

Internal Revenue Service, Treasury

§ 48.4061(a)-1

AUTOMOTIVE AND RELATED ITEMS

MOTOR VEHICLES

§ 48.4052-1 Heavy trucks and trailers; certification requirement.

(a) *In general.* Tax is not imposed by section 4051 on the sale of an article for resale or leasing in a long-term lease if, by the time of sale, the seller has in good faith accepted from the buyer a statement that the buyer executed in good faith and that is in substantially the same form, and subject to the same conditions, as the certificate described in § 145.4052-1(a)(6) of this chapter, except that the certificate must be signed under penalties of perjury and need not refer to Form 637 or include a registration number.

(b) *References to § 145.4052-1(a)(2) of this chapter.* References to § 145.4052-1(a)(2) of this chapter appearing in § 145.4052-1 of this chapter apply also to paragraph (a) of this section.

(c) *Effective date.* This section is applicable after June 30, 1998. In addition, tax is not imposed on a sale occurring after December 31, 1997, and before July 1, 1998, if the conditions of paragraph (a) of this section are satisfied.

[T.D. 8879, 65 FR 17155, Mar. 31, 2000]

§ 48.4061(a) [Reserved]

§ 48.4061(a)-1 Imposition of tax; exclusion for light-duty trucks, etc.

(a) *Imposition of tax—(1) In general.* Section 4061(a)(1) imposes a tax on the sale by the manufacturer, producer, or importer of the following articles (including in each case parts and accessories therefor sold on or in connection therewith or with the sale thereof):

(i) Automobile truck and bus chassis and bodies;

(ii) Truck and bus trailer and semitrailer chassis and bodies; and

(iii) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

For purposes of this section, a sale of an automobile truck or bus, or a truck or bus trailer or semitrailer, shall be considered to be a sale of a chassis and of a body enumerated in this paragraph (a)(1).

(2) *Special rule applicable to chassis and bodies.* A chassis or body enumer-

ated in paragraph (a)(1) of this section is taxable under section 4061(a)(1) only if such chassis or body is, within the meaning of paragraph (e) of this section, sold for use as a component part of a highway vehicle (as defined in paragraph (d) of this section), which is an automobile truck or bus, a truck or bus trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer. Furthermore, a chassis or body which is not enumerated in paragraph (a)(1) of this section is not taxable under section 4061(a)(1) even though such chassis or body is used as a component part of a highway vehicle (e.g., a chassis or body of a passenger automobile).

(3) *Equipment installed on chassis or bodies.* (i) For purposes of the tax imposed by section 4061(a)(1), equipment or machinery installed on a taxable chassis or body is considered to be an integral part of the taxable chassis or body if the machinery or equipment contributes toward the highway transportation function of the chassis or body, regardless of whether separate sales of the machinery or equipment would be subject to the tax on automotive parts or accessories imposed by section 4061(b). Therefore, the amount of the sale price of a taxable chassis or body that is attributable to such machinery or equipment must be included in the tax base when computing the tax due on a manufacturer's or importer's sale or use of a taxable chassis or body. Examples of the type of machinery or equipment that contribute to the highway transportation function of a chassis or body are the following: Loading and unloading equipment; towing winches; and all other machinery or equipment contributing to either the maintenance or safety of the vehicle, the preservation of cargo (other than refrigeration units), or the comfort or convenience of the driver or passengers.

(ii) Amounts charged for machinery or equipment that is installed on a taxable chassis or body are not part of the taxable sale price of the chassis or body if (A) such machinery or equipment does not contribute toward the highway transportation function of the chassis or body and (B) the reasonableness of the charge for the machinery or

§ 48.4061(a)-1

26 CFR Ch. I (4-1-01 Edition)

equipment is supportable by adequate records. Examples of such machinery or equipment are the following: equipment designed to spread materials on the highway; machinery or equipment used solely in the operation of mobile amusement rides; television equipment mounted in a mobile television studio; machine shop equipment mounted in a mobile machine shop; and car crushing equipment mounted on the chassis of a mobile car crusher.

(4) *Passenger automobile chassis and bodies, motorcycles, etc.* No tax is imposed under section 4061(a) on the sale of a motorcycle or, in the case of a sale made after December 10, 1971, on the sale of automobile chassis and bodies not enumerated in paragraph (a)(1) of this section, or of trailer and semitrailer chassis and bodies suitable for use in combination with passenger automobiles. For tax on certain sales made after December 31, 1958, and before December 11, 1971, see paragraph (b)(4) of this section.

(5) *Cross references.* For additional rules relating to the sale of a chassis or body enumerated in this paragraph for use as a component part of a highway vehicle, see paragraph (e) of this section. For exclusion of certain light-duty highway vehicles, see paragraph (f) of this section. For provisions relating to the tax-free sale of bodies to certain manufacturers, see section 4063(b) and the regulations thereunder. For other exemptions from the tax imposed under section 4061(a), see sections 4063 and 4221 and the regulations thereunder. For special rules relating to the sale by a manufacturer of a vehicle consisting of a tax-paid chassis and a body manufactured by him, see § 48.4061(a)-5.

(b) *Rate and computation of tax—(1) In general.* With respect to the articles enumerated in paragraph (a)(1) of this section, the rate of tax imposed by section 4061(a)(1) is:

	Percent
(i) For articles sold during the period beginning on January 1, 1959, and ending on September 30, 1979	10
(ii) For articles sold on or after October 1, 1979 ...	5

(2) *Determination of price subject to tax.* The tax is computed by applying to the price for which the article is sold the

rate in effect at the time of the sale. For definition of the term “price” and for application of the tax to leases of articles, see sections 4216 and 4217, respectively, and the regulations thereunder. If an article subject to tax under section 4061(a) has equipment mounted thereon to perform functions other than in connection with the transportation of persons or property, no tax under section 4061(a) attaches to that part of the selling price of the completed unit which is reasonably attributable to such equipment provided such part of the selling price is billed separately on the invoice to the customer or can otherwise be established by adequate records. For other rules relating to the sale of parts or accessories in connection with the sale of a chassis, body, or completed unit, see § 48.4061(a)-4. For special rules relating to the determination of selling price when equipment or machinery is permanently installed on a taxable chassis or body, see paragraph (a)(3) of this section.

(3) *Tax on trailers sold before December 11, 1971.* With respect to sales made after December 31, 1958, and before December 11, 1971, the rate of tax imposed under section 4061(a) on a trailer or semitrailer chassis or body that is a highway vehicle within the meaning of paragraph (d) of this section depends upon a classification of the article. The sale during this period of a trailer or semitrailer chassis or body (other than a house trailer) suitable for use in combination with passenger automobiles is subject to tax as set forth in paragraph (b)(4) of this section. A trailer suitable for use in combination with a passenger automobile which is designed for purposes other than living or sleeping, commonly referred to as a “utility trailer”, is an example of a trailer taxable at the 7 percent rate set forth in paragraph (b)(4) of this section. The sale of a trailer or semitrailer chassis or body that is not suitable for use in combination with passenger automobiles is subject to tax as set forth in paragraph (b)(1) of this section.

(4) *Passenger automobile chassis and bodies and related articles sold before December 11, 1971.* With respect to the sale

after December 31, 1958, and before December 11, 1971, of (i) automobile chassis and bodies not enumerated in paragraph (a)(1) of this section or (ii) trailer and semitrailer chassis and bodies suitable for use in combination with passenger automobiles, the tax imposed by section 4016(a) is computed in accordance with paragraph (b)(2) of this section at the rate of 10 percent for sales prior to June 22, 1965, and at the rate of 7 percent thereafter.

(c) *Liability for tax.* The tax imposed by section 4061(a) is payable by the manufacturer, producer, or importer making the sale.

(d) *Highway vehicle*—(1) *Definition.* For purposes of this subchapter, the term “highway vehicle” means any self-propelled vehicle, or any trailer or semitrailer, designed to perform a function of transporting a load over public highways, whether or not also designed to perform other functions, but does not include a vehicle described in paragraph (d)(2) of this section. For purposes of this definition, a vehicle consists of a chassis, or a chassis and a body if the vehicle has a body, but does not include the vehicle’s load. Therefore, in determining whether a vehicle is a “highway vehicle”, it is immaterial that the vehicle is designed to perform a highway transportation function for only a particular kind of load, such as passengers, furnishings and personal effects (as in a house, office, or utility trailer), a special type of cargo, goods, supplies, or materials, or, except to the extent otherwise provided in paragraph (d)(2)(i) of this section, machinery or equipment specially designed to perform some off-highway task unrelated to highway transportation. In the case of specially designed machinery or equipment, it is also immaterial, except as provided in paragraph (d)(2)(i) of this section, that such machinery or equipment is permanently mounted on the vehicle. For purposes of paragraph (d) of this section, the term “transport” includes the term “tow”, and the term “public highway” includes any road (whether a Federal highway, State highway, city street, or otherwise) in the United States which is not a private roadway. A vehicle which is not a highway vehicle within the meaning of this para-

graph shall be treated as a nonhighway vehicle for purposes of this subchapter. Examples of vehicles that are designed to perform a function of transporting a load over the public highways are passenger automobiles, motorcycles, buses, and highway-type trucks, truck tractors, trailers, and semi-trailers.

(2) *Exceptions*—(i) *Certain specially designed mobile machinery for nontransportation functions.* A self-propelled vehicle, or trailer or semi-trailer, is not a highway vehicle if it (A) consists of a chassis to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or operation similar to any one of the foregoing enumerated operations if the operation of the machinery or equipment or equipment is unrelated to transportation on or off the public highways, (B) the chassis has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and (C) by reason of such special design, such chassis could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

(ii) *Certain vehicles specially designed for offhighway transportation.* A self-propelled vehicle, or a trailer or semitrailer, is not a highway vehicle if it is (A) specially designed for the primary function of transporting a particular type of load other than over the public highway in connection with a construction, manufacturing, processing, farming, mining, drilling, timbering, or operation similar to any one of the foregoing enumerated operations, and (B) if by reason of such special design, the use of such vehicle to transport such load over the public highways is substantially limited or substantially impaired. For purposes of applying the rule of (B) of this subdivision, account may be taken of whether

the vehicle may travel at regular highway speeds, requires a special permit for highway use, is overweight, overheight or overwidth for regular use, and any other relevant considerations. Solely for purposes of determinations under this paragraph (d)(2)(ii), where there is affixed to the vehicle equipment used for loading, unloading, storing, vending, handling, processing, preserving, or otherwise caring for a load transported by the vehicle over the public highways, the functions are related to the transportation of a load over the public highways even though such functions may be performed off the public highways.

(iii) *Certain trailers and semi-trailers specially designed to perform non-transportation functions off the public highways.* A trailer or semi-trailer is not a highway vehicle if it is specially designed to serve no purpose other than providing an enclosed stationary shelter for the carrying on of a function which is directly connected with and necessary to, and at the off-highway site of, a construction, manufacturing, processing, mining, drilling, farming, timbering, or operation similar to any one of the foregoing enumerated operations such as a trailer specially designed to serve as an office for such an operation.

(3) *Optional application.* For purposes of this subchapter, if any rules existing immediately prior to January 13, 1977 would, if applicable, unequivocally resolve an issue involving the definition of a highway vehicle with respect to a period prior to such date, at the option of the taxpayer, such rules existing prior to such date shall be applied to resolve the issue for all periods prior to such date, and the rules of paragraphs (d) (1) and (2) of this section, which define the term "highway vehicle", shall not apply with respect to such issue for all periods prior to such date.

(4) *Highway vehicles not subject to section 4061 tax.* Although for purposes of this paragraph (d) passenger automobiles, automobile trailers and semitrailers, motor homes, motorcycles, light-duty trucks, etc., will be considered to be highway vehicles because they are designed to perform a function of transporting a load over public highways, the tax imposed under

section 4061(a) does not apply to the sale of such vehicles because they either are not articles subject to tax under such section or are excluded from tax under section 4061 (a)(2). See also paragraphs (a)(4) and (f) of this section. Despite the fact that passenger automobiles, passenger automobile trailers and semi-trailers, motor homes, motorcycles, light-duty trucks, etc., are not subject to the manufacturers excise tax on highway vehicles imposed by section 4061(a), the fact that they are nevertheless considered highway vehicles for purposes of this subchapter can be of material significance in determining the applicability of such excise taxes as the tax imposed by section 4041 (relating to diesel and special motor fuels), the tax imposed by section 4071(a)(1) (relating to tires of the type used on highway vehicles), or the tax imposed by section 4481 (relating to highway use tax on highway motor vehicles). In addition, the definition of the term "highway vehicle" is material in determining the credits or refunds provided by section 6416(b)(2)(I) (relating to diesel fuel used in certain highway vehicles), section 6421(a) (relating to gasoline used for a non-highway purpose), section 6424 (relating to lubricating oil used otherwise than in a highway motor vehicle), and section 6427(a) (relating to diesel or special motor fuel not used for a taxable purpose).

(e) *Sale of a chassis or body for use as a component of a vehicle other than a highway vehicle—(1) In general.* Except as otherwise provided in paragraphs (a)(4), (e)(2), or (f) of this section, the sale of a chassis or body shall be deemed to be a sale of a chassis or body enumerated in paragraph (a)(1) of this section if such chassis or body is, in any sense, reasonably suitable for use as a component part of a highway vehicle that is either an automobile truck or bus, a truck or bus trailer or semitrailer, or a tractor of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

(2) *Exceptions based on unitary concept—(i) Completed vehicles not qualifying as highway vehicles.* With respect to the sale of a vehicle after January

13, 1977 which would otherwise be treated under paragraph (e)(1) of this section as a sale of a chassis or body enumerated in paragraph (a)(1) of this section, the tax imposed under section 4061(a) shall not apply to such sale if the vehicle (considered as a completed unit) is not considered to be a highway vehicle within the meaning of paragraph (d) of this section.

(ii) *Tax-free sales of chassis and bodies.* With respect to the sale after January 13, 1977 of a chassis or body (not including the sale of a completed vehicle described in paragraph (e)(2)(i) of this section) which would otherwise be treated under paragraph (e)(1) of this section as a sale of a chassis or body enumerated in paragraph (a)(1) of this section, the tax imposed under section 4061(a) shall not apply to such sale if the chassis or body is actually sold for use, or for resale for use, as a component part of a vehicle that is not a highway vehicle within the meaning of paragraph (d) of this section. For purposes of determining the liability of the manufacturer or reseller for the tax imposed under section 4061(a), the test of the preceding sentence will be considered to be met if (A) the purchaser furnishes the statement set forth in paragraph (e)(2)(iv) of this section to the seller before the manufacturer files a return covering excise taxes for the period in which the sale was made, and (B) the manufacturer or reseller complies with the requirements set forth in paragraph (e)(2)(iii) of this section. However, even though the purchaser and manufacturer (or reseller) have complied with the foregoing, the tax imposed under section 4061(a), shall apply to such sale if the manufacturer or reseller has received a written notification (applicable with respect to such sale) from the Internal Revenue Service that sales of a specified type or types of chassis or bodies may not be made tax free pursuant to this paragraph (e)(2)(ii) until further notification. Any such notification issued by the Internal Revenue Service shall be effective only with respect to sales after the manufacturer has received such notification.

(iii) *Requirements to be met.* In order for a manufacturer or reseller to sell free of tax under paragraph (e)(2)(ii) of

this section an otherwise taxable chassis or body, the manufacturer or reseller must:

(A) Retain in his possession the statement required to be furnished by the purchaser and such other evidence as may be furnished by the purchaser to support the tax-free sale. Such evidence shall be retained for at least 3 years from the due date of the tax that would be due if the transaction in question had been a taxable sale; and

(B) Indicate on the invoice with respect to the sale of the chassis or body that the sale of such article is made free of tax under paragraph (e)(2)(ii) of this section.

(iv) *Form of statement.* In order for an otherwise taxable chassis or body to be sold free of tax under paragraph (e)(2)(ii) of this section, the purchaser must execute and furnish to the manufacturer or reseller a statement that substantially complies with the following form:

_____, 19____
Under the penalty of perjury, the undersigned certifies that he, or the _____, (Name of purchaser if other than the undersigned) of which he is _____ (Title), is in the business of _____ (State nature of business), and that the chassis and/or bodies covered by the accompanying order or contract for purchase from _____ (Name and address of seller) are purchased for (check One) use, or for resale for use, as components of the following type or types of nonhighway vehicles:
1. _____
2. _____
3. _____

The undersigned understands that he must be prepared to establish by satisfactory evidence the actual use or disposition of such chassis or bodies and that, upon their use or disposition other than use as components of a nonhighway vehicle, he consents to be treated as the manufacturer of any such chassis or body purchased by him free of the tax imposed by section 4061(a).

The undersigned also understands that he and all guilty parties will, for use of this statement to willfully attempt to evade or defeat the tax imposed under section 4061, be subject, under section 7201, to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

The undersigned agrees to retain in his possession a copy of this statement for at least 3 years from its date.

 (Signature)

 (Address)

(v) *Refund or credit of overpayment.* If a purchaser furnished the manufacturer with the statement described in paragraph (e)(2)(iv) of this section after the time the manufacturer has filed a return covering excise taxes for the period in which the sale was made, the manufacturer must include the tax on the sale in his return for the period. However, in such case, if the conditions prescribed in paragraph (e)(2)(iii) of this section are met, a claim for refund of the tax paid on such sale may be filed by the manufacturer on Form 843, or a credit taken on a subsequent return, in accordance with the provisions of sections 6402(a) and 6416(a) and § 48.6416(a)-1.

(vi) *Cross reference.* For special rules relating to the sale by a manufacturer of a vehicle consisting of a tax-paid chassis and a body manufactured by him, see § 48.4061(a)-5.

(f) *Exclusion of light-duty trucks, buses, and related articles from tax—(1) In general.* (i) No tax is imposed by section 4061(a)(1) on the sale after December 10, 1971, of the following articles, if suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less (as determined under paragraph (f)(3) of this section):

(A) Automobile truck and bus chassis and bodies, and

(B) Truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer having a gross vehicle weight of 10,000 pounds or less (as so determined).

(ii) For purposes of this part, a chassis or body is suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less (hereafter referred to in this paragraph (f) as a “light-duty vehicle”) if such chassis or body is commonly used with such a vehicle or possesses actual, practical, and commercial fitness for such use. A truck or bus chassis, sold after December 10, 1971, which is suitable for use with a light-duty vehicle, is not subject to the tax imposed by section 4061(a)(1) regardless of the body actually mounted thereon. Similarly, a truck trailer or semitrailer chassis sold after such

date, suitable for use with a trailer or semitrailer having a gross vehicle weight of 10,000 pounds or less, which trailer or semitrailer is suitable for use in connection with a light-duty towing vehicle, is not subject to such tax regardless of the body actually mounted thereon. A truck or bus body, sold after such date, which is suitable for use with a light-duty vehicle, is not subject to such tax even though it may also be suitable for use with (and is actually a component of) a vehicle having a gross vehicle weight in excess of 10,000 pounds. Similarly, a truck trailer or semitrailer body sold after such date, suitable for use with a trailer or semitrailer having a gross vehicle weight of 10,000 pounds or less, which trailer or semitrailer is suitable for use with a light-duty towing vehicle, is not subject to such tax even though it may also be suitable for use with (and is actually a component of) a trailer or semitrailer having a gross vehicle weight of more than 10,000 pounds, or is used in connection with a vehicle having a gross vehicle weight of more than 10,000 pounds.

(iii) Where an exempt body is mounted on a taxable chassis, or a taxable body is mounted on an exempt chassis, the taxable chassis or taxable body, as the case may be, nevertheless remains subject to such tax, if the resulting vehicle is a highway vehicle as defined in paragraph (d) of this section.

(iv) Where the modification of an article, exempt from tax when sold by the original manufacturer, constitutes further manufacture after the original manufacturer’s sale, a tax may be imposed on the subsequent manufacturer’s sale or use of the modified article.

(2) *Parts and accessories.* (i) The sale of a part or accessory which, if sold on December 10, 1971, would be subject to the tax imposed by section 4061(a)(1) as in effect at such time, is not subject to the tax imposed by section 4061(a)(1) as in effect after such date if:

(A) It is sold by the manufacturer on or in connection therewith, or with the sale of, a vehicle enumerated in paragraph (f)(1)(i) of this section which is not subject to such tax, and

(B) It is not a replacement part (as defined in paragraph (f)(2)(ii) of this section).

(ii) For purposes of this paragraph (f)(2), a part or accessory is considered sold with a vehicle if, as of the time the article is sold by the manufacturer, the part or accessory has been ordered from such manufacturer for use with the vehicle. Thus, for example, original equipment sold after December 10, 1971, with a light-duty vehicle, consisting of parts and accessories which are ordered from the manufacturer of the vehicle not later than the time at which such vehicle is sold by him (whether or not installed as of such time) are not subject to such tax. For purposes of this paragraph (f)(2), a part is a replacement part, regardless of when ordered, if its use with a vehicle is as a replacement for a part of such vehicle. Therefore, spare parts or accessories sold separately or ordered with a light-duty truck are subject to the tax imposed on sales of parts or accessories by section 4061(b)(1), unless they are excluded from tax as articles used interchangeably between truck and passenger vehicles under the provisions of section 4061(b)(2).

(3) *Gross vehicle weight.* (i) For purposes of paragraph (f)(1) of this section gross vehicle weight means the maximum total weight of a loaded vehicle. Except as otherwise provided in this paragraph (f)(3), such maximum total weight shall be the gross vehicle weight rating of the article (as manufactured) as specified or established by the manufacturer of the completed article, unless such rating is unreasonable in light of the facts and circumstances in a particular case.

(ii) A manufacturer must specify or establish a weight rating for each chassis, body, or vehicle sold by him after September 22, 1971, if such article requires no additional manufacture other than (A) the addition of readily attachable articles, such as tire or rim assemblies or minor accessories, (B) the performance of minor finishing operations, such as painting, or (C) in the case of a chassis, the addition of a body. If an article is specially manufactured to the purchaser's specifications, such specifications may be used to establish the gross vehicle weight of the article.

(iii) A manufacturer shall maintain a record of the gross vehicle weight rat-

ing of each truck, bus, trailer, and semitrailer sold by him and excluded from the tax imposed by section 4061(a)(1) by reason of section 4061(a)(2) and this paragraph (f). For this purpose, a record of the serial number of each such article shall be treated as a record of the gross vehicle weight rating of the article if such rating is indicated by the serial number.

(iv) If (A) the manufacturer's rating indicated in a label or identifying device affixed to an article, (B) the rating set forth in his sales invoice or warranty agreement, and (C) his advertised rating for that article (or two or more identical articles) are inconsistent, the highest of such ratings will be considered to be the manufacturer's gross vehicle weight rating specified or established for purposes of the tax imposed by section 4061(a)(1).

(v) With respect to articles sold after January 31, 1972, the manufacturer's gross vehicle weight rating must take into account the strength of the chassis frame, the axle capacity and placement, and the spring, brake, rim, and tire capacities. The component with the lowest weight rating ordinarily shall be considered determinative of the gross vehicle weight. If the capacity of any of the readily attachable components (springs, brakes, rims, or tires) would otherwise be determinative of a gross vehicle weight rating of 10,000 pounds or less, no readily attachable component will be taken into account in determining such rating unless the rating determined solely on the basis of the chassis frame or the total of the axle ratings is 12,000 pounds or less.

(vi) For purposes of paragraph (f)(3)(v) of this section, the term "total of the axle ratings" means the sum of the maximum load carrying capability (capacity and placement) of the axles (without regard to springs, brakes, rims, and tires) and, in the case of a trailer or semitrailer, the weight, if any, that is to be borne by a vehicle used in combination with the trailer or semitrailer for which gross vehicle weight is determined.

[T.D. 7461, 42 FR 2672, Jan. 13, 1977, as amended by T.D. 7461, 42 FR 5695, Jan. 31, 1977; T.D. 7566, 43 FR 41389, Sept. 18, 1978]