

Internal Revenue Service, Treasury

§ 49.4254-2

State in which the political subdivisions are not denominated as counties or municipalities, then the preselected points must be in different political subdivisions of such State which correspond to counties or municipalities. For purposes of this paragraph the term "municipality" means the largest political subdivision of a State below the level of county or similar subdivision. For the exemption to apply, the charge for the service must be billed in writing to the person paying for the service and such person must certify in writing that the service is for use in the conduct of a trade or business.

(b) *Exemption inapplicable.* This particular exemption is not applicable in the case of taxes imposed on amounts paid for other services by section 4251, even though such services are utilized in the conduct of a trade or business.

§ 49.4253-11 Use and retention of exemption certificates.

A separate exemption certificate (as required by §§ 49.4253-3 and 49.4253-4) shall be furnished for each message paid for as a separate item, but where periodic payments are made, a blanket certificate (for a period not to exceed four calendar quarters) may be accepted as evidence of the right to exemption. An agent of a telegraph, telephone, radio, or cable company should not accept an exemption certificate unless satisfied, on the basis of proper credentials or otherwise, that the person who signed it is the person whom he represents himself to be and that the exemption claimed is allowable under the law. Exemption certificates should be retained with the record of the services rendered for inspection by internal revenue officers as provided in section 6001 and the regulations in Subpart G of this part.

§ 49.4253-12 Cross reference.

For exemptions applicable to amounts received as payment for services furnished to the government of any State or political subdivision of a State, to the District of Columbia, to the government of the United States, or to certain nonprofit educational organizations, see sections 4292, 4293, and

4294, and the regulations thereunder contained in Subpart F of this part.

§ 49.4254-1 Computation of tax.

(a) *General rule.* Except as provided in paragraph (b) of this section, when a bill is rendered to the taxpayer covering charges for general telephone service, toll telephone service, or telegraph service, with respect to which a tax is imposed by section 4251, the amount upon which the tax with respect to such services shall be based shall be the sum of all such charges for such services included in the bill.

(b) *Special rule in certain cases.* When a bill is rendered to the taxpayer covering charges for general telephone service, toll telephone service, or telegraph service, with respect to which a tax is imposed by section 4251, by a person who groups individual items for purposes of rendering the bill and computing the tax, then the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group, and the tax on remaining items not included in any such group shall be based on the charge for each item separately.

§ 49.4254-2 Payment for toll telephone service or telegraph service in coin-operated telephones.

Where the tax on a toll telephone or radio telephone message or conversation, or a telegraph, cable, or radio dispatch or message is paid by inserting coins in a coin-operated telephone, the tax shall be computed to the nearest multiple of 5 cents, and where the tax is midway between multiples of 5 cents, the next highest multiple shall apply. In other words, one-half or a greater fraction of 5 cents shall be treated as 5 cents and a smaller fraction shall be ignored.

Subpart D—Transportation of Persons

SOURCE: T.D. 6430, 24 FR 9665, Dec. 3, 1959, unless otherwise noted.

NOTE: For exemption from tax on transportation of persons by air of amounts paid by the Department of the Interior for fire prevention and control activities, see 32 FR 5457, April 1, 1967.

§ 49.4261-1 Imposition of tax; in general.

(a) *Transportation beginning before November 16, 1962.* Section 4261 imposes a tax equal to 10 percent of the amount paid for taxable transportation of persons by rail, motor vehicle, water, or air which begins before November 16, 1962. For the definition of the term "taxable transportation", see section 4262 and §§ 49.4262(a)-1 and 49.4262 (b)-1. The tax accrues at the time payment is made for the transportation, irrespective of when the transportation is furnished if the transportation actually begins before November 16, 1962.

(b) *Transportation beginning after November 15, 1962.* Section 4261 imposes a tax equal to 5 percent of the amount paid for the air portion of taxable transportation of persons which begins after November 15, 1962, and before July 1, 1965. For definition of the term "taxable transportation", see section 4262 and §§ 49.4262(a)-1 and 49.4262 (b)-1. The tax accrues at the time payment is made for the transportation, irrespective of when the transportation is furnished if the transportation actually begins after November 15, 1962, and before July 1, 1965.

(c) *In general.* The purpose of the transportation, whether business or pleasure, is immaterial. It is not necessary that the transportation be between two definite points. If not otherwise exempt, a payment for continuous transportation beginning and ending at the same point is subject to the tax. For the rate of tax with respect to amounts paid for seating and sleeping accommodations in connection with taxable transportation, see § 49.4261-9.

[T.D. 6618, 27 FR 11222, Nov. 14, 1962, as amended by T.D. 6753, 29 FR 12718, Sept. 9, 1964]

§ 49.4261-2 Application of tax.

(a) *Tax on total amount paid.* The tax is measured by the total amount paid, whether paid at one time or collected at intervals during the course of a continuous transportation, as in the case of a carrier operating under the zone system. For the application of the tax with respect to amount paid for seating or sleeping accommodations in connection with taxable transportation, see § 49.4261-9.

(b) *Tax on transportation of each person.* The tax is determined by the amount paid for transportation with respect to each person. Thus, where a single payment is made for the transportation of two or more persons, the taxability of the payment and the amount of the tax, if any, payable with respect thereto, must be determined on the basis of the portion of the total payment properly allocable to each person transported.

(c) *Charges for nontransportation services.* Where a payment covers charges for nontransportation services as well as for transportation of a person, such as charges for meals, hotel accommodations, etc., the charges for the nontransportation services may be excluded in computing the tax payable with respect to such payment, provided such charges are separable and are shown in the exact amounts thereof in the records pertaining to the transportation charge. If the charges for nontransportation services are not separable from the charge for transportation of the person, the tax must be computed upon the full amount of the payment.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6518, 25 FR 13134, Dec. 21, 1960, as amended by T.D. 6618, 27 FR 11222, Nov. 14, 1962]

§ 49.4261-3 Payments made within the United States.

(a) *Transportation beginning and ending in the United States or the 225-mile zone.* The tax imposed by section 4261(a) applies to payments made within the United States for transportation which begins in the United States or in the 225-mile zone and ends in the United States or in the 225-mile zone. For example, an amount paid within the United States for transportation between New York and Montreal, Canada; between Vancouver, Canada, and Windsor, Canada; or between Nogales, Mexico, and Hermosillo, Mexico, would be fully taxable. See section 4262(c) (2) and paragraph (b) of § 49.4262(c)-1 for the definition of the term "225-mile zone".

(b) *Other transportation—(1) Transportation beginning before November 16, 1962.* In the case of transportation beginning before November 15, 1962, (other than

that described in paragraph (a) of this section), for which payment is made in the United States, the tax applies with respect to the amount paid for that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States. Transportation that (i) begins in the United States or in the 225-mile zone and ends outside such area, (ii) begins outside the United States or the 225-mile zone and ends inside such area, or (iii) begins outside the United States and ends outside such area is taxable only with respect to such portion of the transportation which is directly or indirectly from one port or station in the United States to another such port or station. Thus, on a trip from Chicago to London, England, with a stopover at New York, for which payment is made in the United States, the tax would apply to the part of the payment which is applicable to the transportation from Chicago to New York.

(2) *Transportation beginning after November 15, 1962.* In the case of transportation beginning after November 15, 1962 (other than that described in paragraph (a) of this section), for which payment is made in the United States, the tax applies with respect to the amount paid for that portion of such transportation by air which is directly or indirectly from one port or station in the United States to another port or station in the United States, but only if such portion is not a part of "uninterrupted international air transportation" within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. Transportation that

(i) Begins in the United States or the 225-mile zone and ends outside such area,

(ii) Begins outside the United States or the 225-mile zone and ends inside such area, or

(iii) Begins outside the United States and ends outside such area.

is taxable only with respect to such portion of the transportation by air which is directly or indirectly from one port or station in the United States to another port or station in the United States, but only if such portion is not a part of "uninterrupted international air transportation" within the mean-

ing of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. Thus, on a trip by air from Chicago to London, England, with a stopover at New York, for which payment is made in the United States, if the portion from Chicago to New York is not a part of "uninterrupted international air transportation" within the meaning of section 4262(c)(3) and paragraph (c) of § 49.4262(c)-1, the tax would apply to the part of the payment which is applicable to the transportation from Chicago to New York. However, if the portion from Chicago to New York is a part of "uninterrupted international air transportation" within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1, the tax would not apply.

(c) *Method of computing tax on taxable portion.* Where a payment is made for transportation which is partially taxable under paragraph (b) of this section:

(1) The tax may be computed on that proportion of the total amount paid which the mileage of the taxable portion of the transportation bears to the mileage of the entire trip, or

(2) The tax may be computed on the basis of the applicable local fare for transportation of a like class between the ports or stations referred to in paragraph (b) of this section. Where a uniform fare is charge for transportation between a station and any coastal gateway point of embarkation on a trip to the same international destination, the tax may be computed on the basis of such uniform fare. In the absence of a fare described in this subparagraph, the tax must be determined in accordance with subparagraph (1) of this paragraph. If an international trip includes a leg between coastal gateway points of embarkation for which no additional fare is charged, no tax shall be applicable to such leg of the transportation.

(d) *Cross reference.* See section 4262 (b) and § 49.4262(b)-1 for a partial exclusion with respect to amounts paid for certain transportation.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11222, Nov. 14, 1962]

§ 49.4261-4 Payments made within the United States; evidence of nontaxability.

(a) *Presumption of taxability.* The tax imposed by section 4261(a) shall apply to any amount paid within the United States for the transportation of any person, unless the taxpayer establishes in accordance with the provisions of this section that at the time of payment the transportation is not transportation in respect of which tax is imposed by section 4261(a) (see section 4264(d)).

(b) *Through tickets.* In the case of transportation which is wholly or in part not taxable transportation, the issuance of one ticket (commonly known as a “through ticket”) covering such transportation will be sufficient to establish that the amount paid for such transportation is wholly or in part not subject to tax. Thus, if A purchases a through ticket in the United States for transportation by air which begins before November 16, 1962, from Chicago to Edmonton, Canada, with a stopover in Minneapolis, no further evidence will be required to establish that no tax applies with respect to the amount paid for the portion of transportation between Minneapolis and Edmonton. A similar result will be reached if a through ticket is purchased for the same air transportation which begins after November 15, 1962, and the trip is not “uninterrupted international air transportation” within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. See paragraph (d) of this section for the information to be inscribed on all tickets issued for uninterrupted international air transportation.

(c) *Separate tickets.* Where a separate ticket or order is issued for taxable transportation as defined in section 4262 (a) (1) (referred to in this subpart as the “domestic ticket or order”), but the domestic ticket or order is to be used in conjunction with a ticket or order for additional transportation (referred to in this subpart as the “international ticket or order”) which changes the tax consequences, unless the domestic ticket or order and the international ticket or order are purchased from a single agency or carrier at the same time, the person making

payment for the domestic ticket or order shall at the time of payment exhibit the international ticket or order to the agency or carrier receiving such payment. The agency or carrier which receives the payment for the domestic ticket or order shall inscribe the tickets or orders for the entire journey in the following manner:

(1) The international ticket or order shall be inscribed or stamped with an appropriate legend (for example, “Cannot be reused to obtain any tax exemption on a domestic ticket or order”) to show that a domestic ticket or order has been purchased wholly or partially tax free for use in conjunction therewith.

(2) The domestic ticket or order shall be inscribed to show (i) the identity of the agency or carrier which received payment therefor (unless otherwise shown on the ticket or order), (ii) the origin and destination of the additional transportation, (iii) the identify of the carrier furnishing the additional transportation, and (iv) the serial number of the ticket or order covering such additional transportation. If the domestic ticket or order is not large enough to accommodate the prescribed inscription, a statement setting forth the required information shall be attached to such ticket or order.

(d) *Tickets issued for uninterrupted international air transportation.* All tickets issued for “uninterrupted international air transportation” within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1, whether through tickets or separate tickets, must have inscribed thereon, in addition to the other information required in the regulations in this subpart, sufficient information from which may be ascertained the scheduled arrival and departure time at each stopover to which the six-hour scheduled interval requirement of section 4262(c)(3) applies. It will be sufficient, for example, if the airline ticket or tickets show the trip number and the date and time of departure of the aircraft from each such stopover point, provided the published airline schedules show the scheduled time of arrival at each such stopover point.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11223, Nov. 14, 1962]

§ 49.4261-5 Payments made outside the United States.

(a) *In general.* The tax imposed by section 4261(b) applies to amounts paid outside the United States for the taxable transportation of persons, but only if such transportation begins and ends in the United States. Thus, in addition to the exclusion provided for certain travel under section 4262(b), the tax imposed by section 4261(b), shall not apply unless the transportation both begins and ends within the United States. Accordingly, the tax does not apply to a payment made outside the United States for one-way or round-trip transportation between a point within the United States and a point outside the United States.

(b) *Transportation between two or more points in the United States.* (1) For purposes of this section, a payment made outside the United States for transportation between two or more points in the United States is a payment for transportation which begins and ends in the United States, even though additional transportation to or from a point outside the United States is involved in the entire journey, if at the time of making payment for the transportation between two or more points in the United States it is not definitely established, under the rules set forth in § 49.4261-6, that such transportation is purchased for use in making the journey from or to a point outside the United States. The fact that the entire journey includes transportation from or to a point outside the United States is not in itself determinative of the liability for tax.

(2) The following examples illustrate the application of this paragraph:

Example (1). W travels from Havana, Cuba to New York by way of Miami. He purchases in Havana a steamship ticket for his transportation from Havana to Miami and an exchange order for air transportation from Miami to New York. The ticket for the connecting transportation from Havana to Miami, and the order for the transportation from Miami to New York were not appropriately inscribed by the agency or carrier which received the payment for the air transportation involved at the time such payment was received so as to clearly show that the ticket and order were purchased for use in conjunction with each other. Therefore, the agency or carrier which accepts the

exchange order and issues the ticket for the transportation from Miami to New York is required to collect the tax which applies to the amount paid outside the United States for such transportation.

Example (2). X travels on a round trip from Montreal, Canada, to Los Angeles by way of New York. He purchases in Montreal air transportation for the round trip between New York and Los Angeles, and uses a private automobile for transportation from Montreal to New York and return to Montreal. The amount paid in Montreal for the round-trip transportation between New York and Los Angeles is a payment for transportation which begins and ends in the United States and is therefore subject to tax.

(c) *Cross reference.* See section 4262(b) and § 49.4262(b)-1 for a partial exclusion with respect to amounts paid for certain transportation.

§ 49.4261-6 Payments made outside the United States; evidence of nontaxability.

(a) *In general.* The tax does not apply to a payment made outside the United States for transportation which begins or ends outside the United States. For purposes of the preceding sentence, a payment made outside the United States for transportation between two or more points within the United States (such transportation being referred to hereinafter in this section as "the United States portion"), which is part of transportation from or to a point outside the United States is a payment for transportation which begins or ends outside the United States, where it is definitely established at the time of making payment for the United States portion that such portion is purchased for use in making the journey from or to a point outside the United States. The nontaxable character of the payment made outside the United States for the United States portion shall be established under the rules set forth in paragraphs (b) through (e) of this section.

(b) *Through tickets.* Where one ticket (commonly known as a "through ticket") is issued to cover all of the United States portion of a journey which begins or ends outside the United States and to cover also the connecting transportation from or to a point outside the United States, no further evidence of the nontaxable character of the

transportation covered by such ticket will be required.

(c) *Separate tickets.* Where separate tickets or orders are issued for the United States portion of a journey which begins or ends outside the United States, the agency or carrier which receives payment for such tickets or orders shall definitely determine at the time of receiving the payment that the United States portion is being purchased for use in conjunction with connecting transportation from or to a point outside the United States, and shall appropriately inscribe the tickets or orders issued outside the United States for the United States portion and for the connecting transportation from or to a point outside the United States to show clearly that such tickets or orders are purchased for use in conjunction with each other. Such tickets or orders shall be inscribed in the following manner:

(1) The ticket or order for the connecting transportation from or to a point outside the United States shall be inscribed or stamped with an appropriate legend (for example, "Not to be used again for purchase of tax-free United States transportation") to show that the United States portion has been purchased tax free for use in conjunction therewith.

(2) Where the ticket for the United States portion is issued outside the United States, it shall be inscribed to show (i) the identity of the agency or carrier which received payment therefor (unless otherwise shown on the ticket), (ii) the origin and destination of the connecting transportation, (iii) the identity of the carrier furnishing the connecting transportation, and (iv) the serial number of the ticket or order covering such connecting transportation. If the ticket is not large enough to accommodate the prescribed inscription, a statement setting forth the required information shall be attached to such ticket.

(3) Where an order for the United States portion is issued outside the United States, it shall be inscribed to show (i) the origin and destination of the connecting transportation, (ii) the identity of the carrier furnishing the connecting transportation, and (iii) the serial number of the ticket or order

covering such connecting transportation.

(d) *Ticket issued pursuant to inscribed order.* Where the ticket for the United States portion is issued in the United States pursuant to an order which was purchased and properly inscribed outside the United States under the rules set forth in paragraph (c)(3) of this section, liability for payment or collection of tax will not be incurred upon the issuance of the ticket provided the agency or carrier issuing such ticket stamps or inscribes thereon an appropriate legend, for example, "Tax not paid—furnished on order", or "Exempt—order".

(e) *Maintenance of records.* In any case where a payment for the United States portion is not subject to tax under the rules set forth in this section, the carrier furnishing transportation for the United States portion shall procure and maintain appropriate evidence which will clearly show that the tickets or orders for such transportation were purchased for use in conjunction with connecting transportation from or to a point outside the United States.

(f) *Examples.* The following are examples of nontaxable transportation:

Example (1). Y travels from London, England, to San Francisco by way of New York. He purchases from an agency or carrier in England all of the transportation involved in such journey, which includes air transportation from London to New York and from New York to San Francisco, for which separate tickets are issued. The agency or carrier which receives the payment for Y's transportation from New York to San Francisco will not be required to collect tax with respect to the payment, provided it determines at the time such payment is received that the transportation in question is being purchased for use in conjunction with the connecting transportation from London to New York and it appropriately inscribes both of the tickets for the journey.

Example (2). Z travels from Havana, Cuba, to New York by way of Miami. He purchases in Havana a ticket for his transportation by water from Havana to Miami, and later purchases from a travel agency in Havana air transportation from Miami to New York for which the travel agency issues an exchange order. To establish the nontaxable character of the payment for Z's transportation from Miami to New York the travel agency shall determine at the time payment is received

by it that the transportation is being purchased for use in conjunction with the connecting transportation from Havana to Miami, and shall make the appropriate inscription on the ticket and the order. The carrier which accepts the exchange order and issues the ticket for the transportation from Miami to New York will not be required to collect tax with respect to the ticket so issued if it appropriately inscribes the ticket as provided in paragraph (d) of this section.

§ 49.4261-7 Examples of payments subject to tax.

The following are examples of payments for transportation which, unless otherwise exempt under section 4263, 4292, 4293, or 4294 are subject to tax:

(a) *Cash fares.* The tax applies to payments of so-called "cash fares" where no ticket or other evidence of the right to transportation is issued to the passenger.

(b) *Script books.* The tax applies to the amounts paid for scrip books. The tax shall be collected from the purchaser at the time the scrip book is sold, and not when and as the scrip is used for transportation.

(c) *Additional charges.* Amounts paid as additional charges for changing the class of accommodations, changing the destination or route, extending the time limit of a ticket, as "extra fare", or for exclusive occupancy of a section, etc., are subject to the tax.

(d) *Round-trip tickets.* An amount of 61 cents or more paid for a round-trip ticket is taxable (1) if the one-way fare of like class is 61 cents or more, or (2) if there is no established one-way fare of like class.

(e) *Commutation or season tickets.* (1) Amounts paid for commutation or season tickets good for more than one month are subject to tax where the single trip is 30 miles or more. For this purpose the term "30 miles" means 30 constructive miles where the rate for transportation is fixed on the constructive mileage. The tax shall be collected from the purchaser at the time of payment for the commutation or season ticket, and not when and as the ticket is used for transportation.

(2) In the event that a partly used exempt commutation or season ticket is redeemed and the carrier, in determining the amount of the refund, makes a charge at regular rates for the

used portion of the ticket, the tax applies to such charge, if the one-way fare is more than 60 cents.

(f) *Prepaid orders, exchange orders, or similar orders.* The tax applies to the amounts paid for prepaid orders, exchange orders, or similar orders for transportation. Additional amounts paid in procuring transportation in connection with the use of prepaid orders, exchange orders, or similar orders, are likewise subject to tax.

(g) *Combinations of rail, motor vehicle, water, or air transportation.* The tax applies to the total amount paid for transportation over the lines of a number of connecting carriers; and also with respect to transportation beginning before November 16, 1962, to the total amount paid for any combination of rail, motor vehicle, water, or air transportation, such as rail-air line, air line-motor bus, or motor bus-steamship, etc. For transportation beginning after November 15, 1962, the tax will apply only to the amount paid for any portion of such transportation that is by air.

(h) *Chartered conveyances* (1) An amount paid for the charter.

(i) Of a special car, train, motor vehicle, aircraft, or boat for transportation which begins before November 16, 1962, or

(ii) Of an aircraft for transportation which begins after November 15, 1962, provided no charge is made by the charterer to the persons transported, is subject to tax if the amount paid for the charter represents a per capita charge of more than 60 cents for each person actually transported.

(2) The charterer of a conveyance who sells transportation to other persons must collect and account for the tax with respect to all amounts paid to him for transportation which are in excess of 60 cents. In such case, no tax will be due on the amount paid for the charter of the conveyance but it shall be the duty of the owner of the conveyance to advise the charterer of his liability for collecting and accounting for the tax.

(i) *All-expense tours.* Amounts paid for all-expense tours are subject to tax with respect to that portion representing transportation which is subject to tax. See paragraph (c) of

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§ 49.4261-2 and paragraph (f) (4) of § 49.4261-8.

(j) *Payments remitted to foreign countries by persons in the United States.* Payments for transportation tickets, prepaid orders, exchange orders, or similar orders are subject to the tax where the payment for such tickets or orders is accomplished by the purchaser either (1) by transmission from within the United States via telegraph or mail of cash, checks, postal or telegraphic money orders, and similar drafts to ticket offices or travel agencies, etc., located in any place without the United States, or (2) by the delivery of the funds to an agency located in the United States for transmission to ticket offices, or travel agencies, etc., without the United States. Such payments are considered to be payments made within the United States.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11223, Nov. 14, 1962]

§ 49.4261-8 Examples of payments not subject to tax.

In addition to a payment specifically exempt under section 4263, 4292, 4293, or 4294 the following are examples of payments not subject to tax:

(a) *Exchange of prepaid order, scrip, etc., for tickets.* A ticket issued pursuant to an exchange order, prepaid order, airline pilot order, or scrip, is not subject to tax where the tax is paid at the time of payment for the order or scrip.

(b) *Caretakers and messengers accompanying freight shipments.* The tax on the transportation of persons does not apply to amounts paid for transportation of freight that includes also the transportation of caretakers or messengers for which no specific charge as such is made.

(c) *Special baggage transportation equipment.* An amount paid for special baggage transportation equipment is not subject to the tax on the transportation of persons if separable from the payment for transportation of persons and if shown in the exact amount of the charge on the records covering the taxable transportation payment.

(d) *Circus or show conveyances.* The amount paid pursuant to a contract for the movement of a circus or show conveyance where the amount covers only

the transportation of the performers, laborers, animals, equipment, etc., by such conveyances is not subject to the tax on the transportation of persons imposed by section 4261. However, if the contract payment also covers the issuance to advance agents, bill posters, etc., of circus or show scrip books, or other evidence of the right to transportation, for use on regular passenger conveyances, that portion of the contract payment properly allocable to such scrip books or other evidence is subject to the tax on the transportation of persons.

(e) *Corpses.* The tax on the transportation of persons does not apply to the amount paid for the transportation of a corpse, but does apply to the amount paid for the transportation of any person accompanying the corpse.

(f) *Miscellaneous charges.* Where the charge is separable from the payment for the transportation of a person and is shown in the exact amount thereof on the records pertaining to the transportation payment, the tax on the transportation of persons does not apply to the following and similar charges:

(1) Charges for transportation of baggage, including incidental charges such as excess value, storage, transfer, parcel checking, special delivery, etc.

(2) Charges for transportation of an automobile in connection with the transportation of a person.

(3) Charges for bridge or road toll, or a ferry charge of 60 cents or less, made in connection with the transportation beginning before November 16, 1962, of a person by bus. Charges incurred by the carrier which are part of its costs of operation, such as bridge tolls, road tolls, or ferry charges, paid by the carrier on account of the bus and driver, cannot be deducted from the charge made to the passenger in determining the taxable charges for transportation.

(4) Charges for admissions, guides, meals, hotel accommodations, and other nontransportation services, for example, where such items are included in a lump sum payment for an all-expense tour.

(5) Charges in connection with the charter of a land, water, or air conveyance for the transportation of persons beginning before November 16, 1962, or

an air conveyance for transportation of persons which begins after November 15, 1962, such as for parking, icing, sanitation, "layover" or "waiting time", movement of equipment in deadhead service, dockage, or wharfage, etc.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11223, Nov. 14, 1962]

§ 49.4261-9 Seats and berths; rate and application of tax.

(a) *Imposition of tax.* Section 4261 (c) imposes a tax at a prescribed rate upon payments of any amounts for seating or sleeping accommodations in connection with transportation with respect to which a tax is imposed by section 4261 (a) or (b).

(b) *Rate of tax.* The tax is imposed under section 4261(c) upon the amount paid for seating or sleeping accommodations at the following rates:

(1) 10 percent with respect to amounts paid in connection with taxable transportation by rail, motor vehicle, water, or air which begins before November 16, 1962.

(2) 5 percent with respect to amounts paid in connection with the air portion of any transportation which begins after November 15, 1962.

(c) *Application of other rules to seats and berths.* The rules and provisions of §§ 49.4261-1 to 49.4261-6, inclusive, with respect to the tax on payments for transportation imposed by section 4261 (a) or (b) are also applicable to the tax on payments for seating or sleeping accommodations.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11223, Nov. 14, 1962]

§ 49.4261-10 By whom paid.

The tax imposed by section 4261 is payable by the person making the taxable payment for transportation or for seats, berths, etc., and is collectable by the person receiving such payments. See section 4264 (a) and (c) for special rules relating to payment and collection of tax.

§ 49.4262(a)-1 Taxable transportation.

(a) *In general.* Unless excluded under section 4262(b) (see § 49.4262(b)-1), taxable transportation means:

(1) Transportation which begins in the United States or in that portion of Canada or Mexico which is not more than 225 miles from the nearest point in the continental United States (the "225-mile zone") and ends in the United States or in the 225-mile zone; and

(2) In the case of any other transportation, that portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States, but, with respect to transportation which begins after November 15, 1962, only if such portion is not part of "uninterrupted international air transportation" within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. Transportation from one port or station in the United States to another port or station in the United States occurs whenever a carrier, after leaving any port or station in the United States, makes a regularly scheduled stop at another port or station in the United States irrespective of whether stopovers are permitted or whether passengers disembark.

The provisions of this paragraph are applicable whether the transportation is by rail, motor vehicle, water, or air, or any combination thereof, except that with respect to transportation which begins after November 15, 1962, the tax, if applicable, applies only to the amount paid for that portion of the transportation which is by air.

(b) *Illustrations of taxable transportation under section 4262(a) (1).* In each of the following examples the transportation is taxable transportation and the amount paid within the United States for such transportation is subject to the tax:

- (1) New York to Seattle;
- (2) New York to Vancouver, Canada, with a stop at Jasper, Canada;
- (3) Chicago to Monterrey, Mexico;
- (4) Montreal, Canada, to Toronto, Canada; and
- (5) Miami to Los Angeles via Panama. If in the examples in subparagraphs (1) and (5) of this paragraph, payment for the transportation had been made outside the United States, such payment would nevertheless have been subject to tax since in each case

the transportation begins and ends in the United States.

(c) *Illustrations of taxable transportation under section 4262(a) (2) beginning before November 16, 1962.* The following examples will illustrate the application of section 4262(a) (2) with respect to transportation beginning before November 16, 1962:

Example (1). A purchases in New York a round-trip ticket for transportation by air from New York to Havana, Cuba, with a stop at Miami. The amount paid for that part of the transportation between New York and Miami on both going and return trips is subject to tax, since such transportation is from one station in the United States to another station in the United States.

Example (2). B purchases a ticket in San Francisco for combination rail and water transportation from San Francisco to New York to Halifax, Canada, to London, England. The amount paid for that part of the transportation between San Francisco and New York is subject to tax, since such transportation is from one station in the United States to another station in the United States. Although Halifax is in the 225-mile zone, the transportation between New York and Halifax is not taxable because it is not transportation from one port in the United States to another port in the United States.

Example (3). C purchases a ticket in Seattle for transportation from Seattle to Lisbon, Portugal, with stops at Vancouver, Edmonton, and Montreal, Canada, and New York. The amount paid for that part of the transportation from Seattle to New York is subject to tax, since it is indirectly from one station in the United States to another station in the United States.

Example (4). E purchases in Chicago a ticket for transportation by air from Chicago to New York to Gander, Newfoundland, to London, England. Only the amount paid for that part of the transportation between Chicago and New York is subject to tax. If, while on the New York-Gander leg of the journey the aircraft is forced to land at Boston, because of weather or other emergency, no tax is imposed by reason of such emergency stop.

Example (5). G charters a plane in New York for transportation to Bogota, Colombia, and pays the charter charges in New York. The plane stops at an airport in Miami for refueling in accordance with its flight plan. The tax attaches with respect to that part of the transportation which is between New York and Miami.

(d) *Illustrations of taxable transportation under section 4262(a) (2) beginning after November 15, 1962.* The following examples will illustrate the application of section 4262(a) (2) with respect to

transportation beginning after November 15, 1962:

Example (1). A purchases in New York a round-trip ticket for transportation by air from New York to Nassau with a scheduled stopover of 10 hours in Miami on both the going and return trip. The amount paid for that part of the transportation from New York to Miami on the going trip is subject to tax, since such transportation is from one station in the United States to another station in the United States and the trip is not uninterrupted international air transportation because the scheduled stopover interval in Miami is greater than six hours. The amount paid for the return trip from Miami to New York is subject to tax for the same reason.

Example (2). A purchases a ticket in San Francisco for transportation to London with a stopover in New York. He is to travel by air from San Francisco to New York and from New York to London by water. He is scheduled to stopover in New York for 4 hours. That portion of the total amount paid by A for his transportation applicable to the air transportation between San Francisco and New York is subject to tax since such transportation is from one station in the United States to another station in the United States, and is not a part of uninterrupted international air transportation since the complete trip from San Francisco to London is not entirely by air.

Example (3). A purchases a through ticket for air transportation from San Francisco to London with stopovers at Denver, Chicago, Philadelphia, and New York. At each stopover the air carrier has scheduled his arrival and departure within 6 hours. After arriving in Philadelphia, A, for his own convenience, decides to stopover for more than 6 hours. The total amount paid by A for his transportation from San Francisco to New York is subject to tax since the scheduled interval between the beginning or end and the end or beginning of any two segments of the domestic portion of international air transportation exceeded 6 hours. If the stopover interval in Philadelphia is extended for more than 6 hours by the carrier solely for its own convenience such as making repairs to the aircraft, the domestic portion of A's trip will not become taxable, provided A continues his international air transportation no later than on the first available flight offered by the carrier.

Example (4). A purchases a through ticket for transportation by air from Los Angeles to Barbados with stopovers at Houston, Mexico City, Mexico, and Miami. At each stopover, except Mexico City, A's scheduled time of arrival and departure is within six hours. At Mexico City, A's scheduled time of arrival and departure exceeds six hours. The total amount paid by A for his transportation

from Los Angeles to Miami, including that part of the transportation to and from Mexico City, is subject to tax since the transportation includes a portion which is indirectly from one port or station in the United States to another port or station in the United States (Houston to Miami via Mexico City) and the scheduled interval in Mexico City between two segments of such portion exceeds six hours. If A's scheduled arrival and departure at each stopover of his transportation which is directly or indirectly between ports or stations in the United States, including that at Mexico City, had been within a six hour interval and A had arrived and departed at each such stopover within that period, the transportation would have qualified as uninterrupted international air transportation and no part of the amount paid for the transportation by air from Los Angeles to Barbados would be subject to tax.

(e) *Illustrations of transportation which is not taxable transportation.* The following examples will illustrate transportation which is not taxable transportation:

- (1) New York to Trinidad with no intervening stops;
- (2) Minneapolis to Edmonton, Canada, with a stop at Winnipeg, Canada;
- (3) Los Angeles to Mexico City, Mexico, with stops at Tia Juana and Guadalupe, Mexico;
- (4) New York to Whitehorse, Yukon Territory, Canada, after November 15, 1962, by air with a scheduled stopover in Chicago of five hours.

Amounts paid for the transportation referred to in examples set forth in subparagraphs (1), (2), and (3) of this paragraph are not subject to the tax regardless of where payment is made, since none of the trips (i) begin in the United States or in the 225-mile zone and end in the United States or in the 225-mile zone, nor (ii) contain a portion of transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States. The amount paid within the United States for the transportation referred to in the example set forth in subparagraph (4) of this paragraph is not subject to tax since the entire trip (including the domestic portion thereof) is "uninterrupted international air transportation" within the meaning of section 4262(c) (3) and paragraph (c) of § 49.4262(c)-1. In the event the transportation is paid for outside the United

States, no tax is due since the transportation does not begin and end in the United States.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11223, Nov. 14, 1962]

§ 49.4262(b)-1 Exclusion of certain travel.

(a) *In general.* Under section 4262(b) taxable transportation does not include that portion of any transportation which meets all four of the following requirements:

(1) Such portion is outside the United States;

(2) Neither such portion nor any segment thereof is directly or indirectly:

(i) Between (a) a point where the route of the transportation leaves or enters the continental United States, or (b) a port or station in the 225-mile zone, and

(ii) A port or station in the 225-mile zone;

(3) Such portion:

(i) Begins at either (a) the point where the route of the transportation leaves the United States, or (b) a port or station in the 225-mile zone, and

(ii) Ends at either (a) the point where the route of the transportation enters the United States, or (b) a port or station in the 225-mile zone; and

(4) A direct line from the point (or the port or station) specified in subparagraph (3) (i) of this paragraph, to the point (or the port or station) specified in subparagraph (3) (ii) of this paragraph, passes through or over a point which is not within 225 miles of the United States. For purposes of this section, the route of the transportation shall be deemed to leave or enter the United States when it passes over (i) the international boundary line between any part of the United States and a contiguous foreign country, or (ii) a point three nautical miles (3.45 statute miles) from low tide on the coast line.

(b) *Transportation to or from Alaska or Hawaii.* (1) Under the provisions of section 4262(b) transportation between the continental United States or the 225-mile zone and Alaska or Hawaii will be partially exempt from the tax. The portion of such transportation which (i) is outside the United States, (ii) is not

transportation between ports or stations within the continental United States or the 225-mile zone, and (iii) is not transportation between ports or stations within Alaska or Hawaii, meets all the requirements set forth in section 4262(b) and is excluded from taxable transportation.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). A buys a ticket for transportation by air from Seattle to Fairbanks, Alaska, via Ketchikan and Juneau, Alaska, and Whitehorse, Yukon Territory, Canada. The portion of the transportation between the point where the route of the transportation leaves the continental United States and the point where it first enters Alaska (the three-mile limit or the international boundary) is not subject to tax.

Example (2). B purchased combination rail-water transportation beginning before November 16, 1962, from Chicago to Juneau, Alaska, by way of Vancouver, Canada. The portion of the transportation from Vancouver to the point where the route of the transportation enters the three-mile limit off the coast of Alaska is not subject to tax.

Example (3). C purchases a ticket in the United States for transportation by air from Vancouver, Canada, to Honolulu, Hawaii. No part of the route followed by the carrier passes through or over any part of the continental United States. The only part of the payment made by C for this transportation which is subject to the tax is that applicable to the portion of the transportation between the three-mile limit off the coast of Hawaii and the airport in Honolulu.

(c) *Method of computing tax on travel not excluded.* (1) Where a payment is made for transportation which includes transportation excluded under the provisions of section 4262(b):

(i) The tax may be computed on that proportion of the total amount paid which the mileage of the taxable portion of the transportation bears to the mileage of the entire trip, or

(ii) If the taxable portion of the transportation includes transportation from one port or station to another port or station for which an applicable local fare of a like class is available, the tax may be computed on the amount of such local fare, plus an amount equivalent to that proportion of the remainder of the total amount paid which the mileage of the remainder of the taxable portion of the trans-

portation bears to the remainder of the mileage of the entire trip. If the taxable transportation includes a leg from a station to a coastal gateway point of embarkation for which a uniform fare is charged regardless of the gateway point actually used, the tax on such a leg may be computed on the basis of such uniform fare. In the absence of a fare described in this subparagraph, the tax must be determined in accordance with subdivision (i) of this subparagraph. If the taxable portion of the transportation includes a leg between coastal gateway points of embarkation for which no additional fare is charged no tax shall be applicable to such leg of the transportation.

(2) The basis for determining the proportions described in subdivisions (i) and (ii) of subparagraph (1) of this paragraph shall be the average mileage of the established route traveled by the carrier between given points under normal circumstances.

(d) *Illustration.* The application of paragraph (c) of this section may be illustrated by the following example:

Example. On October 10, 1959, A purchases in San Francisco a ticket for transportation by air to Honolulu, Hawaii. The portion of the transportation which is outside the continental United States and is outside Hawaii is excluded from taxable transportation. The tax applies to that part of the payment made by A which is applicable to the portion of the transportation between the airport in San Francisco and the three-mile limit off the coast of California (a distance of 15 miles) and between the three-mile limit off the coast of Hawaii and the airport in Honolulu (a distance of 5 miles). The part of the payment made by A which is applicable to the taxable portion of his transportation and the tax due thereon are computed in accordance with paragraph (c)(1) as follows:

Mileage of entire trip (San Francisco airport to Honolulu airport) (miles)	2,400
Mileage in continental United States (miles)	15
Mileage in Hawaii (miles)	5
	20
Fare from San Francisco to Honolulu	\$168.00
Payment for taxable portion (20/2400 × \$168) ...	\$1.40
Tax due (10% (rate in effect on date of payment) × \$1.40)	\$0.14

(All distances and fares assumed for purposes of this example. If transportation begins after November 15, 1962, the tax applies only to the amount paid for transportation by air

and should be computed at the rate of 5 percent.)

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11224, Nov. 14, 1962]

§ 49.4262(c)-1 Definitions.

(a) *The continental United States.* For purposes of the regulations in this subpart, the term "continental United States" includes only the 48 States existing on July 25, 1956 (the date of the enactment of the Act of July 25, 1956 (Pub. L. 796, 84th Cong., 70 Stat. 644)) and the District of Columbia, including inland waters (such as rivers, lakes, bays, etc.) lying wholly therein, and, where an international boundary line divides inland waters, such parts of such inland waters as lie within the boundary of the United States, and also the waters 3 nautical miles (3.45 statute miles) from low tide on the coast line. For purposes of the regulations in this subpart, the term "continental United States" does not include Alaska or Hawaii for any period either prior or subsequent to their admission into the Union as States.

(b) *The 225-mile zone.* For purposes of the regulations in this subpart, the term "225-mile zone" means that portion of Canada and Mexico which is not more than 225 miles from the nearest point in the continental United States. Whether any point in Canada or Mexico is more than 225 miles from the continental United States is to be determined by measuring the distance from such point to the nearest point on the boundary of the continental United States.

(c) *Uninterrupted International air transportation.* (1) For the purpose of the regulations in this subpart, the term "uninterrupted international air transportation" means transportation entirely by air which does not begin in the United States or in the 225-mile zone and end in the United States or in the 225-mile zone provided that:

(i) Where the transportation within the United States involves one stop, the scheduled interval between the beginning or end of the United States portion of such air transportation and the end or beginning of the remainder of the air transportation, and

(ii) Where the United States portion of such transportation involves two or

more stops, the scheduled interval between the beginning or end of one segment and the end or beginning of the continuing segment of such portion does not exceed six hours. The transportation is considered to be entirely by air even though the passenger may use other means of transportation between two airports provided the scheduled six-hour limitation for his continuing air transportation is complied with. Transportation which otherwise is uninterrupted international air transportation does not cease to be such because of the use of non-air transportation between ports or stations which are outside the United States, provided the non-air transportation is not part of transportation which is indirectly from one port or station in the United States to another port or station in the United States.

(2) Where the interval between arrival and departure time at any stopover point in the United States exceeds six hours, such transportation is not uninterrupted international air transportation even though the schedules of the air lines do not make possible a scheduling within the six-hour limit. Where any interval scheduled for six hours or less is increased to exceed six hours, the transportation will continue to be uninterrupted international air transportation if the increase in time is attributable to delays in the arrival or departure of the scheduled air transportation. In such case the transportation shall continue to be uninterrupted international air transportation if the passenger continues his transportation no later than on the first available flight offered by the continuing carrier which affords the passenger substantially the same accommodations as originally purchased. However, if for any other reason such interval at any stopover is increased to more than 6 hours, the transportation will lose its classification of uninterrupted international air transportation. The tax applicable in such case shall be paid as provided in paragraph (a) (2) of § 49.4264(c)-1. The transportation from the point of origin in the United States to a port or station outside the United States and the 225-mile zone, with a stopover in the United States, must be scheduled before the time the initial

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transportation commences in order for the United States portion of such transportation to qualify as uninterrupted international air transportation. For example, where transportation by air from Chicago to New York only is scheduled in Chicago and transportation by air from New York to London, England, is scheduled by the passenger after his arrival in New York, the Chicago to New York trip does not qualify as uninterrupted international air transportation even though the passenger may depart on the London flight within six hours after arrival in New York.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11225, Nov. 14, 1962; 27 FR 11691, Nov. 28, 1962]

§ 49.4263-1 Commutation tickets.

(a) *Tickets for single trips of less than 30 miles.* Amounts paid for commutation or season tickets or books for single trips of less than 30 miles are exempt from the tax imposed by section 4261, regardless of the length of time for which such tickets or books are valid. The phrase "less than 30 miles" means less than 30 constructive miles in instances where the charge is based on constructive mileage.

(b) *Tickets for one month or less.* Amounts paid for commutation tickets or books for one month or less are exempt from the tax regardless of the distance of a single trip.

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

§ 49.4263-2 Charges not exceeding 60 cents.

(a) *In general.* The tax imposed by section 4261 does not apply to transportation payments of 60 cents or less.

(b) *Round trips.* The exemption is determined by the amount paid for a single one-way trip. Thus, an amount of more than 60 cents paid for round-trip transportation is exempt from the tax, if the regular one-way single fare of like class between the terminal points of the round trip does not exceed 60 cents.

(c) *Charters.* An amount paid for the charter of a car, train, motor vehicle, aircraft, or boat with respect to transportation beginning before November 16, 1962, or of an aircraft with respect

to transportation beginning after November 15, 1962, is exempt from the tax, if the payment represents a per capita charge of sixty cents or less for each person actually transported.

(d) *Seating or sleeping accommodations.* Any amount paid for seating or sleeping accommodations is not subject to tax under section 4261(c) where the amount of the related payment for transportation is 60 cents or less. However, where the payment for transportation exceeds 60 cents, a payment for seating or sleeping accommodations in connection with such transportation is subject to the tax regardless of the amount thereof.

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

§ 49.4263-3 Transportation furnished to certain organizations.

(a) *The American National Red Cross.* The tax imposed by section 4261 does not apply to amounts paid for transportation or facilities furnished to any corporation created by act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (The American National Red Cross).

(b) *International organizations.* The tax imposed by section 4261 does not apply to amounts paid for transportation or facilities furnished to an international organization. See section 7701(a) (18) for the definition of "international organization". An international organization is designated as such by the President through an Executive order or orders. When an organization has been designated by the President as entitled to enjoy the privileges, exemptions and immunities conferred by the International Organizations Immunities Act, or part thereof, including exemption from the tax, the exemption applies to amounts so paid unless the President otherwise provides. The exemption is subject to withdrawal or revocation by the President. In case of withdrawal or revocation, unless otherwise provided by the President, the exemption is inapplicable to payments on or after the date of issuance of the order of withdrawal or the date of revocation.

(c) *Evidence of right to exemption.* The right to exemption under section 4263(b) (and under former section

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

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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.

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

§ 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

Western Hemisphere, by water on a vessel which makes one or more intermediate stops at ports within the United States on a voyage which (i) begins or ends in the United States, and (ii) ends or begins outside the northern portion of the Western Hemisphere. In such a case, a stop at an intermediate port within the United States at which such vessel is not authorized both to discharge and to take on passengers shall not be considered to be a stop at a port within the United States. A vessel is considered to be authorized both to discharge and to take on passengers at an intermediate port unless there is a legal or other authoritative prohibition of such traffic. For purposes of the preceding sentence, an order issued by the owner or operator of a vessel prohibiting such vessel from either discharging or taking on passengers at the intermediate port is not a legal or other authoritative prohibition of such traffic.

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

Example (1). A purchases a steamship ticket in New York for transportation from New York to Southampton, England. The vessel on which A sails makes an intermediate stop during the course of such voyage at Boston to take on passengers. The vessel is not, however, authorized to discharge passengers at such port. No tax applies to the portion of the transportation between New York and Boston since under section 4264(f)(2) the vessel is not considered to have made a stop at Boston.

Example (2). B purchases a steamship ticket in San Francisco for a voyage from San Francisco to Tokyo, Japan. The vessel on which B travels makes a stop at Honolulu, Hawaii, to discharge passengers. The vessel is also permitted to take on passengers in Honolulu. Since the vessel is permitted both to discharge and take on passengers at the stop in Honolulu, the portion of the transportation between San Francisco and Hawaii not excluded under section 4262(b) (i.e., the portion of such transportation between the pier in San Francisco and the three-mile limit off the coast of California and between the three-mile limit off the coast of Hawaii and the pier in Honolulu) is taxable under section 4262(a)(2) as transportation from one port in the United States to another port in the United States.

(c) *Northern portion of the Western Hemisphere.* For purposes of the regulations in this subpart, the term “north-

ern portion of the Western Hemisphere” means the area lying west of the 30th meridian west of Greenwich, east of the International Date Line, and north of the equator, but not including any country of South America.

[T.D. 6430, 24 FR 9665, Dec. 3, 1959, as amended by T.D. 6618, 27 FR 11227, Nov. 14, 1962]

Subpart E—Transportation of Property

§ 49.4271-1 Tax on transportation of property by air.

(a) *Purpose of this section.* In general, section 4271 of the Internal Revenue Code of 1954, as added by the Airport and Airway Revenue Act of 1970, imposes a tax equal to 5 percent of the amount paid within or without the United States for the transportation of property by air which begins after June 30, 1970, if such transportation begins and ends in the United States. This section sets forth rules as to the general applicability of the tax. This section also sets forth rules as authorized by section 4272(b)(2) which exempt from tax payments for the transportation of property by air in the course of exportation (including shipment to a possession of the United States) by continuous movement, and in due course so exported.

(b) *Imposition of tax.* (1) The tax imposed by section 4271 applies only to amounts paid to persons engaged in the business of transporting property by air for hire.

(2) The tax imposed by section 4271 does not apply to amounts paid for the transportation of property by air if such transportation is furnished on an aircraft having a maximum certificated takeoff weight (as defined in section 4492(b)) of 6,000 pounds or less, unless such aircraft is operated on an established line. The tax imposed by section 4271 also does not apply to any payment made by one member of an affiliated group (as defined in section 4282(b)) to another member of such group for services furnished in connection with the use of an aircraft if such aircraft is owned or leased by a member of the affiliated group and is not available for hire by persons who are not members of such group.