

If an organ screened by X is matched with a recipient outside of Region, the OPO from the recipient's region will generally arrange to send a transplant team to the hospital where the donor is located to remove the organ and return it to the transplant center in its region for the recipient's transplant surgery. If an organ screened by X is matched with a recipient within Region, or if an organ screened by another OPO is matched with a recipient within Region, X will arrange for a transplant team to travel to recover the organ and transport it to the transplant center within Region.

X assembles the transplant team and arranges for them to travel to the donor hospital to recover the organ. Once the organ has been recovered, it is preserved, packaged and transported with the transplant team to a transplant center in Region where the transplant surgery immediately commences. In most cases, the transplant team that recovers the organ includes the surgeon or surgeons who will perform the transplant surgery. X staff also travels with the transplant team to assist with the recovery, preservation, packaging and transportation of the organ.

Air travel is usually required to recover an organ and transport it to a transplant center. Flights must take place on very short notice at any time day or night, and are, therefore, unscheduled. The success of the surgery is dependent, in part, upon the speed at which the organ can be recovered and transported to the transplant site. To facilitate this process, X frequently charters fixed-wing aircraft having a maximum certificated takeoff weight in excess of 6,000 pounds from a charter operator. The charter operator either provides the flights directly or through a subcharter arrangement. The flights are solely used to (i) transport the transplant team to the donor hospital (ii) transport the transplant team, along with the recovered organ, to a transplant center, (iii) return the transplant team and any unused supplies back to their point of origin if different from the transplant center, and (iv) return the aircraft to its home base in order to reposition it for the next emergency. The aircraft is equipped with the medical equipment necessary to transport the organ to the transplant site, such as specialized ice storage containers. In some instances, the flights may also be equipped with an "organ pump" in order to help maintain the function of the organ prior to transplantation.

X requests a ruling that its charter flight segments transporting the transplant team to organ recovery sites, transporting the recovered organ(s) and the team to organ recipient sites, returning the team and any unused supplies back to their point of origin, and returning the aircraft to its home base in order to reposition it for the next emergency constitute air transportation described in § 4261(g), and that any amount paid by X relating to such flights is exempt from the taxes imposed under §§ 4261 and 4271.

Section 4261(a) imposes a 7.5 percent tax on amounts paid for taxable transportation of any person. Taxable transportation is defined in § 4262(a)(1) to include transportation by air that begins and ends in the continental United States.

Section 4271(a) imposes a 6.25 percent tax on amounts paid for the taxable transportation of property. Such tax is imposed only on amounts paid to a person engaged in the business of transporting property by air for hire. Taxable transportation is defined in § 4272 as transportation by air which begins and ends in the United States.

Section 4261(g) provides that no tax shall be imposed under §§ 4261 or 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.

Based on the facts submitted and representations made, we conclude that X's charter flight segments that transport the transplant team to organ recovery sites, transport the recovered organ(s) and the team to a transplant center, return the team and any unused supplies back to their point of origin, and return the aircraft to its home base to reposition it for the next emergency are equipped for and exclusively dedicated to acute care emergency medical services within the meaning of § 4261(g). Accordingly, no tax will be imposed under §§ 4261 or 4271 on amounts paid for such charter flight segments.

Except as specifically set forth above, no opinion is expressed or implied as to the federal tax consequences of the transaction described above under any other provision of the Code.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, copies of this letter are being sent to X's authorized representatives.

Sincerely,

Stephanie Bland
Stephanie Bland
Branch Chief, Branch 7
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

cc: