

Part III. Administrative, Procedural, and Miscellaneous

Disaster Relief With Respect to Air Transportation Excise Taxes

Notice 2001-77

This notice provides additional tax relief under section 301(a) of the Air Transportation Safety and System Stabilization Act (the Act), Pub. L. No. 107-42, 115 Stat. 236, and informs taxpayers of a change that will be made to the regulations under § 6071 of the Internal Revenue Code.

Section 301(a) of the Act provides relief to eligible air carriers with respect to the deposit of taxes imposed by subchapter C of chapter 33 of the Code (the air transportation excise taxes). Under section 301(a) of the Act, any deposit of those taxes required to be made by an eligible air carrier after September 10, 2001, and before November 15, 2001, shall be treated for purposes of the Code as timely made if the deposit is made on or before November 15, 2001. Section 301(a) of the Act also provides that the Secretary of the Treasury may extend the November 15, 2001, date to January 15, 2002.

Section 6071 of the Code provides that the Secretary may prescribe the time for filing any return by regulations when that time is not prescribed in the Code. Section 40.6071(a)-2 of the Excise Tax Procedural Regulations, as in effect for calendar quarters beginning before October 1, 2001, provides that returns of the air transportation excise taxes for the third calendar quarter of 2001 are due by November 30, 2001. Under § 6151 of the Code, the tax shown or required to be shown on the return must be paid by the due date of the return.

Under the authority granted to the Secretary of the Treasury in section 301(a) of the Act, any deposit of air transportation excise taxes required to be made by an eligible air carrier after September 10, 2001, and before January 15, 2002, shall be treated for purposes of the Code as timely made if the deposit is made on or before January 15, 2002.

In addition, under the authority granted the Secretary in § 6071 of the Code, the Service and Treasury Depart-

ment will issue regulations changing the due date of certain returns filed by eligible air carriers. Under these regulations, an eligible air carrier's Form 720, *Quarterly Federal Excise Tax Return*, for the third calendar quarter of 2001 will be due by January 15, 2002. Consequently, the time for paying the air transportation excise taxes shown or required to be shown on the return also will be deferred. Under § 6151 of the Code, an eligible air carrier will be required to pay such taxes for the third calendar quarter of 2001 by January 15, 2002.

Eligible air carriers that believe that they are entitled to relief under this notice should mark "Notice 2001-77" in red ink at the top of their return and other documents submitted to the IRS.

The principal author of this notice is Susan Athy of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Athy at (202) 622-3130 (not a toll-free call).

Disaster Relief Distributions by Charities to Victims of September 11, 2001, Terrorist Attacks

Notice 2001-78

Several charities have raised questions about the practical application of existing legal standards for distributing funds to victims of the September 11, 2001, terrorist attacks against the United States. The Internal Revenue Service recognizes the unique circumstances caused by this tragedy and wishes to alleviate concerns that might otherwise delay relief to victims.

Congress is considering clarifying legislation in this area. While Congress is considering legislation, the Service recognizes the need to provide interim guidance to charities regarding payments made by reason of the death, injury, or wounding of an individual incurred as a result of the September 11, 2001, terrorist attacks against the United States. Accordingly, the Service will treat such payments made by a charity to individuals

and their families as related to the charity's exempt purpose provided that the payments are made in good faith using objective standards.

This administrative treatment will continue to apply to any payments made to such individuals before the earlier of final legislative action addressing these issues or December 31, 2002. The Service will consider what, if any, additional guidance is needed in this area.

Organizations that have questions concerning this notice may contact Marvin Friedlander at (202) 283-2300 (not a toll-free number).

Rent Holidays for Qualified Aircraft Leases

Notice 2001-79

PURPOSE

This notice provides tax relief under § 467 of the Internal Revenue Code for certain aircraft leases entered into or modified during the period beginning on September 11, 2001, and ending on June 28, 2002. On September 11, 2001, terrorists used commercial airliners to damage the Pentagon and to destroy the two World Trade Center towers and other buildings in the World Trade Center complex. They also caused the crash of a commercial airliner in Pennsylvania. In response to dislocations in the aviation industry resulting from these attacks, the Air Transportation Safety and System Stabilization Act (the Act), Pub. L. No. 107-42, established a loan guarantee program for air carriers. The purpose of the program is to assist air carriers who suffered losses due to the terrorist attacks and to whom credit is not otherwise reasonably available, in order to facilitate a safe, efficient, and viable commercial aviation system. Office of Management and Budget regulations implementing the loan guarantee program provide that applications to be included in the program must be received on or before June 28, 2002. The regulations specify a number of factors to be considered in evaluating applications, including whether the applicant's creditors have made concessions

that will improve the financial condition of the applicant in a manner that will enable the applicant to repay its Federally guaranteed loan and provide commercial air service on a financially sound basis after repayment.

The Internal Revenue Service has determined that it is appropriate, for the period beginning on September 11, 2001, and ending on June 28, 2002, to modify the manner in which the regulations under § 467 are applied so as not to inhibit the ability of lessors to provide favorable financing terms to air carriers.

BACKGROUND

Section 467(a) provides that in the case of a lessor or lessee under any § 467 rental agreement, there shall be taken into account for any taxable year the sum of (1) the amount of rent that accrues during such taxable year as determined under § 467(b), and (2) the interest for the year on unpaid amounts taken into account as rent or interest on rent for prior taxable years. Under § 467(b)(2), constant rental accrual applies in the case of any rental agreement that is a disqualified leaseback or long-term agreement. Section 467(b)(4) provides that an agreement is a leaseback if it is part of a leaseback transaction, or a long-term agreement if it is for a term in excess of 75 percent of the statutory recovery period for the property.

Section 1.467-3 of the Income Tax Regulations provides that a leaseback or long-term agreement will not be subject to constant rental accrual unless (1) a principal purpose for providing increasing or decreasing rents is the avoidance of tax and (2) the Commissioner determines that, because of the tax avoidance purpose, the agreement should be treated as a disqualified leaseback or long-term agreement. Under § 1.467-3(a), the Commissioner has the authority to determine, either on a case-by-case basis or in published guidance relating to a certain type or class of agreements, whether an agreement is disqualified and thus subject to constant rental accrual.

Under § 1.467-3(c)(4), tax avoidance will not be considered to be a principal purpose for providing increasing or decreasing rents if the annualized rents allocable to each calendar year of the rental agreement do not vary from the average annual rents over the entire lease

term by more than 10 percent (the uneven rent test). If this test is met, the leaseback or long-term agreement will not be considered disqualified and will not be subject to constant rental accrual. In applying the uneven rent test, certain rent holiday periods are ignored.

GRANT OF RELIEF

In the case of a qualified aircraft lease that does not meet the uneven rent test and is entered into after September 10, 2001, and before June 29, 2002, the Commissioner, under the authority set forth in § 1.467-3(a), will not treat the agreement as a disqualified leaseback or long-term agreement if, disregarding one aviation stabilization rent holiday period and any rent allocated to such period, the agreement meets the test set forth in § 1.467-3(c)(4). For purposes of this notice—

A rental agreement is a qualified aircraft lease if the lessee is an air carrier (within the meaning of 49 U.S.C. § 40102(a)(2)) and at least 90 percent of the property subject to the agreement (determined on the basis of fair market value as of the agreement date) consists of aircraft (within the meaning of 49 U.S.C. § 40102(a)(6)) and replacement components; and

An aviation stabilization rent holiday period is a consecutive period that meets the following conditions: (1) the period does not exceed six months; (2) the period ends before January 1, 2003; and (3) annualized fixed rent during the period (determined by treating such period as a rental period for purposes of § 1.467-1(j)(3)) is less than the average rent allocated to all calendar years in the lease term (determined by taking into account the rent allocated to the rent holiday period).

If a substantial modification of a rental agreement occurs after September 10, 2001, and before June 29, 2002, and the post-modification agreement is a qualified aircraft lease, the relief granted in this notice applies to the post-modification agreement. For this purpose, a modification is treated as a substantial modification if the agreement (as in effect before its modification) meets the test set

forth in § 1.467-3(c)(4) and the entire agreement (as modified) does not meet that test.

The relief granted in this notice does not affect whether an agreement (as in effect before its modification) is a disqualified leaseback or long-term agreement, and, if so, whether the carryover rule set forth in § 1.467-1(f)(4)(iii) applies.

The principal author of this notice is Forest Boone of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Mr. Boone at 202-622-4960 (not a toll-free call).

26 CFR 601.201: Rulings and determination letters. (Also Part I, §§ 851(b)(3), 852(b)(5), 853(a); 1.851-2, 1.853-1)

Rev. Proc. 2001-57

SECTION 1. PURPOSE

This revenue procedure sets forth conditions under which a regulated investment company (RIC) that holds a partnership interest is treated for certain purposes as if it directly invested in the assets held by the partnership. This revenue procedure applies to an affected taxpayer for purposes of qualifying as a RIC under section 851(b)(3), for purposes of the payment of exempt-interest dividends under section 852(b)(5), and for purposes of the passthrough of the foreign tax credit under section 853.

SECTION 2. BACKGROUND

.01 The Internal Revenue Service responds to a large number of letter ruling requests from RICs that hold partnership interests in master-feeder structures. In order to save these taxpayers the time and expense involved in obtaining a ruling, the Service is issuing this revenue procedure.

.02 In a typical master-feeder structure, a domestic corporation (Feeder Fund) invests substantially all its assets in an investment partnership (Master Partnership). Some Feeder Funds may invest in more than one Master Partnership. A Feeder Fund is registered as an open-end management investment company under the Investment Company Act of 1940 (the