

26 U.S. Code § 4261 - Imposition of tax

(a) In general

There is hereby imposed on the amount paid for taxable transportation of any person a tax equal to 7.5 percent of the amount so paid.

(b) Domestic segments of taxable transportation

(1) In general

There is hereby imposed on the amount paid for each domestic segment of taxable transportation by air a tax in the amount of \$3.00.

(2) Domestic segment

For purposes of this section, the term "domestic segment" means any segment consisting of 1 takeoff and 1 landing and which is taxable transportation described in section 4262(a)(1).

(3) Changes in segments by reason of rerouting

If—

(A) transportation is purchased between 2 locations on specified flights, and

(B) there is a change in the route taken between such 2 locations which changes the number of domestic segments, but there is no change in the amount charged for such transportation, the tax imposed by paragraph (1) shall be determined without regard to such change in route.

(c) Use of international travel facilities

(1) In general

There is hereby imposed a tax of \$12.00 on any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins or ends in the United States.

(2) Exception for transportation entirely taxable under subsection (a)

This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

(3) Special rule for Alaska and Hawaii

In any case in which the tax imposed by paragraph (1) applies to a domestic segment beginning or ending in Alaska or Hawaii, such tax shall apply only to departures and shall be at the rate of \$6.

(d) By whom paid

Except as provided in section 4263(a), the taxes imposed by this section shall be paid by the person making the payment subject to the tax.

(e) Special rules

(1) Segments to and from rural airports

(A) Exception from segment tax

The tax imposed by subsection (b)(1) shall not apply to any domestic segment beginning or ending at an airport which is a rural airport for the calendar year in which such segment begins or ends (as the case may be).

(B)Rural airport

For purposes of this paragraph, the term “rural airport” means, with respect to any calendar year, any airport if—

(i)there were fewer than 100,000 commercial passengers departing by air (in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles) during the second preceding calendar year from such airport, and

(ii)such airport—

(I)is not located within 75 miles of another airport which is not described in clause (i),

(II)is receiving essential air service subsidies as of the date of the enactment of this paragraph, or

(III)is not connected by paved roads to another airport.

(2)Amounts paid outside the United States

In the case of amounts paid outside the United States for taxable transportation, the taxes imposed by subsections (a) and (b) shall apply only if such transportation begins and ends in the United States.

(3)Amounts paid for right to award free or reduced rate air transportation

(A)In general

Any amount paid (and the value of any other benefit provided) to an air carrier (or any related person) for the right to provide mileage awards for (or other reductions in the cost of) any transportation of persons by air shall be treated for purposes of subsection (a) as an amount paid for taxable transportation, and such amount shall be taxable under subsection (a) without regard to any other provision of this subchapter.

(B)Controlled group

For purposes of subparagraph (A), a corporation and all wholly owned subsidiaries of such corporation shall be treated as 1 corporation.

(C)Regulations

The Secretary shall prescribe rules which reallocate items of income, deduction, credit, exclusion, or other allowance to the extent necessary to prevent the avoidance of tax imposed by reason of this paragraph. The Secretary may prescribe rules which exclude from the tax imposed by subsection (a) amounts attributable to mileage awards which are used other than for transportation of persons by air.

(4)Inflation adjustment of dollar rates of tax

(A)In general

In the case of taxable events in a calendar year after the last nonindexed year, the \$3.00 amount contained in subsection (b) and each dollar amount contained in subsection (c) shall be increased by an amount equal to—

- (i) such dollar amount, multiplied by
- (ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting the year before the last nonindexed year for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of 10 cents, such increase shall be rounded to the nearest multiple of 10 cents.

(B) Last nonindexed year

For purposes of subparagraph (A), the last nonindexed year is—

- (i) 2002 in the case of the \$3.00 amount contained in subsection (b), and
- (ii) 1998 in the case of the dollar amounts contained in subsection (c).

(C) Taxable event

For purposes of subparagraph (A), in the case of the tax imposed by subsection (b), the beginning of the domestic segment shall be treated as the taxable event.

(D) Special rule for amounts paid for domestic segments beginning after 2002

If an amount is paid during a calendar year for a domestic segment beginning in a later calendar year, then the rate of tax under subsection (b) on such amount shall be the rate in effect for the calendar year in which such amount is paid.

(5) Amounts paid for aircraft management services

(A) In general

No tax shall be imposed by this section or section 4271 on any amounts paid by an aircraft owner for aircraft management services related to—

- (i) maintenance and support of the aircraft owner’s aircraft, or
- (ii) flights on the aircraft owner’s aircraft.

(B) Aircraft management services

For purposes of subparagraph (A), the term “aircraft management services” includes—

- (i) assisting an aircraft owner with administrative and support services, such as scheduling, flight planning, and weather forecasting,
- (ii) obtaining insurance,
- (iii) maintenance, storage and fueling of aircraft,
- (iv) hiring, training, and provision of pilots and crew,
- (v) establishing and complying with safety standards, and
- (vi) such other services as are necessary to support flights operated by an aircraft owner.

(C) Lessee treated as aircraft owner

(i) In general

For purposes of this paragraph, the term “aircraft owner” includes a person who leases the aircraft other than under a disqualified lease.

(ii) Disqualified lease

For purposes of clause (i), the term “disqualified lease” means a lease from a person providing aircraft management services with respect to such aircraft (or a related person (within the meaning of section 465(b)(3)(C)) to the person providing such services), if such lease is for a term of 31 days or less.

(D)Pro rata allocation

In the case of amounts paid to any person which (but for this subsection) are subject to the tax imposed by subsection (a), a portion of which consists of amounts described in subparagraph (A), this paragraph shall apply on a pro rata basis only to the portion which consists of amounts described in such subparagraph.

(f)Exemption for certain uses

No tax shall be imposed under subsection (a) or (b) on air transportation—

(1)by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

(2)by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.

(g)Exemption for air ambulances providing certain emergency medical transportation

No tax shall be imposed under this section or section 4271 on any air transportation for the purpose of providing emergency medical services—

(1)by helicopter, or

(2)by a fixed-wing aircraft equipped for and exclusively dedicated on that flight to acute care emergency medical services.

(h)Exemption for skydiving uses

No tax shall be imposed by this section or section 4271 on any air transportation exclusively for the purpose of skydiving.

(i)Exemption for seaplanes

No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.

(j)Exemption for aircraft in fractional ownership aircraft programs

No tax shall be imposed by this section or section 4271 on any air transportation if tax is imposed under section 4043 with respect to the fuel used in such transportation. This subsection shall not apply after September 30, 2023.

(k)Application of taxes

(1)In general

The taxes imposed by this section shall apply to—

(A)transportation beginning during the period—

(i)beginning on the 7th day after the date of the enactment of the Airport and Airway Trust Fund Tax Reinstatement Act of 1997, and

(ii)ending on September 30, 2023, and

(B)amounts paid during such period for transportation beginning after such period.

(2)Refunds

If, as of the date any transportation begins, the taxes imposed by this section would not have applied to such transportation if paid for on such date, any tax paid under paragraph (1)(B) with respect to such transportation shall be treated as an overpayment.