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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

where the amount paid for transportation is (i) subject to tax at the time such payment is made, but no tax is paid at that time, or (ii) not subject to tax at the time such payment is made, but because of some subsequent event the payment becomes subject to tax. The payment of tax shall be made to the district director of internal revenue for the district in which the taxpayer resides, or to the person from whom the transportation was purchased, within 30 days after whichever of the following first occurs: (a) The rights to the transportation expire, or (b) the transportation becomes subject to tax. Such payment shall be accompanied with an explanation that it is being made in accordance with section 4264(c).

(2) *Transportation no longer qualifying as uninterrupted international air transportation.* In the case of a payment for transportation beginning after November 15, 1962, which qualifies as "uninterrupted international air transportation" within the meaning of section 4262(c)(3) and paragraph (c) of § 49.4262(c)-1 on the date such payment was made and which because of some subsequent event ceases to be uninterrupted international air transportation, to the extent that the tax due 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 payment of the tax shall be made to the air carrier which provides the next continuing portion of the transportation following the occurrence of the event which caused the transportation to cease to be uninterrupted international air transportation and such carrier shall collect the tax at the time the flight is rescheduled or before furnishing the continuing transportation to the passenger, whichever is earlier, unless the carrier has evidence, in writing, that the tax has already been paid to (i) a district director, or (ii) the person to whom the payment for the international air transportation was originally made, or (iii) any person furnishing any portion of such transportation. The provisions of this subparagraph with respect to the responsibility of the continuing carrier to collect the tax due are applicable only if

the passenger uses his original ticket or is issued a substitute therefor for the purpose of continuing his transportation. Such provisions are not applicable if the passenger purchases a new ticket to continue his transportation.

(b) *Relationship to other sections.* Section 4264(c) and this section are not intended in any way to relieve the person receiving the payment for taxable transportation of persons from his duty under section 4291 of collecting the tax at the time such payment is received by him. The provisions of section 4264(c) and this section also do not apply in any case where the tax is collected in the manner provided in section 4264 (a) or (b) or in other provisions of law.

(c) *Illustrations.* The provisions of this section may be illustrated by the following examples:

Example (1). A purchases in New York a round-trip ticket for transportation between New York and London, England, with a stopover in Montreal, Canada. After arriving in Montreal A decides not to continue his trip to London and returns to New York. A is liable for tax with respect to the amount paid for his transportation from New York to Montreal and return. The amount paid for A's transportation became subject to tax at the time he began his return trip to New York, and within 30 days thereafter A must pay the tax to either the person from whom he purchased the ticket or his district director of internal revenue.

Example (2). A purchases in Chicago a ticket for air transportation to begin after November 15, 1962, from Chicago to London with a stopover in New York. A is scheduled to arrive in New York at 4:30 p.m. and depart from New York on the international portion at 7:30 p.m. A arrives in New York on schedule but for his own convenience reschedules his departure on a flight departing at 11:00 p.m. Since A lengthened the interval between the end of the United States portion and the beginning of the international portion beyond the 6-hour limitation, that portion of his international air transportation between Chicago and New York became subject to tax. The carrier furnishing A's transportation from New York to London shall, before furnishing him with any transportation or at the time he reschedules the remaining portion of his trip, whichever is earlier, collect the tax due on the Chicago to New York portion from A unless the carrier has written evidence that such tax has been paid to (i) a district director of internal revenue, or (ii) the person to whom the payment for the international air transportation was

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originally made, or (iii) any person furnishing any other portion of the international air transportation.

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§ 49.4264(d)-1 Cross reference.

For the rules applicable under section 4264(d) see § 49.4261-4 relating to payments made within the United States.

§ 49.4264(e)-1 Round trips.

(a) *In general.* For purposes of the regulations in this subpart, a round trip shall be considered to consist of two separate trips, i.e., one trip from the point of departure to the destination and a second trip in returning from the destination. A round trip includes certain journeys in which the same routing is not followed on the return trip from the destination to the point of departure as was taken on the going trip (sometimes referred to as "circle trips"). In the case of a cruise or tour (i.e., transportation to no set destination but with one or more intermediate stops en route) the point farthest from the point of departure will be regarded as the destination for purposes of applying the term "round trip". If a cruise or tour ends at a point other than the one at which it began, the rules of "open jaw" transportation set forth in paragraph (b) of this section apply.

(b) *Open jaw transportation.* Transportation which qualifies under this paragraph as "open jaw" transportation will be treated in the same manner as a round trip. For purposes of the regulations in this subpart, "open jaw" transportation means (1) transportation from the point of departure to a specified destination and return from the specified destination to a point other than the original point of departure, or (2) transportation from the point of departure to a specified destination and return from a point other than the specified destination to the original point of departure, provided that where the points of the open jaw are within the continental United States or the 225-mile zone, the distance between the points of the open jaw does not exceed the distance of the shorter segment traveled. For example,

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a trip from New York to New Orleans via Panama would be considered as one trip from New York to Panama and separate trip from Panama to New Orleans, since the distance between the points of the open jaw (i.e., New York and New Orleans) is shorter than the distance between Panama and New Orleans (the shorter of the two segments traveled). Both trips would be nontaxable. On the other hand, transportation from New York to Miami via Bermuda does not qualify as "open jaw" transportation (since the points of the open jaw are in the United States and the distance between them is greater than the shorter segment traveled) and therefore would be considered a single trip from New York to Miami and would be taxable.

§ 49.4264(f)-1 Transportation outside the northern portion of the Western Hemisphere.

(a) *Transportation which leaves and re-enters the northern portion of the Western Hemisphere.* For purposes of the regulations in this subpart, transportation, any part of which is outside the northern portion of the Western Hemisphere (as defined in paragraph (c) of this section) shall, if the route of the transportation leaves and re-enters the northern portion of the Western Hemisphere, be considered to consist of transportation to the point outside such northern portion and of separate transportation thereafter. The amount paid for such transportation will be considered to be a payment made for two trips and the taxability of the payment will be determined accordingly. Thus, an amount paid for transportation from New York to San Francisco with a stop at Caracas, Venezuela, will be considered an amount paid for a trip from New York to Caracas and for a separate trip from Caracas to San Francisco, neither of which is taxable transportation.

(b) *Transportation beginning before November 16, 1962, by water on a vessel—(1) Special rule.* Section 4264(f)(2) prior to its amendment by section 5(b) of the Tax Rate Extension Act of 1962 provided a special rule in the case of transportation which begins before November 16, 1962, any part of which is outside the northern portion of the