

July 13, 2020

Ms. Holly Porter
Associate Chief Counsel (Passthroughs and Special Industries)
Internal Revenue Service
1111 Constitution Ave, NW
Washington, DC 20224

Re: Request for Guidance on Amounts Paid for Transportation by Air of Persons and Property Under 14 C.F.R. part 135 During Excise Tax Holiday

Dear Ms. Porter,

This letter is submitted by the National Air Transportation Association (“NATA”) to request clarification on the suspension of air transportation excise tax under I.R.C. §§ 4261 and 4271 on amounts paid during the excise tax holiday for transportation by air of persons or property under 14 C.F.R. part 135.

H.R. 748, the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), provides the following relief from excise tax:

In the case of any amount paid for transportation by air (including any amount treated as paid for transportation by air by reason of section 4261(e)(3) of the Internal Revenue Code of 1986) during the excise tax holiday period, no tax shall be imposed under section 4261 or 4271 of such Code. The preceding sentence shall not apply to amounts paid on or before the date of the enactment of this Act.¹

An IRS tax notes document² provides an example where an airline ticket is purchased between March 28, 2020 and December 31, 2020, the excise tax holiday. However, the ticket is for travel that will occur after December 31, 2020. No tax excise tax is imposed on the ticket because the purchase occurred during the excise tax holiday.

Part 135 charter operators do not sell tickets. Instead, many charter operators sell “jet cards” that require customers to purchase in advance a certain number of charter hours or put a certain amount of funds on account with the charter operator for air transportation.

Previous IRS guidance regarding these “travel card programs” have noted that time of purchase determines taxability:

Since the air travel card is an amount paid for air transportation in advance, the amount paid for the card is taxable under section 4261 when the card is purchased. The additional fees are taxable under sections 4261 and 4271 when the flight occurs. Segment taxes will

¹ Sec. 4007(a) Suspension of Certain Aviation Excise Taxes.

² Doc. 2020-18384

also be imposed at the time of the flight, because the number of segments and the number of passengers is determined at that time.³

Based on prior IRS guidance regarding card programs and the language in Public Law 116-136, as well as the example in the IRS tax notes document, it is our understanding that hours purchased through a “travel card” or “jet card” and funds placed on account are amounts actually paid for air transportation during the excise tax holiday. Therefore, these advance purchases of air transportation during the excise tax holiday are not subject to the air transportation excise tax under I.R.C. §§ 4261 and 4271, even though the transportation may not occur until after the excise tax holiday.

Requested Guidance: Accordingly, for purposes of tax administration, we respectfully request confirmation that our above understanding is correct.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Waguespack". The signature is fluid and cursive, with a large initial "R" and a stylized "W".

Ryan Waguespack
Senior Vice President

³ Air Transportation Excise Tax – Audit Techniques Guide, Page 6-8 (04/2008 Revision) and Page 25 (09/2012 Revision).