
Fishing harnesses	Any article worn by an angler to transmit muscular power to the rod or to absorb strain. They usually are made of canvas, leather, and/or similar material. A fighting chair harness is an example. Rev. Rul. 88-52
Fishing lines	Not greater than 130 pounds test, including monofilament, multifilament, synthetic, organic, or inorganic, including metal lines used to attach lures, hooks, flies, etc. Rev. Rul. 88-52
Fishing outriggers	Devices, of any size, attached to a boat with a means of attaching a fishing line out and away from the boat for trolling purposes. Rev. Rul. 88-52
Fishing rig	An article which includes a spinner and a bead. Rev. Rul. 85-152
Fishing spears, spear guns and spear tips	Spear guns designed for underwater deep sea fishing. Does not include bows or fish arrows used in bowfishing. Rev. Rul. 85-149 ; Rev. Rul. 88-52
Fishing vests	A garment designed for storing lures, flies, hooks, etc. Includes vests that have the capacity to store fish, and/or flotation capacity. Does not include vests intended solely as flotation devices. Rev. Rul. 88-52

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Flies, artificial	Article designed to resemble an insect or any other organism considered edible to fish. Rev. Rul. 88-52
Float, clear plastic	Designed to look like a natural bubble in the water. Rev. Rul. 85-152
Float, colored plastic	Color and water action designed to attract fish. Rev. Rul. 85-152
Gaff hooks	Consists of a handle and a hook, of any material and size, primarily designed for holding or lifting fish onto shore, into a vessel, or onto any structure. Includes, but not limited to, straight or fixed-head gaffs, flying gaffs, and tuna hooks. Rev. Rul. 88-52
Hook, extractors or disgorgers	Any implement, made of any material, designed to remove fishing hooks from a fish. Pliers are not fish hook disgorgers. Rev. Rul. 88-52
Hooks	Except those hooks designed for use and ordinarily used on fishing lines over 130 pounds test. Rev. Rul. 88-52
Ice fishing decoys	Used to lure fish to hole in ice where they can be speared. Rev. Rul. 85-153
Ice fishing tip-ups	Rev. Rul. 85-153
Jigs	Consisting of a cadmium plated hook with an integral lead weight, designed to be used with artificial worms and grubs. Rev. Rul. 84-57
Jigsticks and similar devices	Used in ice fishing. Rev. Rul. 88-52
Leaders	Any article used to attach the end of a fishing line or any article of terminal tackle to another article of terminal tackle. Rev. Rul. 88-52
Lures, artificial	Includes, but not limited to, plugs, spoons, jigs, feathers, spinners, soft-plastic lure, and spear fishing decoys. Rev. Rul. 88-52
Lures, kits	Kits containing such components as preshaped wooden bodies, screw eyes, washers, hooks, clear lacquer, and propellers. Rev. Rul. 66-154
Lures, lead castings	Sales of painted or plated castings are taxable. Sales of flat, oval-shaped, raw lead castings are not taxable. Rev. Rul. 75-356
Nets, landing	Items consisting of a handle connected to a hoop that is covered by a bag-type net. Designed primarily for scooping a hooked fish out of the water and into a vessel or onto shore. Also, any net which is composed of a handle, hoop and net and which is capable of being used as a landing net, is considered to be a landing net. §4162(a)(6)(G); Rev. Rul. 88-52;
Reels and spools	Any mechanical device that can be attached to a rod, pole, arrow or spear and is used or designed for dispensing and retrieving fishing line. Rev. Rul. 88-52
Reels and spools, used in ice fishing	Rev. Rul. 88-52
Rod belts	An article that fastens around or near the waist designed for holding the butt end of a rod or pole to aid in the handling of the rod or reel. A gimbal belt is an example. Rev. Rul. 88-52
Rod components	Rod handle, guide, reel seat, blank rod, tip top, ferrule, or any other device designed to be attached to a pole or rod for use in fishing. Rev. Rul. 88-52; Rev. Rul. 85-151
Rod kits	Rev. Rul. 85-151
Rods and poles	Any tube or shaft-like device, regardless of size, length or material, that is intended for attaching a fishing line to or through. Rev. Rul. 88-52
Rods, kits	A kit containing a rod blank, handle and reel seat is taxable. Rev. Rul. 59-136
Sinkers	Any size or shape device made wholly or in part of lead or other metallic substance designed to be attached to a line or lure to cause it to sink. Rev. Rul. 88-52
Snaps	A catch, clip or fastening device designed to be attached to a swivel, tie onto the end of a fishing line or to items of terminal tackle. Rev. Rul. 88-52
Sonar devices suitable for finding fish	Includes any such device except sonar devices that are graph recorders, digital type devices and meter readout devices. Rev. Rul. 88-52
Spinners	Rev. Rul. 85-152
Swivels	Any device designed so that fishing line and/or items of terminal tackle can be attached to one or more ends of the device and can pivot freely. Rev. Rul. 88-52
Tackle boxes	A portable container made of any material primarily designed, intended for use, or

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

	sold as an item to store or organize items such as hooks, lures, flies sinkers, etc. until they are placed on a fishing line, rod, or reel. Rev. Rul. 88-52
Tip-ups and tilts	A device used in ice fishing designed to alert that a fish is hooked, etc. See Rev. Rul. 88-52 for further description.
Worm harness	An article consisting of a spinner and beads or equipped with a plastic worm. Rev. Rul. 85-152
Worms, artificial	Worms manufactured and not packaged with ready-to-use lures are artificial lures. Thomas Mann, d/b/a Mann's Bait Shop, v. U.S. 28 AFTR2d 71-6361

ARCHERY ITEMS SUBJECT TO TAX

Items	Description and Cite
Archery parts and accessories for bows, broadheads, points and quivers.	There is imposed on the sale by the manufacturer, producer, or importer of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and of any quiver, broadhead, or point suitable for use with a taxable arrow. IRC 4161(b)(1)(B)
Arrow shafts.	There is imposed on the first sale by the manufacturer, producer, or importer of any shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly measures 18 inches overall or more in length, or measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1)(A), a tax equal to 40 cents per shaft. IRC 4161(b)(2)(A). For sales after 1/1/07 the rate is 42 cents per shaft.
Arrow Points	All points including field, target and fishing points as well as any other point used in target shooting or hunting. IRC 4161 (b)
Arrow holders	(all items to be affixed to a bow to hold an arrow in ready position) . Rev Rul.98-5
Arrow plates	(whether fixed, adjustable, spring loaded, etc.) . Rev Rul.98-5
Arrow rests	(whether bow shelf or auxiliary type. Rev Rul.98-5
Bow and Arrow Sets	Bow and arrow sets that contain any taxable article. When a set also contains nontaxable articles, the tax applies only to that portion of the combination sale price properly attributable to the taxable articles. See Rev. Rul. 75-18 , 1975-1 C.B. 345. Rev Rul.98-5
Bow handle sections	Rev Rul.98-5
Bow handles	Rev Rul.98-5
Bow limbs	Rev Rul.98-5
Bow saddles	Including interchangeable or replaceable bow grips. Rev Rul.98-55
Bow sights	Bow sights and bow sight extensions (including parts and attachments herefore) Rev Rul.98-5
Bow silencing pads	Rev Rul.98-5
Bow slings	Rev Rul.98-5
Bow stabilizers	All attachments and weights for use on bows to affect stabilization, counterbalancing, or modification of weight distribution. Rev Rul.98-5
Bow tip protectors	Rev Rul.98-5
Bows	All bows that have a peak draw weight of 30 pounds or more, including laminated composite bow, solid glass, wood, steel, etc bows and crossbows IRC 4161(b)(1)(A) Note: prior to November 21,2004 bows with a draw weight of 10 lbs. or more were taxed.
Bowstring silencers	Rev Rul.98-5
Bowstrings	Rev Rul.98-5
Brush buttons	Rev Rul.98-5
Cable guard slides	Rev Rul.98-5
Cable guards	Rev Rul.98-5
Camouflaged bow covers	Camouflaged bow covers (slip-over cloth, self-adhesive tape type, etc.) Rev Rul.98-5

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Cushion nocks	Rev Rul.98-5
Draw checks	Draw checks (spring loaded clickers, mirrors, or any other device attached to a bow or string to insure consisted draw length) Rev Rul.98-5
Draw stops	Rev Rul.98-5
Finger protectors attached to a bowstring	Rev Rul.98-5
Grip formers	Rev Rul.98-5
Kisser buttons	Kisser buttons (all items attached to a bowstring to establish a consistent anchor point) Rev Rul.98-5
Nocking points	(all items attached to a bowstring to establish arrow positioning) Rev Rul.98-5
Quivers	Quivers designed to provide ready access to taxable arrows while an archer is engaged in target shooting, hunting, or fishing, regardless of material from which constructed (including bow quivers designed to be attached to a bow and ground quivers) Rev Rul.98-5
Release draw bars	Rev Rul.98-5
String peeps	(all items attached to a bowstring for use in sighting) Rev Rul.98-5

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

FISHING ITEMS NOT SUBJECT TO TAX	
Items	Description and Cite
Baits, cheese spread	Packaged to appeal to fishermen for use as bait because the cheese did not simulate a natural fish bait. Nelson-Ricks Creamery Co., Ct. Cls, 80-2 USTC 16,348
Baits, processed marshmallows	Bait was not processed to resemble a different edible article considered more attractive to fish. Brown Bear Baits, Inc. U.S. Court of Claims
Fish tank aerators	Rev. Rul. 85-150
Fishing kites	Rev. Rul. 88-52
Fishwells	Designed for permanent installation. Rev. Rul. 88-52
Lights	Battery-operated lights used to provide illumination below the water for night fishing. Rev. Rul. 69-324
Lure retrievers	Rev. Rul. 85-150
Lures, lead castings	Sales of flat, oval-shaped, raw lead castings to companies who paint or plate them and sell them as spoon type baits. Rev. Rul. 74-356
Natural baits	Includes preserved packaged natural baits. Rev. Rul. 88-52
Nets, casting	Rev. Rul. 85-150
Portable folding fishing chairs	Rev. Rul. 88-52
Retrieving lines	Rev. Rul. 85-150
Rod carrying cases	Rev. Rul. 72-535;
Rod holders, side-mount (wall-mount)	Rod holders designed to be permanently attached to a boat. Rev. Rul. 88-52
Rods, practice	Manufactured and sold for use indoors to teach fly casting at fishing clinics, the handle does not have a reel seat to hold a fishing reel. Rev. Rul. 77-35
Scent oil for bait	Rev. Rul. 85-150
Sinkers for nets	Rev. Rul. 85-150
Strike indicators	Alarm switches that attach to a fishing rod. Rev. Rul. 88-52
Terminal tackle	Designed for use and ordinarily used on fishing line over 130 pound test. Rev. Rul. 88-52
Toys and novelties	Items that merely simulate articles of sport fishing equipment, and are not designed or constructed for practical use in sport fishing. Rev. Rul. 88-52
Wire minnow traps	Rev. Rul. 85-150

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

ARCHERY ITEMS NOT SUBJECT TO TAX

Items	Description and Cite
Accessory belts	Rev Rul.98-5
Archery armguards	Rev Rul.98-5
Archery powder	Rev Rul.98-5
Archery shooting finger tabs	Rev Rul.98-5
Archery shooting gloves	Rev Rul.98-5
Arrow clips for tackle boxes and display racks	Rev Rul.98-5
Arrow Components	Nocks, vanes, feathers and other fletching, inserts and outserts. Effective November 21, 2004 IRC 4161(b)(2)
Arrows (For sales after 14/1/2005)	Arrows that contain a taxed arrow shaft are no longer taxed. (Note the tax on Arrow shafts will apply to the first sale of a shaft in the U.S. whether the shaft is part of an arrow or not.)
Arrow fletching, feather and vanes	IRC 4161 for sales after November 21, 2004 .
Arrow cresting machines and replacement parts therefor	Rev Rul.98-5
Arrow cut-off and fabricating tools (and replacement parts herefore)	Rev Rul.98-5
Arrow fletching jigs and tools	Rev Rul.98-5
Arrow lunes	Rev Rul.98-5
Arrow pullers	Rev Rul.98-5
Arrow shaft dip tanks	Rev Rul.98-5
Arrow spine meters (and replacement parts herefore)	Rev Rul.98-5
Arrow straighteners	Rev Rul.98-5
Arrow tapering tools	Rev Rul.98-5
Bow's (with a peak draw weight of less than 30 Lbs.	IRC 4161(b) for sales after November 21, 2004 .
Bow and arrow cases designed for the transportation or storage of bows, arrows, and related equipment	Rev Rul.98-5
Bow and arrow racks designed solely for the storage of bows and/or arrows	Rev Rul.98-5
Bow squares	Rev Rul.98-5
Bow stringers	Rev Rul.98-5
Bow supports including ground bow holders and stands	Rev Rul.98-5
Bowfishing line	Rev Rul.98-5
Bowstring jigs	Rev Rul.98-5
Bowstring thread	Rev Rul.98-5
Bowstring wax	Rev Rul.98-5
Broadhead wrenches	Rev Rul.98-5
Electronic trackers	Rev Rul.98-5
Feather burners and feather burner kits (and replacement	Rev Rul.98-5

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

parts therefor)	
Feather waterproofing	Rev Rul.98-5
Feathers not prepared for use with arrows	Rev Rul.98-5
Finger slings	Rev Rul.98-5
Glues and cements	Rev Rul.98-5
Nocking point tools	Rev Rul.98-5
Powder pouches	Rev Rul.98-5
Score card holder	Rev Rul.98-5
Shirt and blouse protectors	Rev Rul.98-5
String holders and keepers	Rev Rul.98-5
String releases	Rev Rul.98-5
String servers	Rev Rul.98-5
Targets and target accessories	Rev Rul.98-5
Trigger Release Mechanism	A Hand held trigger release mechanism, not attached to a taxable bow and in contact with the bow string only. Rev Rul 76-40

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sport Fishing Quick Reference Guide

Sporting Fishing Equipment

Rate of Tax

- **10%** on the sale by the manufacturer, producer or importer of any article of sport fishing equipment.
 - LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES. —The tax imposed on any fishing rod or pole shall not exceed \$10. Effective: 9/30/05
- **3%** on the sale by the manufacturer, producer, or importer of electric outboard motors.
Note: Prior to 12/31/04 sonar device were also taxed at 3%
- **3%** Fishing tackle boxes, effective 1/1/05
- **10%** on parts and accessories sold in connection with a taxable sale.

Archery Equipment

Rate of Tax

- ◆ **11%** The tax on bows is (.11) of the sales price. It applies to bows having a peak draw weight of 30 pounds or more.
The tax is also imposed on the sale of any part or accessory suitable for inclusion in or attachment to a taxable bow and any quiver (or broadhead after November 21, 2004) suitable for use with arrows described below.
- ◆ **39 cents per shaft, Arrow Shaft (effective after 3/31/05)**
(whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—
 - Measures 18 inches overall or more in length, or

Measures less than 18 inches overall in length but is suitable for use with a bow described above.

The tax on arrow shafts (IRS No. 106) increases to \$.40 per shaft, Code section 4161(b)(2)(B), inflation adjustment in Rev. Proc. 2005-70 (effective for sales after 1/1/06 and before 1/1/07)

The tax on arrow shafts (IRS No. 106) will increase to \$.42 per shaft, Code section 4161(b)(2)(B), inflation adjustment in Rev Proc. 2006-53 (effective for sales after 1/1/07)

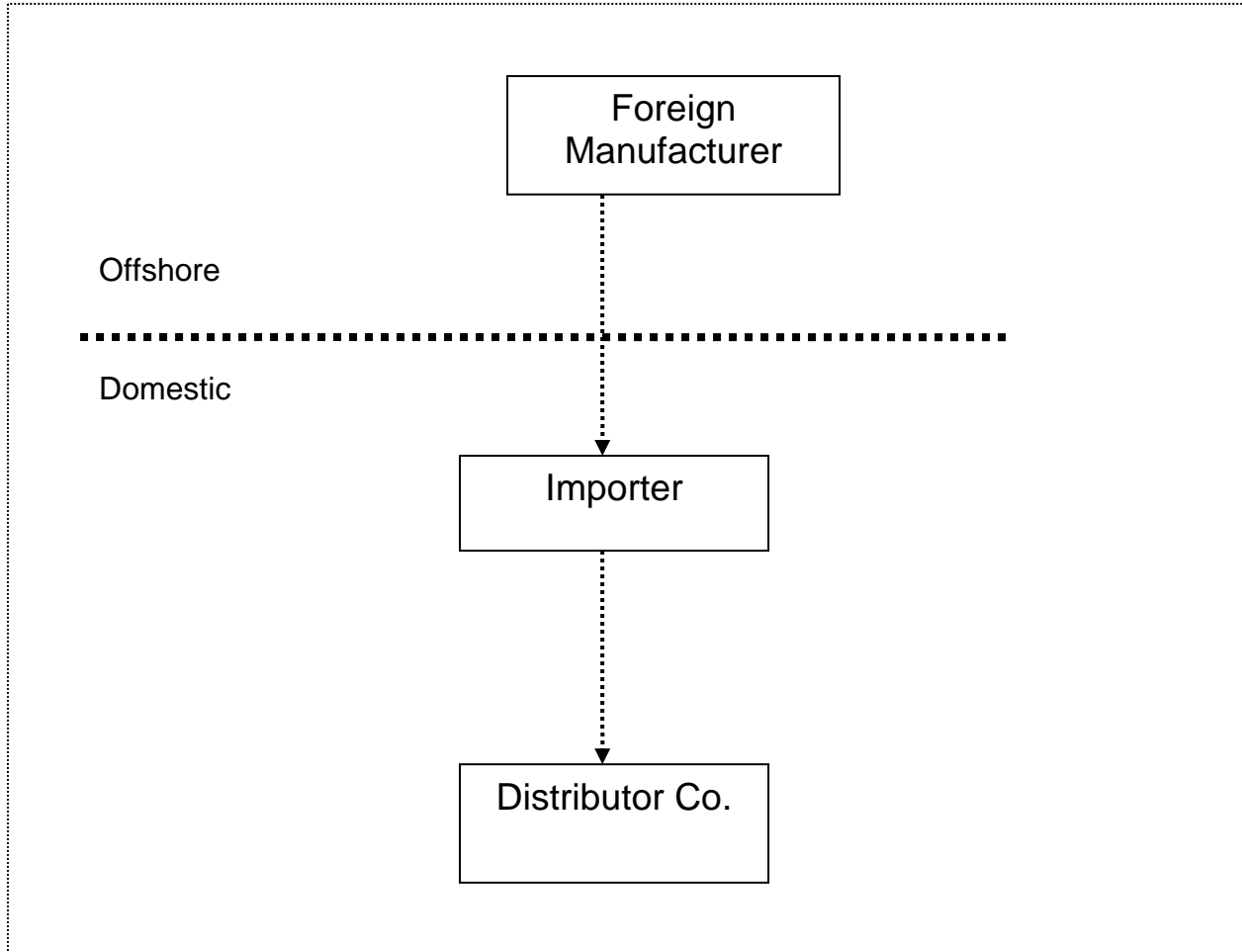
○

Note: the 12.4 % rate on arrows components above will no longer be effect after 3/31/05

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 1A



- ◆ Importer, a U.S. corporation, is a trading company that imports fishing rods and sportfishing tackle from a number of foreign companies.
- ◆ Importer has a well-established relationship with Foreign Manufacturer, who fabricates fishing rods and other sportfishing tackle for Importer and other companies.
- ◆ Distributor Co., a U.S. corporation, distributes fishing rods and other sportfishing tackle to retailers in the United States.
- ◆ There is no common ownership of Importer, Distributor Co. and Foreign Manufacturer. All transactions are at arm's length.
- ◆ Importer provides Foreign Manufacturer with all of the design specifications for the fishing rods. The two companies then negotiate the price at which Foreign Manufacturer will sell the fishing rods to Importer.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

- ◆ Importer uses its own intellectual property and its own brand in developing the products.
- ◆ Importer guarantees payment to Foreign Manufacturer by letter of credit, wire transfer, express check or other means upon delivery of the fishing rods.
- ◆ Under the terms of the agreement, Importer purchases the fishing rods F.O.B. at Foreign Manufacturer's plant.
- ◆ Importer bears the full risk if fishing rods are lost or damaged in transit from Foreign Manufacturer's plants to Importer's warehouses in the U.S. or to Importer's customers.
- ◆ Importer may or may not carry fishing rods and other sportfishing tackle in inventory.
- ◆ When Importer does carry inventory, the fishing rods and the other sportfishing tackle in its inventory are offered for sale in bulk to Importer's customers at a fixed price.
- ◆ Importer is heavily engaged in advertising the fishing rods to the general public.
- ◆ Distributor Co. purchases some of the fishing rods from Importer. Distributor Co. then distributes these fishing rods and other sportfishing tackle purchased from other unrelated parties to retailers.

Question:

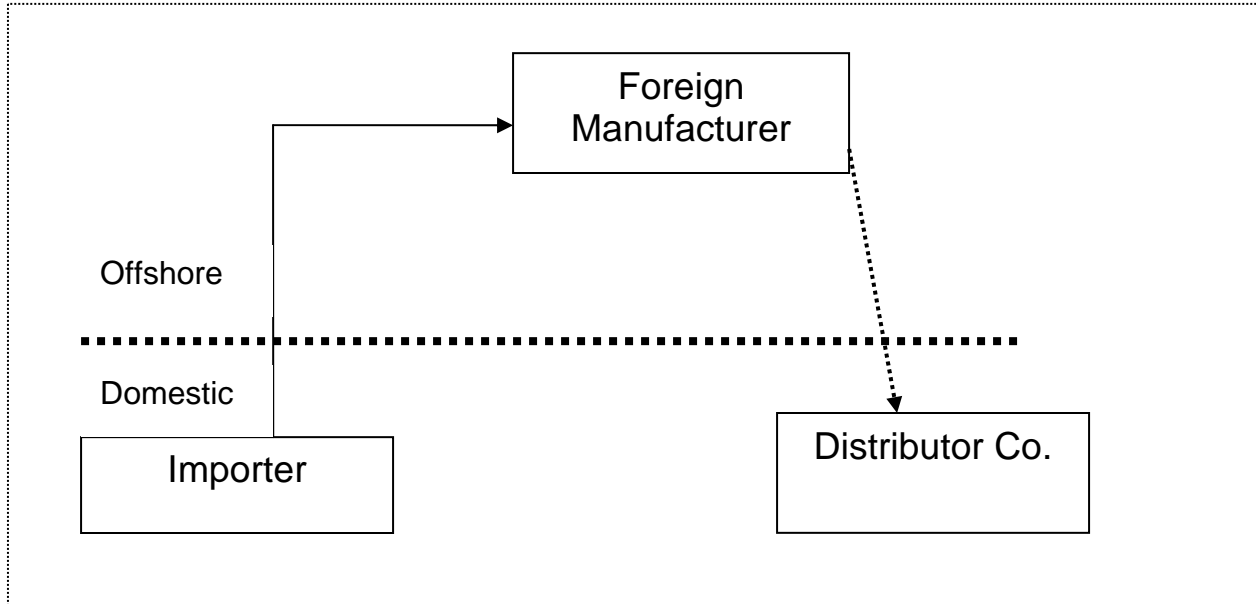
For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

Importer is the taxpayer because Importer controls all aspects of the importation of the fishing products and is not acting as an agent for Distributor Co.

Archery and Sportfishing FET Scenarios

Scenario 1B



Same facts as Scenario 1A, except:

Importer imports the product and ships the items direct from the Foreign Manufacturer to the Distributor Company.

Importer owns title and risk of loss until received by Distributor Company.

Importer does not maintain a warehouse.

Question:

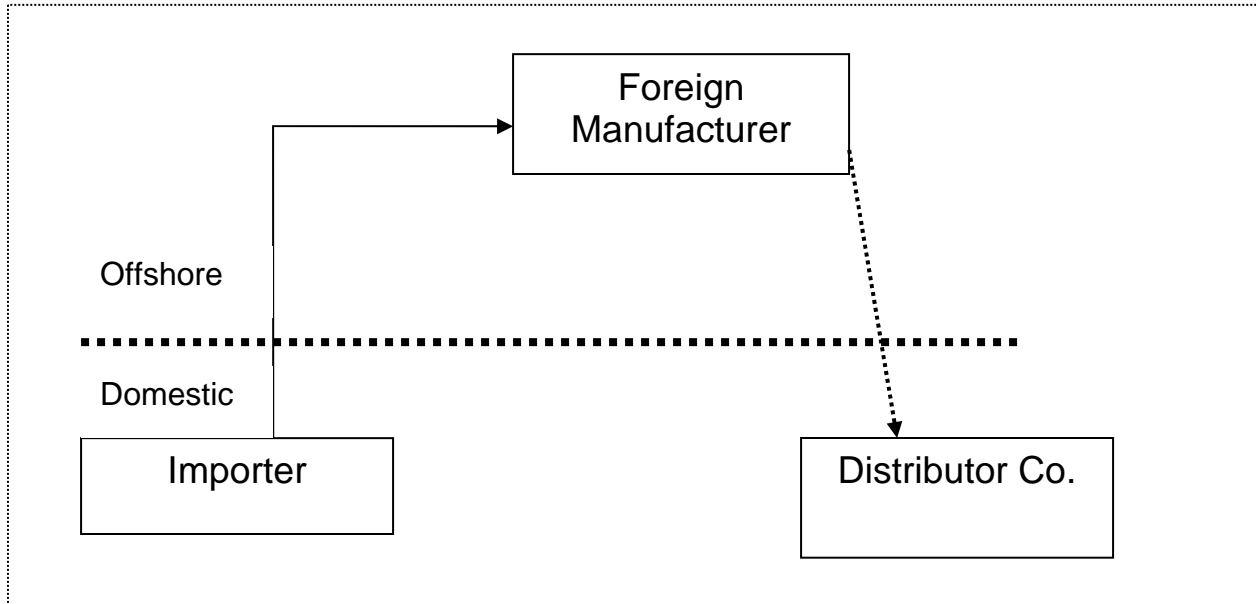
For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

The answer is the same as in scenario 1A because Importer controls all aspects of the importation and bears all risk of loss even though it does not maintain a warehouse.

Archery and Sportfishing FET Scenarios

Scenario 1C



Same facts as Scenario 1A, except:

- Importer determines the components used in rod manufacture.
- At the request of Distributor Co., the rod is manufactured with a special color and Distributor Co.'s label is affixed to it, with no other design revisions.

Question:

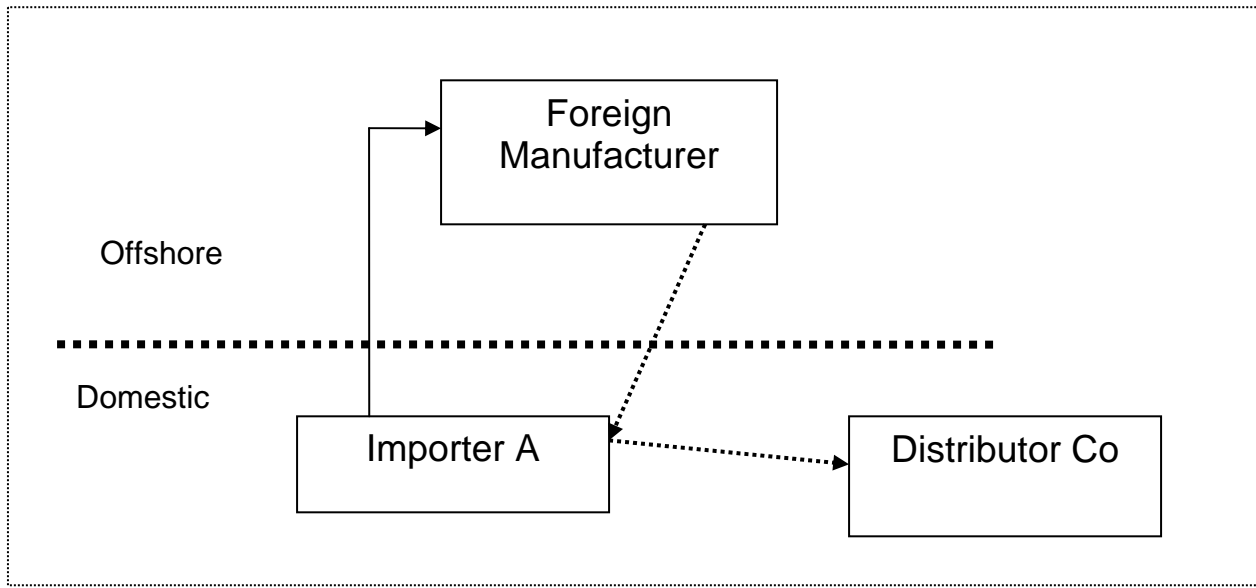
For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

The answer remains the same as 1A. The fact that Distributor Co.'s label is affixed is not a significant factor.

Archery and Sportfishing FET Scenarios

Scenario 2A –



- ◆ Importer A is a U.S. import company that develops tackle products on its own to sell into the U.S. market through various distribution channels.
- ◆ Distributor Co. is a brand-name company selling its products into the market through various channels.
- ◆ Importer A has an arm's length relationship with Foreign Manufacturer and with Distributor Co., none of which are related parties.
- ◆ Importer A arranges to affix Distributor Co.'s brand name or licensed names to products it manufactures for Distributor Co.
- ◆ Importer A establishes the sales prices of the products it sells to Distributor Co.

Question:

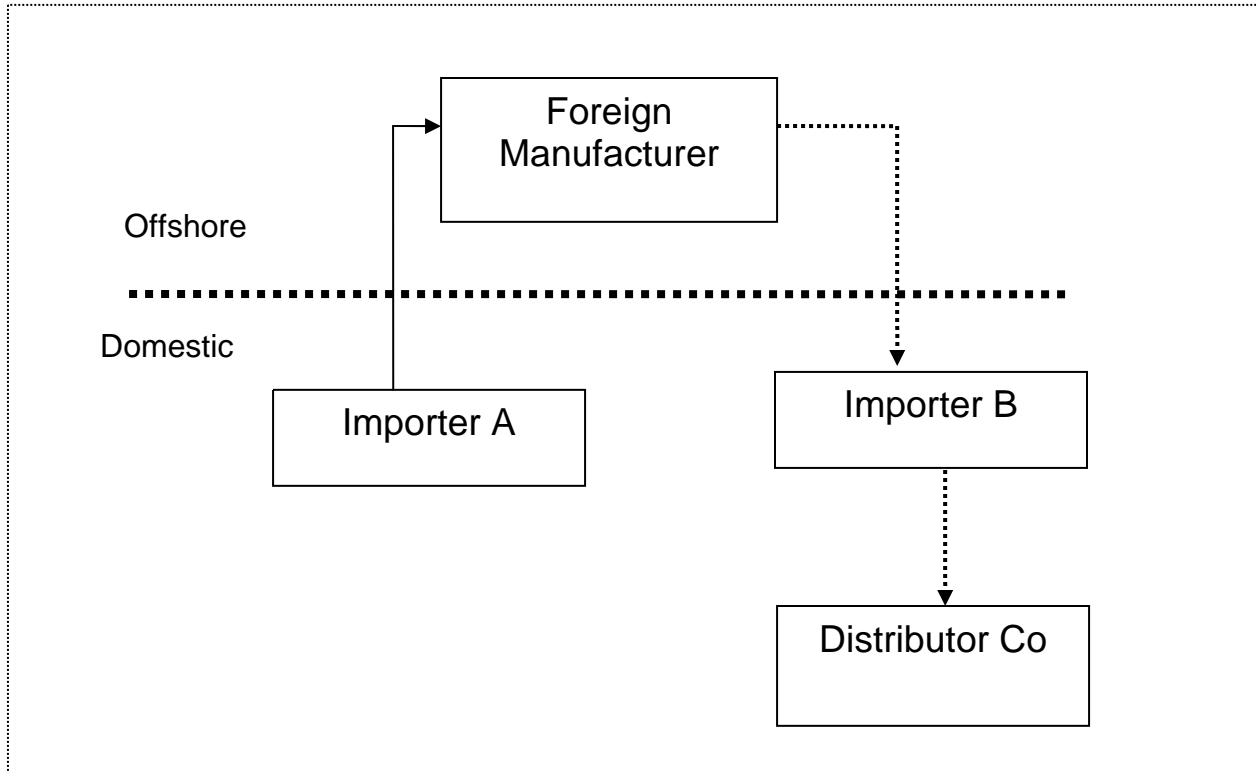
For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

Importer A is the taxpayer because Importer A has control of substantially all aspects of the development, pricing, and importation of the goods.

Archery and Sportfishing FET Scenarios

Scenario 2B



- ◆ Same facts as Scenario 2A except:
- ◆ Occasionally, Distributor Co. requires that Importer A provide some of its products on an F.O.B. offshore basis so that they may be imported directly by Importer B, as agent for Distributor Co.

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

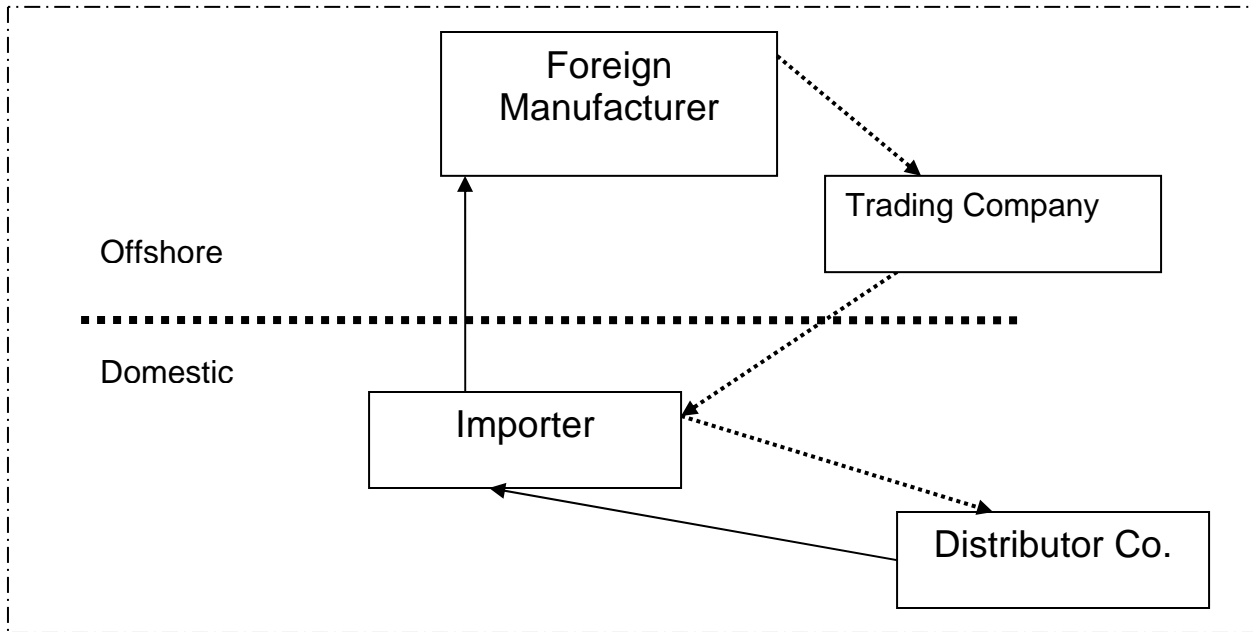
Answer:

Distributor Co. is the taxpayer because the first sale of these products in the U.S. is made by Distributor Co. The sale by Importer B to Distributor Co. is disregarded because Importer B acts merely as an agent for Distributor Co.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 2C



- ◆ Distributor Co. develops fishing products directly with Foreign Manufacturer and affixes its own or licensed brand names to the products.
- ◆ Distributor Co. and Foreign Manufacturer meet for various reasons including assuring quality control and assisting with any development and engineering problems.
- ◆ Trading Company provides translation, documentation, inspection and other services to Distributor Co.
- ◆ Distributor Co. orders fishing products from Importer. Importer purchases these products from Foreign Manufacturer.
- ◆ Foreign Manufacturer ships the fishing products to Trading Company, who exports the products to Importer.
- ◆ Importer imports the product into the U.S. and sells the product directly to Distributor Co.
- ◆ Distributor Co. sells the product to retailers in the U.S.

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

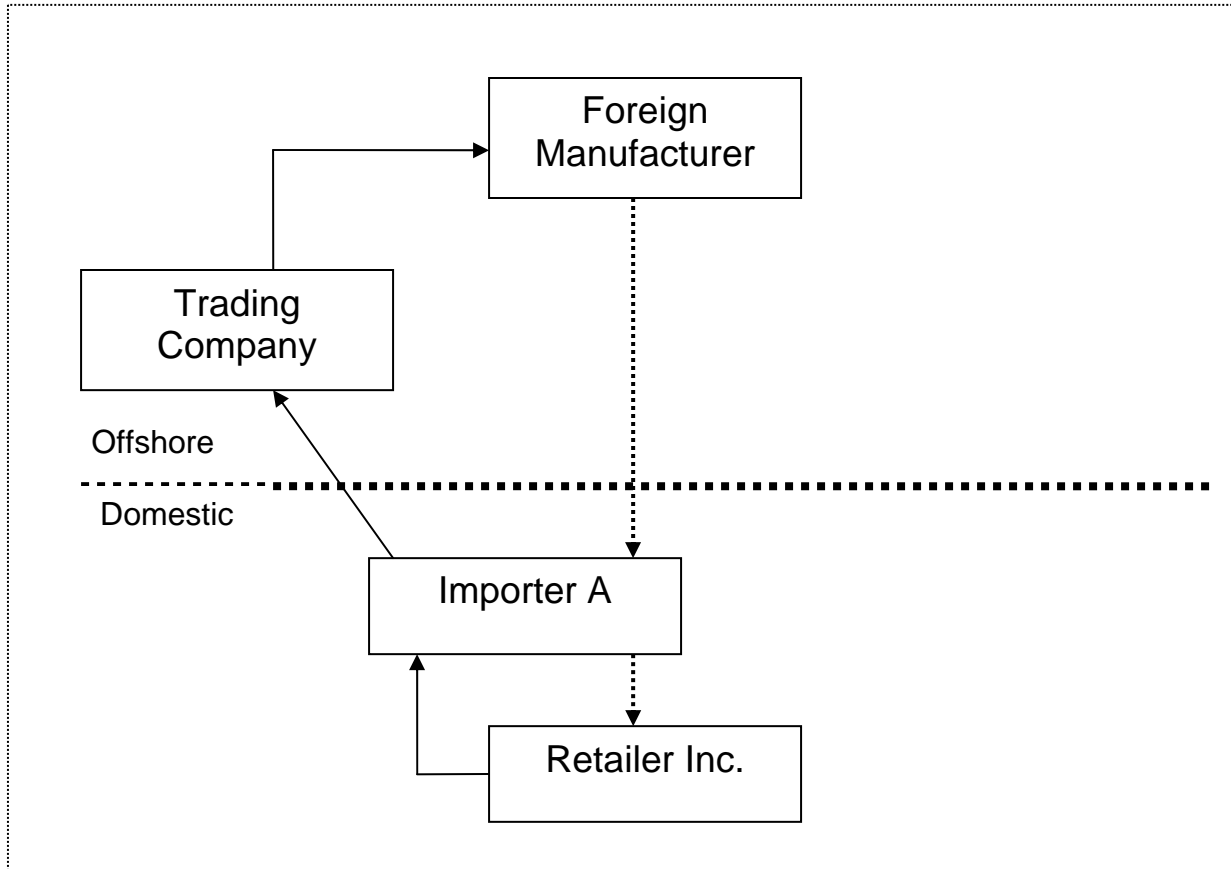
Answer:

Distributor Co. is the taxpayer because Distributor Co. develops and imports directly from the Foreign Manufacture. Importer acts merely as an agent for Distributor Co.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service can cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 3A



- ◆ Retailer Inc. is a U.S. brand-name retailer selling through its own stores and direct-to-consumer channels.
- ◆ Retailer Inc. buys fishing rods from Importer A. Importer A develops and engineers these goods to satisfy the requirements of Retailer Inc.
- ◆ Retailer Inc. has no ownership of the designs or physical or intellectual property used by Importer A to develop the fishing rods.
- ◆ Importer A arranges to affix Retailer Inc.'s name or licensed name(s) to the fishing rods it supplies to Retailer Inc.
- ◆ Importer A uses its own resources and its own physical and intellectual property to develop and price the fishing rods.
- ◆ Importer A orders the fishing rods it develops from Foreign Manufacturer through its own agent, Trading Company.
- ◆ Foreign Manufacturer delivers the fishing rods F.O.B. from Foreign Manufacturer's plant to Importer A, who imports them into the U.S.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

- ◆ Importer A sells the fishing rods to Retailer Inc. The fishing rods are shipped F.O.B. to destinations determined by Retailer Inc.

Question:

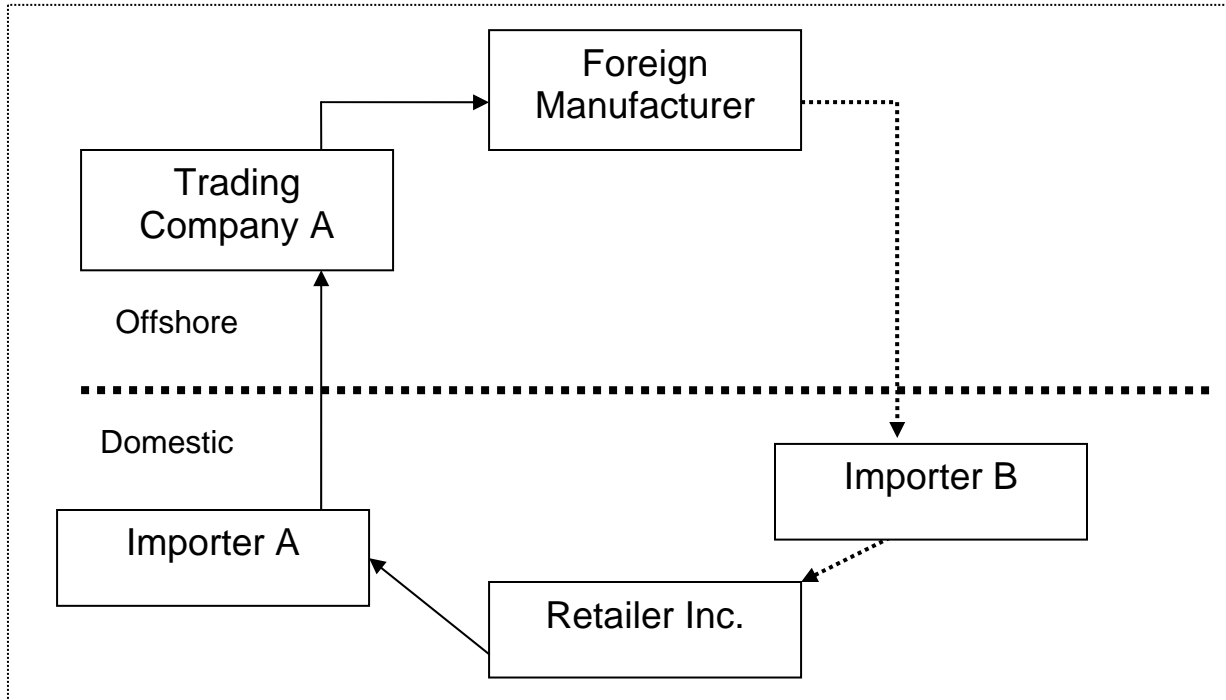
For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

The taxpayer is Importer A because Importer A has control of substantially all aspects of the development, pricing and importation of the fishing rods.

Archery and Sportfishing FET Scenarios

Scenario 3B



Same facts as 3A accept:

- ◆ Occasionally, Retailer Inc. requests that Importer A provide fishing rods to Retailer Inc. with title passing to Retailer Inc. in a foreign country.
- ◆ For these F.O.B. purchases of fishing rods, Importer B imports the goods into its own warehouse until shipped to Retailer Inc. Importer B provides the warehousing and inventory services to Retailer Inc. on a negotiated fee basis.
- ◆ Although Importer B handles the paperwork for import of the fishing rods, Retailer Inc. still controls the purchase through Importer A.

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

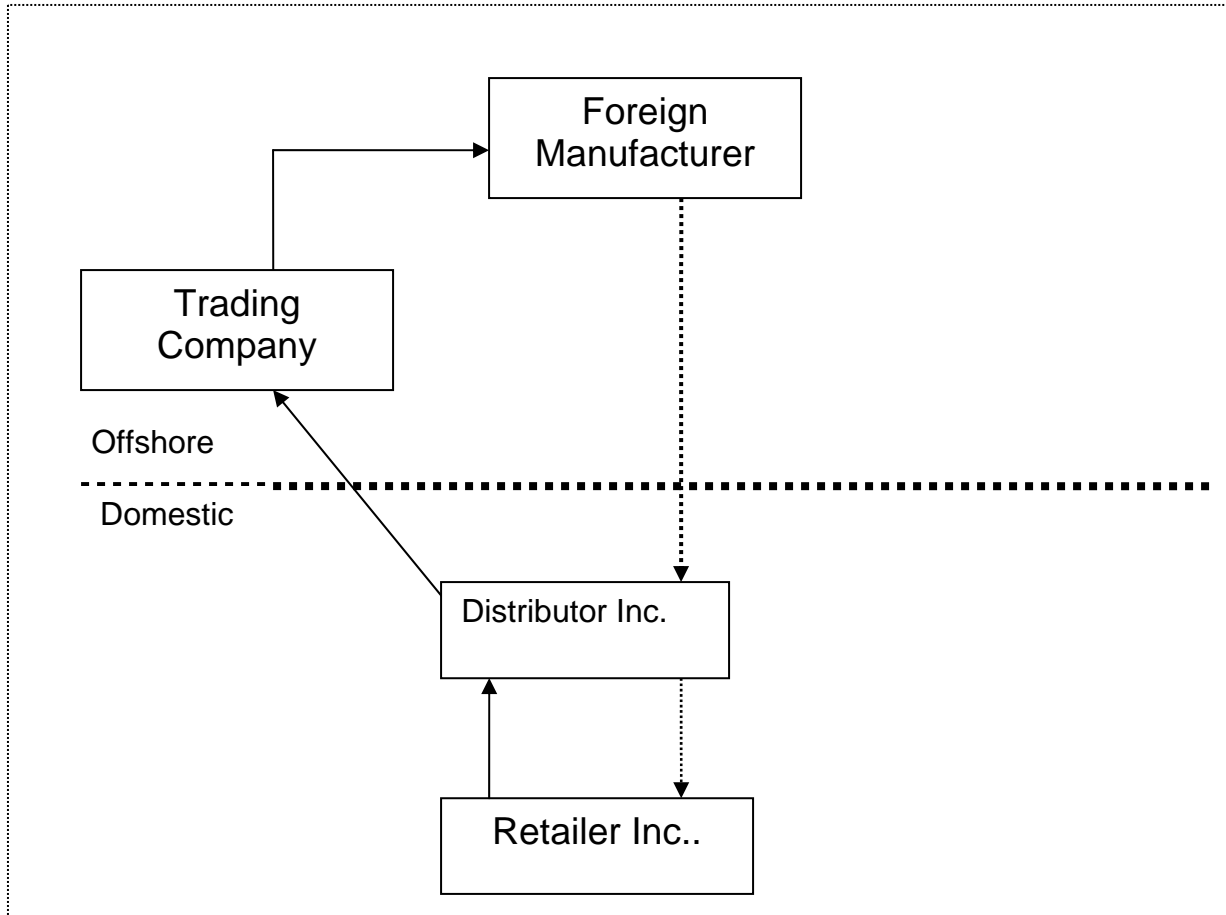
Answer:

Retailer Inc. is the taxpayer. Importer B provides warehouse and inventory services for Retailer Inc. on a negotiated fee basis. Importer B does not hold title to the fishing rods or control any aspect of their import. Retailer Inc. purchased and took title to the fishing rods overseas and the first sale in the U.S. subject to tax is the sale by Retailer Inc.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 4



- ◆ Distributor Inc. is a brand-name supplier of tackle under its own brand name.
- ◆ Distributor Inc. controls all stages of development of its own branded products.
- ◆ Retailer Inc. purchases Distributor Inc.'s branded products which Retailer Inc. sells through its own channels of distribution.
- ◆ Distributor Inc. sells its brand name reel exclusively to Retailer Inc.
- ◆ Distributor Inc. and Retailer Inc. are unrelated parties.

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

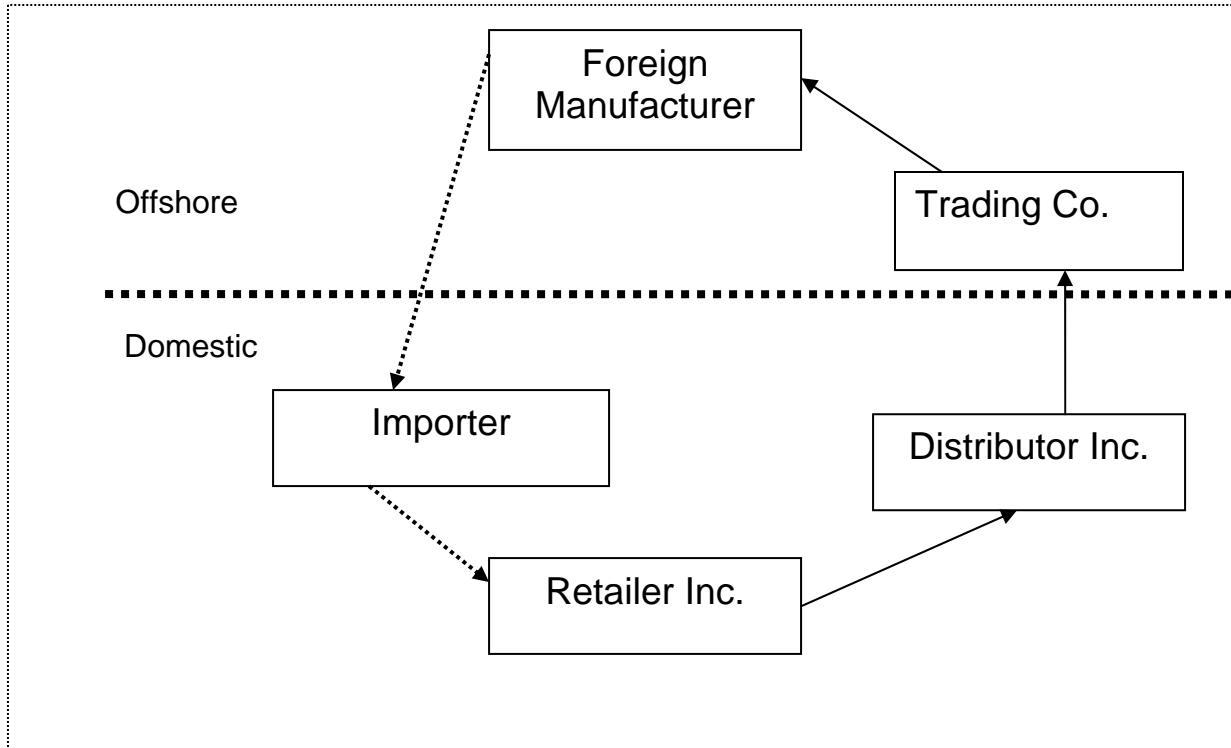
Answer:

The taxpayer is Distributor Inc. because Distributor Inc. controls all aspects of the development and importation of its branded products, even though all of its branded products are sold to Retailer Inc.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 5



- ◆ Distributor Inc. agrees to develop fishing rods to meet specifications determined by Retailer Inc.
- ◆ Distributor Inc. sends specifications to Trading Co., an offshore company. Trading Co. then has the product manufactured by Foreign Manufacturer.
- ◆ At the request of Distributor Inc. and/or Retailer Inc. the fishing rods are sold to Importer, an agent for Retailer Inc. Importer then sells the rods to Retailer Inc.,.

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

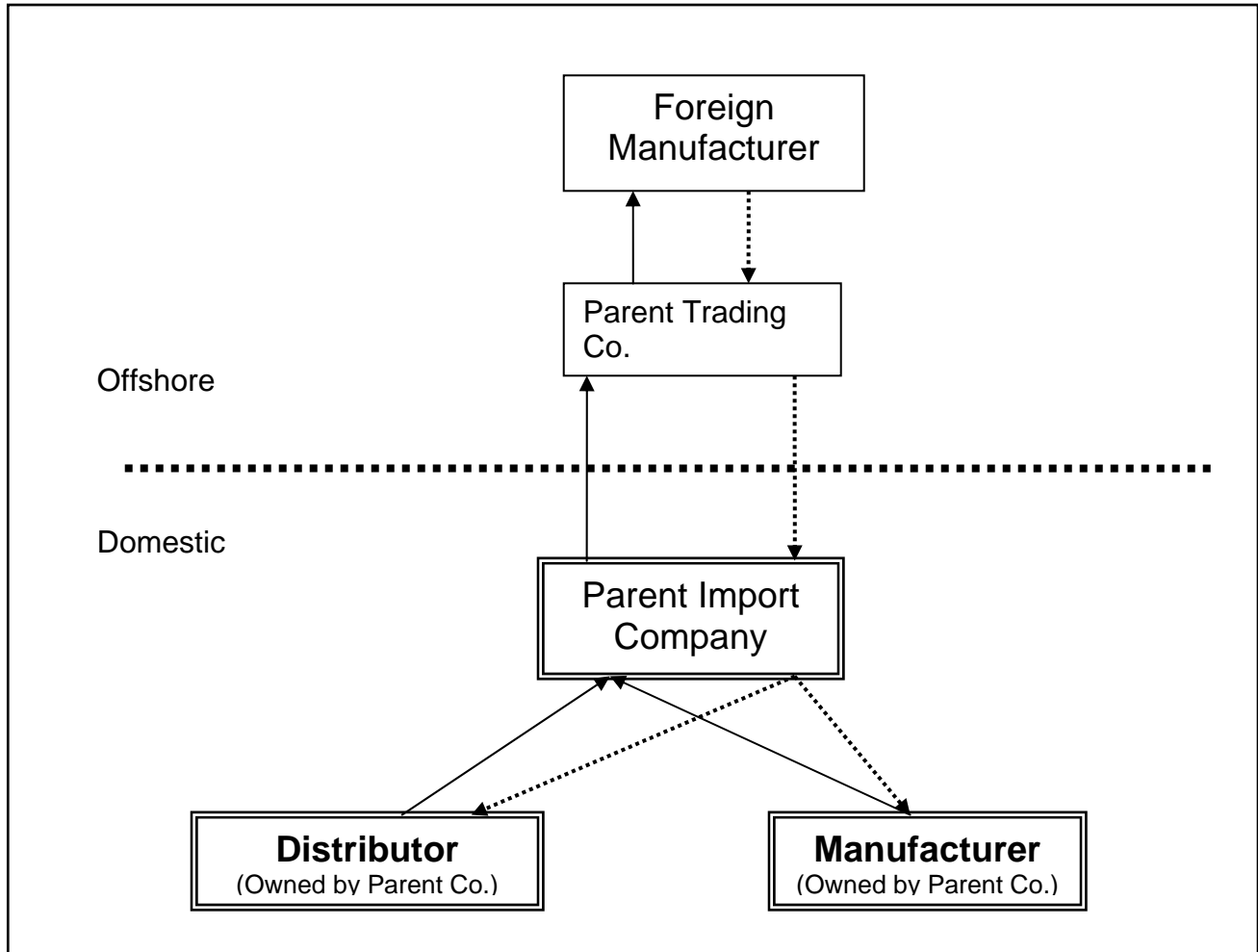
Answer:

Retailer Inc. is the taxpayer. Distributor Inc. does not make the first sale of the fishing rods in U.S. because the fishing rods are imported through Retailer Inc.'s agent, Importer. Distributor Inc. is a development and sourcing agent for Retailer Inc. Importer has not made a sale on its own behalf, but rather facilitates the agreement between Distributor Inc. and Retailer Inc. Therefore, Retailer Inc. makes the first sale in the U.S.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 6



- ◆ Manufacturer is a U.S. company with a wholly owned manufacturing facility in the U.S. that makes some of its tackle products. Manufacturer also imports some tackle products.
- ◆ Distributor is a U.S. company selling primarily imported tackle products.
- ◆ Manufacturer and Distributor are subsidiaries of Parent Company, a U.S. company.
- ◆ Manufacturer and Distributor sell independently to the market through various channels.
- ◆ Manufacturer's representatives and engineers routinely contact and visit Foreign Manufacturer, an offshore manufacturer, and/or its subcontractors to develop tackle products and negotiate prices and terms of production.
- ◆ Distributor routinely contacts and visits Foreign Manufacturer and/or its subcontractors to develop tackle products and negotiate prices and terms of

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

production.

- ◆ Parent Co., Parent Trading Co, and Parent Import Company are related parties. Parent Trading Co. and Parent Import Company perform services primarily for Parent Co. Parent Trading Co. is an offshore subsidiary of Parent Company. Parent Import Company is a domestic subsidiary of Parent Company.
- ◆ Manufacturer and Distributor are usually accompanied by representatives of Parent Trading Co. when visiting Foreign Manufacturer.
- ◆ Manufacturer and Distributor place purchase orders for the tackle products with Parent Import Company.
- ◆ Parent Import Company places orders for Foreign Manufacturer's goods through Parent Trading Co.
- ◆ Foreign Manufacturer ships the goods to Parent Import Company, who imports the goods into the U.S.
- ◆ Parent Trading Company provides translation, paperwork and banking functions and other services for the goods being shipped to Parent Import Company.
- ◆ Parent Import Company sells and ships the goods to Manufacturer and Distributor.
- ◆ Manufacturer and Distributor, independently of each other, sell their tackle products into the U.S. market through a variety of channels.

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

Manufacturer:

- ◆ Imported tackle products: Manufacturer is the taxpayer for the tackle products it imports.
- ◆ Tackle products produced by Manufacturer at its U.S. factory: Manufacturer is the taxpayer for the tackle products produced by Manufacturer at its U.S. factory.

Distributor:

- ◆ Distributor is the taxpayer for the tackle products that it imports.

Because ownership is common throughout all layers of the transaction, no valid arm's-length relationship exists between any significant layer of the transaction. Tackle

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

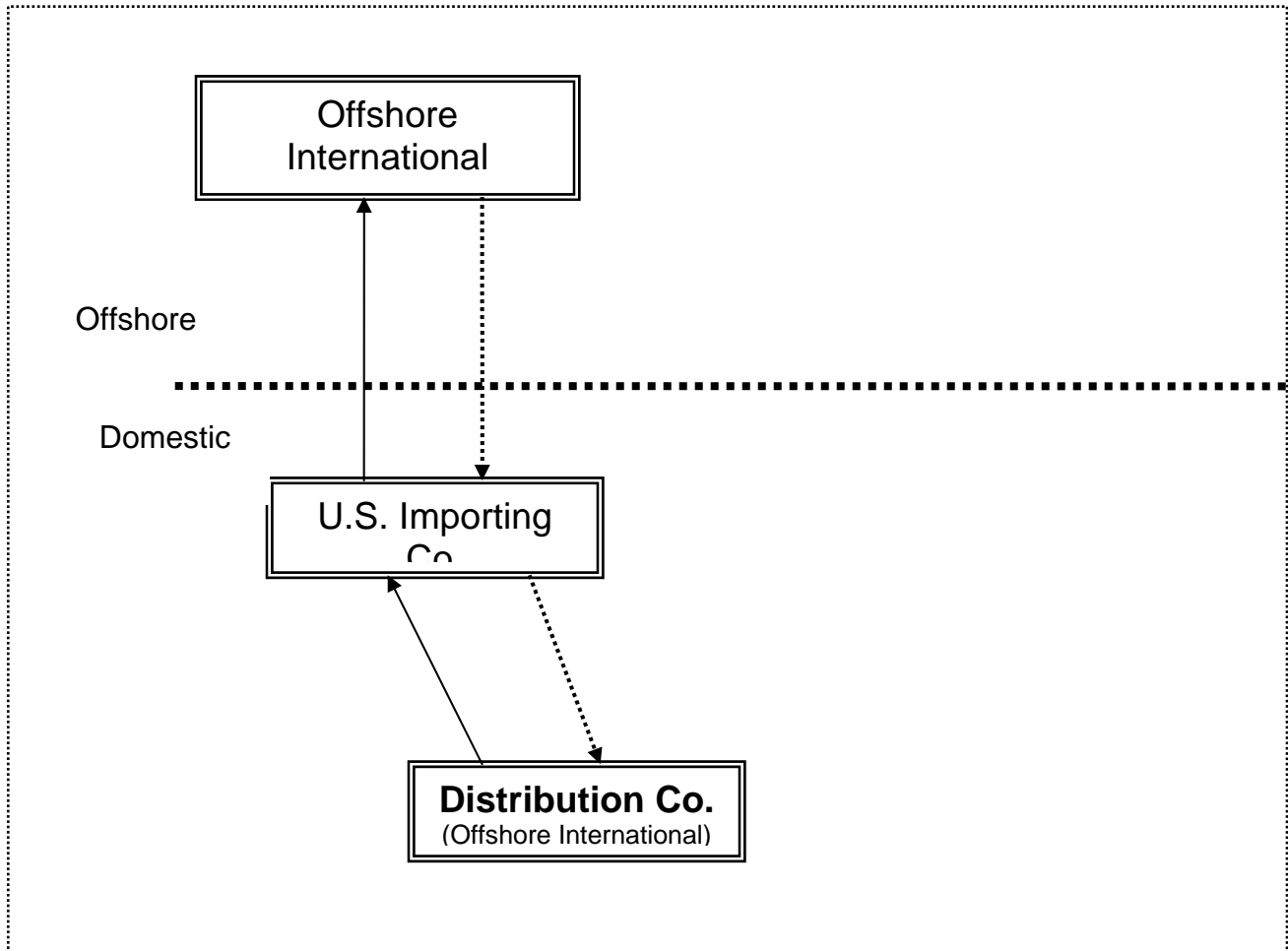
Archery and Sportfishing FET Scenarios

products that are designed and negotiated by either Manufacturer or Distributor with the Foreign Manufacturer pass only through agents of Manufacturer or Distributor or other entities controlled by Parent. While Parent Import Company does the importing and actively arranges shipping details with Foreign Manufacturer, it does this as an agent of either Manufacturer or Distributor, under common ownership and control.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

Scenario 7



Foreign international company with U.S. subsidiaries

- ◆ Offshore International Company is parent to U.S. Importing Co. and Distribution Co. It also owns its own offshore manufacturing facilities as well as subcontracts for product manufacturing from other foreign companies.
- ◆ Offshore international company's U.S. importing company:
 - Completes all product development and sourcing for Distribution Co.

This Guide is not an official pronouncement of the law or the position of the Internal Revenue Service and cannot be used, cited or relied upon as such.

Archery and Sportfishing FET Scenarios

- Contracts with multiple foreign manufacturers throughout Europe and Asia for manufacturing.
 - Contracts with foreign manufacturers, some of which are fully or partially owned by Offshore International Co.
 - US Importing Co. has established an office in China to conduct engineering, product development and quality control.
 - Purchases from foreign factories, imports products to the U.S. and sells them to the Distribution Co. at profit.
- ◆ Distribution Co.
- Purchases solely from US Importing Co.
 - Sells to U.S. retailers and distributors

Question:

For the federal excise tax imposed by § 4161, who is the taxpayer?

Answer:

Taxpayer is Distribution Co. Because ownership is common throughout all layers of the transaction, no valid arm's-length relationship exists among any significant layer of the transaction. Products that are designed and negotiated by U.S. Importing Co. with the foreign manufacturer pass only through entities controlled by Offshore International Co.