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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 40

[TD 8983]

RIN 1545-BA42

Time for Eligible Air Carriers to File the Third Calendar Quarter 2001 Form 720

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the time for eligible air carriers reporting air transportation excise taxes to file Form 720, "Quarterly Federal Excise Tax Return," for the third calendar quarter of 2001. These regulations affect certain air carriers.

DATES: Effective Date: These regulations are effective February 6, 2002.

Applicability Date: For date of applicability of these regulations, see §40.6071(a)-3(c).

FOR FURTHER INFORMATION CONTACT: Susan Athy (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Subchapter C of chapter 33 of the Internal Revenue Code (Code) imposes tax on the amount paid for: taxable transportation by air of any person (section 4261(a)); each domestic segment of taxable transportation (section 4261(b)); use of international

air travel facilities (section 4261(c)); and taxable transportation of property by air (section 4271(a)) (air transportation excise taxes). Section 6071 generally provides that return filing dates are prescribed by regulation. Under §40.6071(a)-2, a return of air transportation taxes was due by the last day of the second month following the quarter for which it was made. On August 8, 2001, the regulations were amended to remove this provision but the provision remained in effect for the third calendar quarter of 2001. Thus, the return of air transportation taxes for that quarter was due on November 30, 2001.

Under section 6151, generally, tax must be paid at the time the return is required to be filed. In general, under section 6601, interest must be paid on any amount of tax not paid by the last day for payment. Accordingly, if the return due date prescribed in §40.6071(a)-2 remains in effect for the third calendar quarter of 2001, interest would be imposed on third-quarter air transportation excise taxes not paid by November 30, 2001.

Section 301(a) of the Air Transportation Safety and System Stabilization Act (the Act), Public Law 107-42 (115 Stat. 236) provides relief to eligible air carriers with respect to the semimonthly deposits required for air transportation excise taxes. The relief contained in the Act applies to deposits only and does not extend the return filing and associated payment date. By extending the filing date for eligible air carriers, these final regulations will provide return filing, payment, and interest relief consistent with the deposit relief provided for air transportation excise taxes by section 301(a) of the Act. Notice 2001-77 (2001-50 I.R.B. 576) provided that regulations would change

the third calendar quarter 2001 filing date.

Explanation of Provisions

These final regulations change the date by which eligible air carriers reporting tax that includes the air transportation excise taxes imposed by subchapter C of chapter 33 must file excise tax returns for the third quarter of 2001. The due date for these returns is postponed from November 30, 2001, to January 15, 2002. For these taxpayers, payment of their third-quarter excise tax liability may also be delayed until January 15, 2002.

Special Analyses

This Treasury decision is necessary to provide immediate relief to the eligible air carriers affected by the events of September 11, 2001. This Treasury decision provides additional time for eligible air carriers to file the third calendar quarter 2001 Form 720 and to pay certain taxes due with the return. Therefore, it has been determined that notice and public comment are unnecessary and contrary to the public interest and a delayed effective date under section 553(d) of the Administrative Procedure Act (5 U.S.C. chapter 5) is not required. Also, it has been determined that section 553(b) of the Administrative Procedure Act does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. It also has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to section 7805(f) of the Code, these final

regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Susan Athy, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 40

Excise taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 40 is amended as follows:

PART 40--EXCISE TAX PROCEDURAL REGULATIONS

Paragraph 1. The authority citation for part 40 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 40.6071(a)-3 also issued under 26 U.S.C. 6071(a).* * *

Par. 2. Section 40.6071(a)-3 is added to read as follows:

§40.6071(a)-3 Time for an eligible air carrier to file a return for the third calendar quarter of 2001.

(a) In general. If, in the case of an eligible air carrier, the quarterly return required under §40.6011(a)-1(a) for the third calendar quarter of 2001 includes tax imposed by subchapter C of chapter 33--

(1) The requirements of §40.6071(a)-2 as in effect on August 7, 2001, do not

apply to the return; and

(2) The return must be filed by January 15, 2002.

(b) Definition of eligible air carrier. Eligible air carrier has the same meaning as provided in section 301(a)(2) of the Air Transportation Safety and System Stabilization Act; that is, any domestic corporation engaged in the trade or business of transporting (for hire) persons by air if such transportation is available to the general public.

(c) Effective date. This section is applicable with respect to returns that relate to the third calendar quarter of 2001.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: January 23, 2002.

Mark Weinberger,
Assistant Secretary of the Treasury.