



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

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[REDACTED]

Attention: [REDACTED]

Dear [REDACTED]:

This letter is in response to your June 19, 2002, inquiry on behalf of your constituent, [REDACTED]. [REDACTED] asked if [REDACTED] Airport on [REDACTED] could be classified under the Internal Revenue Code (the Code) as a rural airport. She stated [REDACTED] Airport, a small airport, is located [REDACTED] miles from [REDACTED] Airport, an airport from which more than 100,000 commercial passengers depart per year. She also stated that, because transportation is limited between the two airports, one must travel [REDACTED] miles by air or water and then ground vehicle to go from one airport to the other. I hope the following general information is helpful in responding to [REDACTED].

Before the Taxpayer Relief Act of 1997 (the Act), all air transportation providers calculated the excise tax on domestic air transportation solely as a percentage of the amount paid for that transportation. The Act decreased this percentage and added a new tax on each segment of taxable transportation. The Act also excepted from the new segment tax those flight segments beginning or ending at a "rural airport." [Section 4261(e)(1)(A) of the Code].

A rural airport is defined as any airport that:

- Had fewer than 100,000 commercial passengers departing by air during the second preceding calendar year from that airport, and
- Is either not within 75 miles of another airport having at least 100,000 commercial passengers departing by air or is receiving essential air service (EAS) subsidies as of September 1997. [Section 4261(e)(1)(B) of the Code].

The Department of Transportation (DOT) provides the IRS a list of airports meeting the criteria in the statute.

Under the DOT regulations, “airport-to-airport distance” is defined as “the great circle distance between airports, measured in statute miles ... .” [14 CFR Part 241, Section 03]. More specifically, the distances between airports “are calculated from a start and end latitude and longitude based on a constant compass course for a rhumb line between the points (loxodrome) using an Albers Equal Area Projection.” See the DOT web site at <http://www.bts.gov/oai/rural.html>. The distances between airports determined by this method have been adopted by the DOT as its official mileage record. [14 CFR § 247.1]. The IRS relies on the DOT’s determination of the distance between airports for that part of the rural airport definition. By describing the requirements for an airport to qualify as a rural airport with such specificity, the Congress did not give the IRS the discretion to determine if an airport could be classified as a rural airport in circumstances other than those described in section 4261(e)(1)(B) of the Code.

I hope this information is helpful. If you have any questions, please contact me at (202) 622-3130.

Sincerely,  
Associate Chief Counsel  
(Passthroughs and Special Industries)  
By:  
Richard A. Kocak  
Chief, Branch 8