

## Part III - Administrative, Procedural, and Miscellaneous

### Designation of Private Delivery Services

#### Notice 2015-38

This notice updates the list of designated private delivery services (“designated PDSs”) set forth in Notice 2004-83, 2004-2 C.B. 1030, for purposes of the timely mailing treated as timely filing/paying rule of section 7502 of the Internal Revenue Code, provides rules for determining the postmark date for these services, and provides a new address for submitting documents to the Internal Revenue Service (“IRS”) with respect to an application for designation as a designated PDS. These changes are effective May 6, 2015.

#### BACKGROUND

Section 7502(f) authorizes the Secretary to designate certain private delivery services (“PDSs”) for the timely mailing treated as timely filing/paying rule of section 7502. Revenue Procedure 97-19, 1997-1 C.B. 644, provided rules to apply to be a designated PDS, as well as setting forth the criteria for eligibility for designation as a PDS. Originally, under Rev. Proc. 97-19, there was a semi-annual application period for designation as a PDS with set dates for announcing the list of designated PDSs to

the public. The current rules provide that there is one annual application period to apply for designation, ending on June 30th, and the list of designated PDSs is updated as PDSs are added or removed from the list. See Notice 97-50, 1997-2 C.B. 305, and Notice 99-41, 1999-2 C.B. 325. In addition, the address for submitting applications listed in Rev. Proc. 97-19 was updated in Notice 2001-62, 2001-2 C.B. 307.

Notice 97-26, 1997-1 C.B. 413, provided the first list of designated PDSs as well as special rules to determine the date that will be treated as the postmark date for purposes of section 7502, including certain presumption rules and rules for overcoming the presumption. The list of designated PDS services was updated by Notice 97-50, Notice 99-41, Notice 2001-62, Notice 2002-62, 2002-2 C.B. 574, and Notice 2004-83.

## NATURE OF CHANGES

The IRS is adding four new delivery services to the list of designated delivery services. Federal Express Corporation (“FedEx”): FedEx First Overnight, FedEx International First Next Flight Out, and FedEx International Economy; and United Parcel Service (“UPS”): UPS Next Day Air Early AM are added to the list published in Notice 2004-83.

In addition, the IRS is removing five delivery services previously designated that are no longer provided. Notice 2004-83 contained five services provided by DHL Express (DHL Same Day Service; DHL Next Day 10:30 am; DHL Next Day 12:00 pm; DHL Next Day 3:00 pm; and DHL 2nd Day Service) that had been designated for

purposes of section 7502. Since the publication of Notice 2004-83, DHL Express substantially altered or discontinued its delivery services within the domestic United States, and the DHL Express services listed in Notice 2004-83 are no longer provided. Accordingly, the DHL Express services listed in Notice 2004-83 are no longer designated.

This notice also updates, and consolidates in one place, the rules for determining the postmark date for documents delivered by a designated delivery service.

Finally, this notice modifies Rev. Proc. 97-19, as modified by Notice 2001-62, to provide a new address to submit an application for PDS designation. This new address may also be used to request administrative review of a letter of denial of designation, appeal a letter confirming the denial of designation, provide written notification of any change in application information, and appeal a proposed revocation letter.

#### LIST OF DESIGNATED PDSs

Effective May 6, 2015, the list of designated PDSs is as follows:

FedEx:

1. FedEx First Overnight
2. FedEx Priority Overnight
3. FedEx Standard Overnight
4. FedEx 2 Day
5. FedEx International Next Flight Out

6. FedEx International Priority
7. FedEx International First
8. FedEx International Economy

UPS:

1. UPS Next Day Air Early AM
2. UPS Next Day Air
3. UPS Next Day Air Saver
4. UPS 2nd Day Air
5. UPS 2nd Day Air A.M.
6. UPS Worldwide Express Plus
7. UPS Worldwide Express.

Only the specific delivery services enumerated in this list are designated delivery services for purposes of section 7502(f). FedEx and UPS are not designated with respect to any type of delivery service not enumerated in this list. Taxpayers are cautioned that merely because a delivery service is provided by FedEx or UPS, it does not mean that the service is designated for purposes of the timely mailing treated as timely filing/paying rule of section 7502.

This list of designated PDSs and designated services will remain in effect until further notice. The IRS will publish a subsequent notice setting forth a new list only if a designated PDS (or service) is added to, or removed from, the current list, or if there is a change to the application and/or appeal procedures. Delivery services requesting to

be designated in time for an upcoming filing season must submit applications by June 30th of the year preceding that filing season, as required by Rev. Proc. 97-19, as modified by Notice 97-50.

#### SPECIAL RULES FOR DETERMINING POSTMARK DATE IN THE CASE OF A PDS

Section 7502(f)(2)(C) requires a PDS to either (1) record electronically to its data base (kept in the regular course of its business) the date on which an item was given to the PDS for delivery or (2) mark on the cover of the item the date on which an item was given to the PDS for delivery. Under section 7502(f)(1), the date recorded or the date marked by the PDS under section 7502(f)(2)(C) is treated as the postmark date for purposes of section 7502.

For each PDS designated in this notice, the delivery service records electronically the date on which an item was given to it for delivery, which is treated as the postmark date for purposes of section 7502. Under this notice, the postmark date for an item delivered after the due date is presumed to be the day that precedes the delivery date by an amount of time that equals the amount of time it would normally take for an item to be delivered under the terms of the specific type of delivery service used (e.g., two days before the actual delivery date for a two-day delivery service). Taxpayers who wish to overcome this presumption must provide information that shows that the date recorded in the delivery service's electronic data base is on or before the due date, such as a written confirmation produced and issued by the delivery service.

Each delivery service stores the date recorded in its database only for a finite period, but for no less than six months. Senders or recipients using a designated delivery service can obtain information concerning the date recorded by contacting the designated delivery service. Contact information for each delivery service is available on the company's website.

#### NEW ADDRESS FOR SUBMITTING APPLICATIONS

The application address first provided in Rev. Proc. 97-19 and modified by Notice 2001-62 is no longer correct. Effective May 6, 2015, applications must be submitted to:

Internal Revenue Service  
Postal and Transport Policy Section, PDS  
MC 7015 NDAL  
4050 Alpha Road  
Dallas, TX 75244

The above address is also where a PDS may write to: (1) obtain administrative review of a letter of denial of designation under section 9.03 of Rev. Proc. 97-19; (2) appeal a letter confirming the denial of designation under section 9.06 of Rev. Proc. 97-19; (3) provide prompt written notification to the IRS of any change in application information under section 10.01 of Rev. Proc. 97-19; and (4) appeal the issuance of a proposed revocation letter under section 12.03 of Rev. Proc. 97-19.

#### EFFECT ON OTHER DOCUMENTS

Revenue Procedure 97-19 is modified. Notice 97-26, Notice 2001-62, Notice 2002-62 and Notice 2004-83 are superseded.

## EFFECTIVE DATE

This notice is effective on May 6, 2015.

## FOR FURTHER INFORMATION

The principal author of this notice is Steven L. Karon of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this notice contact Steven L. Karon at (202) 317-6834 (not a toll-free call).