

Internal Revenue Service, Treasury

§ 49.4263-6

4263(d)) shall be established by the use of exemption certificate, Form 731. See section 4292 and the regulations thereunder for the rules applicable when the right to exemption is evidenced by exemption certificates.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959. Redesignated by T.D. 6618, 27 FR 11225, Nov. 14, 1962]

§ 49.4263-4 Members of the armed forces.

The tax imposed by section 4261 does not apply to amounts paid for transportation or for seating or sleeping accommodations furnished under special tariffs providing for fares of not more than 2.5 cents per mile applicable to round-trip tickets sold to personnel of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, including authorized cadets and midshipmen, traveling in uniform of the United States at their own expense when on official leave, furlough, or pass. A person claiming exemption under this section will be required to exhibit to the agent of the carrier a properly executed certificate to show that he is traveling on official leave, furlough, or pass, but the submission of an exemption certificate on Form 731 is not necessary in such case.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959. Redesignated by T.D. 6618, 27 FR 11226, Nov. 14, 1962]

§ 49.4263-5 Small aircraft on nonestablished lines.

(a) *In general.* Amounts paid for the transportation of persons on a small aircraft of the type sometimes referred to as "air taxis" shall be exempt from the tax imposed under section 4261 provided the aircraft (1) has a gross take-off weight of less than 12,500 pounds determined as provided in paragraph (b) of this section and (2) has a passenger seating capacity of less than 10 adult passengers, including the pilot. The exemption does not apply, however, if the aircraft is operated on an established line.

(b) *Determination of gross take-off weight.* The term "gross take-off weight of less than 12,500 pounds" means a maximum certificated take-off weight of less than 12,500 pounds. This shall be based on the maximum certificated take-off weight shown in the aircraft operating record or aircraft flight

manual which is part of the air worthiness certificate issued by the Federal Aviation Administration.

(c) *Established line.* The term "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959. Redesignated by T.D. 6618, 27 FR 11226, Nov. 14, 1962]

§ 49.4263-6 Exemptions applicable with respect to transportation beginning before November 16, 1962.

Section 5(b) of the Tax Rate Extension Act of 1962 repealed the exemptions contained in former section 4263(b) for motor vehicles with seating capacity of less than ten and in former section 4263(c) for fishing trips by boat effective with respect to transportation beginning after November 15, 1962. With respect to transportation which began before November 16, 1962, the tax imposed by section 4261 does not apply with respect to any amount paid for transportation.

(a) By a motor vehicle having a seating capacity of less than ten adult passengers, including the driver, unless such vehicle is operated on an established line, or

(b) By boat where the transportation is for the purpose of fishing from such boat.

In the case of the exemption with respect to a motor vehicle having a seating capacity of less than ten adult passengers, the terms "operated on an established line" means operated with some degree of regularity between definite points. It does not necessarily mean that strict regularity of schedule is maintained; that the full run is always made; that a particular route is followed; or that intermediate stops are restricted. The term implies that

§ 49.4264(a)-1

26 CFR Ch. I (4-1-02 Edition)

the person rendering the service maintains and exercises control over the direction, route, time, number of passengers carried, etc.

[T.D. 6618, 27 FR 11226, Nov. 14, 1962]

§ 49.4264(a)-1 Duty to collect the tax; payments made outside the United States.

Where payment is made outside the United States for a prepaid order, exchange order, or similar order for transportation which begins and ends in the United States or for seating or sleeping accommodations in connection therewith, the person furnishing the initial transportation pursuant to such order shall collect all the tax applicable to such transportation or accommodations. See section 4291 and the regulation thereunder for cases where persons receiving payment must collect the tax.

§ 49.4264(b)-1 Duty to collect the tax in the case of certain refunds.

(a) *Special rule for collection of tax.* Section 4264(b) provides a special rule for the collection of the tax where an unused ticket or order (or portion thereof) purchased without payment of tax is presented for refund and, as a result of the use of only a portion of the transportation purchased in connection with such ticket or order, liability for payment of tax has been incurred. In such a case, the person making the refund shall deduct the amount of the tax due, to the extent available, from the amount which would otherwise be refundable. If the redemption value of the unused ticket or order (or portion thereof) is less than the amount of the tax due on the amount paid for the travel actually performed, the person redeeming the unused ticket or order (or portion thereof) shall make no refund but shall apply the entire amount against the tax due and shall collect any additional tax due or, within 90 days, shall make a report of the amount of the tax remaining uncollected, together with the name and address of the person who sought the refund. The report shall be made to the office of the district director of internal revenue for the district in which the person making such report is located, and a copy of the report shall be

furnished to the person presenting the unused ticket or order for redemption.

(b) *Return of tax.* Any person who has made a collection of tax in accordance with the preceding paragraph shall include such amount in his regular return of taxes required to be collected under section 4291.

(c) *Illustration.* A carrier receives for redemption a ticket purchased in the United States for transportation from Calgary, Canada, to Edmonton, Canada, which the purchaser bought for use in conjunction with a ticket for nonstop transportation from Seattle to Calgary. The person applying for the refund does not establish to the satisfaction of the carrier that the tax on the Seattle-Calgary ticket has been paid or that the Seattle-Calgary ticket has been redeemed. The carrier, before making any refund for the unused ticket, is required to deduct from the amount otherwise refundable the tax applicable to the amount paid by the purchaser for the transportation from Seattle to Calgary and to report the tax so collected in its quarterly return of Form 720. In the event that the redemption value of the unused Calgary to Edmonton ticket is less than the amount of the tax due on the amount paid for the transportation from Seattle to Calgary, the carrier should not make any refund but should apply against the outstanding tax the entire amount refundable and should either collect the balance of the tax due or make a report, within 90 days, to the office of the district director of internal revenue for the district in which the carrier is located, setting forth the name and address of the person seeking the refund and the amount of the tax remaining uncollected.

§ 49.4264(c)-1 Special rule for the payment of tax.

(a) *Rule—(1) In general.* Except as provided in subparagraph (2) of this paragraph, when any tax imposed by section 4261 is not paid at the time payment for the transportation is made, then to the extent that such tax is not collected under any other provision of law, such tax shall be paid by the person paying for the transportation or by the person using the transportation. The provisions of section 4264(c) apply