

## Section 4261.—Imposition of Tax

26 CFR 49.4261-1: Imposition of tax; in general.  
(Also §§ 4281.)

**Segment Tax.** This ruling provides guidance on how to calculate the tax on domestic segments under section 4261(b) of the Code if an aircraft is chartered and one or more persons are transported on that aircraft.

### Rev. Rul. 2002-34

#### ISSUE

How is the tax on domestic segments under § 4261(b) of the Internal Revenue Code calculated if an aircraft is chartered and one or more persons are transported on that aircraft?

#### FACTS

X operates an air charter service that provides taxable air transportation. Each of X's aircraft has a certificated takeoff weight in excess of 6,000 pounds. The amount X charges for the charter of an

aircraft is not affected by the number of passengers transported on the aircraft. Passengers transported on the aircraft do not pay for the transportation.

#### LAW AND ANALYSIS

Section 4261(a) imposes a tax on the amount paid for taxable transportation (as defined in § 4262) of any person by air (the percentage tax) equal to 7.5 percent of the amount paid.

Section 4262(a)(1) provides that the term "taxable transportation" includes transportation by air which begins in the United States and ends in the United States.

Section 4261(b)(1), enacted by § 1031(c)(1) of the Taxpayer Relief Act of 1997, 1997-4 (Vol. 1) C.B. 1, 143, imposes a tax on the amount paid for each domestic segment of taxable transportation (the segment tax) equal to a fixed amount determined in accordance with the table contained in that section. For segments beginning in 2002, that amount is \$3.00 per segment. The term "domestic segment" is defined in § 4261(b)(2) as any segment consisting of one takeoff and one landing that is taxable transportation described in § 4262(a)(1).

Section 4261(c) imposes a tax on any amount paid for any transportation of any person by air if the transportation begins or ends in the United States (the international facilities tax). Generally, the amount of the tax was set at \$12.00 for amounts paid in 1997. Section 4261(e)(4) provides that the amount of the tax imposed by § 4261(c) is to be adjusted for inflation; generally, the amount of the tax for amounts paid in 2002 is \$13.20.

Section 4281 provides an exemption from the tax imposed by § 4261 for aircraft having a certificated takeoff weight of 6,000 pounds or less, except when that aircraft is operated on an established line.

Rev. Rul. 72-309, 1972-1 C.B. 348, addresses the calculation of the international facilities tax imposed by § 4261(c) in the context of a single payment for a charter. The revenue ruling concludes that, if a single amount is paid for a charter, the § 4261(c) international facilities tax applies with respect to each passenger because implicit in the charter fee is an amount paid for the transportation of each passenger actually on the flight.

The § 4261(b) segment tax is similar to the § 4261(c) international facilities tax inasmuch as it is not calculated as a percentage of the amount paid, but is a fixed amount imposed on the amount paid for the transportation. Rev. Rul. 72-309 establishes that implicit in a charter payment is an amount paid for each passenger actually on the flight. Thus, as in the case of the § 4261(c) international facilities tax, the § 4261(b) segment tax is to be calculated on a per-passenger basis. Accordingly, for each segment, X must calculate the § 4261(b) segment tax by multiplying the amount of tax set forth in § 4261(b)(1) by the number of passengers transported on the chartered aircraft. (The segment tax so determined is not an amount paid for taxable transportation for purposes of calculating the § 4261(a) percentage tax.)

#### HOLDING

If an aircraft is chartered and one or more persons are transported on that aircraft, for each segment the tax under § 4261(b) is calculated by multiplying the amount of tax set forth in § 4261(b)(1) by the number of passengers transported on the aircraft.

#### DRAFTING INFORMATION

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