

DEPARTMENT OF THE TREASURY**Customs Service****Modification of General Program Test for Transfer of International In-Transit Baggage**

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document announces a modification of the program test for the transfer of international in-transit baggage that was initially announced in a notice published in the **Federal Register** on February 23, 2000. This document replaces the test conditions of operation, the application procedure, and the revocation process that were set forth in the initial announcement of the test. This document also sets forth a new application period and a new test commencement date.

DATES: The testing period will commence no earlier than August 15, 2000, and will run for approximately one year. To participate in the test, a written application must be filed with Customs on or before July 31, 2000.

ADDRESSES: Air carriers that have entered into an agreement with the Government by signing an Advance Passenger Information System (APIS) Memorandum of Understanding may apply to participate in the program test by submitting a letter of application to the port director with jurisdiction over the airport where the transfer of international in-transit baggage will occur. Air carriers that wish to participate in the test can apply to participate in the APIS program by contacting Mike Cronin, Acting Associate Commissioner for Programs, U.S. Immigration & Naturalization Service, 425 I Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: For operational or policy matters: Steve A. Gilbert, Office of Field Operations (202) 927-1391. For regulatory matters: Larry L. Burton, Office of Regulations and Rulings (202) 927-1287.

SUPPLEMENTARY INFORMATION:**Background**

On February 23, 2000, Customs published a general notice in the **Federal Register** (65 FR 9054; referred to herein as the notice of February 23, 2000) announcing a program test that allows participating air carriers to more efficiently transfer accompanied air passenger baggage from one aircraft entering the United States to another aircraft departing from the United States enroute to a foreign destination. Under

the test, participating air carriers will not be required to file an air cargo manifest (Customs Form (CF) 7509) but will instead electronically transmit certain required information to Customs while a flight is enroute to the United States.

The notice specified that the test covers accompanied, international, in-transit, checked baggage that arrives in the United States aboard one aircraft and departs from the United States aboard another aircraft. This baggage is referred to as "international-to-international" baggage by Customs and those who deal with the ordinary transport and processing of such baggage.

Thus, hereafter in this document, the baggage will be referred to as ITI baggage.

The notice explained the air cargo manifest requirement and the ordinary ITI baggage processing procedure as provided for under the Customs Regulations; described the Advance Passenger Information System (APIS) program; set forth the eligibility requirements for participation in the test, the information transmission and baggage processing procedures required under the test, and the test application process; and requested comments on all aspects of the test. The notice should be consulted for a fuller understanding of the various aspects of the program test, excluding those aspects of the notice that are replaced or changed in this document: the conditions of operation, the application and revocation processes, and the new time elements relative to the application process and commencement of the test.

On April 3, 2000, Customs published a general notice in the **Federal Register** (65 FR 17550) to announce an extension of the time period for applying to participate in the test. The application (statement filing) deadline was extended to May 26, 2000.

After review of the comments received and a reevaluation of the test, Customs has determined that the test should be modified. Thus, this document modifies the test by replacing the "Conditions of Operation" section, "The Application Process" section, and the "Revocation and Reinstatement" section that were set forth in the notice of February 23, 2000. It also extends the deadline for applying to participate in the test and sets a new date for commencement of the test.

Modification of the Program Test

The following sections of this document replace the corresponding sections of the notice of February 23, 2000. The "Revocation and

Reinstatement" section of that notice is renamed herein below the "Misconduct" section.

Conditions of Operation

The test conditions of operation describe the procedures that govern air carriers participating in the test. Any carrier that has already submitted a statement of acceptance of the test conditions previously published must reapply in accordance with the application process set forth in this document. The conditions of operation set forth in the February 23, 2000, test announcement are hereby replaced by the conditions of operation set forth below.

The ITI baggage program test provides an alternative to the ordinary ITI baggage processing procedure of § 122.101(a) of the Customs Regulations (19 CFR 122.101(a)) and replaces the regulatory requirement of § 122.48(e) (19 CFR 122.48(e)) to manually or electronically file with Customs (at the port of arrival) an air cargo manifest (CF 7509) for ITI baggage. Test participants are required to follow the following test conditions of operation:

(1) The APIS component: Prior to arrival of the aircraft in the United States, the test participant must transmit to Customs, via APIS, the information required under the terms of the APIS Memorandum of Understanding (MOU).

(2) The test participant also must submit to Customs (at the port of arrival), at least two hours prior to arrival of the aircraft, an "onward connector listing," a document that identifies the arriving flight number, in-transit passenger names, their checked ITI baggage tag numbers, and their ultimate foreign destination. For any flight of less than two hours duration, the "onward connector listing" must be submitted to Customs (at the port of arrival) at the time of the aircraft's departure (from the port of departure enroute the United States). The participant may provide this information in the form of a computer generated report, screen print, or other hard copy document manually submitted to Customs in a timely manner, or by allowing Customs to electronically access its reservations database in order that Customs may extract an "onward connector listing" containing the required information in a timely manner.

(3) The test participant must perform the staging and transferring of ITI baggage in the Customs approved security area. For purposes of this test, the Customs approved security area is as defined in 19 CFR 122.181 and includes the Federal Inspection Services (FIS)

area, the aircraft deplaning and ramp area, and other restricted areas designated by the port director. The Assistant Commissioner, Office of Field Operations, may authorize stricter limits to the security area, for purposes of the test, where a security or enforcement threat exists. Access to the Customs security area must be limited to personnel engaging in Customs related business and possessing Customs approved identification cards (holograms). (Participants should contact the port director with jurisdiction over the airport involved for specific information regarding the Customs airport security area (19 CFR Subpart S (§ 122.181 *et seq.*)).

(4) For plane-to-plane transfers, test participants will be allowed a one hour maximum connection time at each airport for directly transferring ITI baggage from one plane to another without having to be placed or stored in the Customs approved security area.

(5) The test participant must ensure that all carrier employees or contract ramp service employees with access to the ITI baggage will have and display (or produce upon demand) approved identification issued under the Customs Regulations (19 CFR Part 122 Subpart S).

(6) The test participant must timely deliver ITI baggage to the Customs approved security area or to the FIS area for inspection, if and when requested.

(7) The test participant must maintain direct control of the ITI baggage until the departing carrier responsible for exporting the baggage has signed a receipt that will transfer bond liability for the baggage from the participant to the departing carrier. No transfer of bond liability, and thus no receipt, is required when the participant is importing and exporting the baggage. The participant may waive the receipt requirement, relieving the departing carrier from signing a receipt and accepting liability, only when the participant assumes liability for the baggage movement through the United States. The participant's application must reflect this assumption of liability and the identity of any departing carriers it has waived from the receipt signing process. The application may be amended at any time to add or delete the identity of such carriers, as changed circumstances warrant.

Air carrier applicants that are accepted into the program test will be required to follow the above conditions of operation. If for any reason, however, a participant's APIS or electronic reservations database system becomes temporarily inoperative, Customs is unable to receive APIS information

transmitted by a participant, or access to the participant's reservations database is otherwise not available, the participant will be required to submit a paper document listing the required APIS passenger information and the ITI baggage information prior to the arrival of the flight.

The Application Process

Participation in the test program is open only to APIS participating air carriers in good standing (performing under the APIS MOU at acceptable levels). To apply to participate in the test, APIS participating air carriers must submit a written application to the appropriate port director (with jurisdiction over the airport where the transfer of ITI baggage will occur) within 45 days following publication of this notice in the **Federal Register**. The application must be signed by an authorized official of the carrier and must indicate that the carrier wishes to voluntarily participate in the test. The application must reflect any assumption of liability for the baggage in accordance with test condition of operation 7. The application must also designate a local point of contact and telephone number for use by Customs personnel at the port. Customs will issue a written notification informing applicants whether their applications have been accepted or rejected, in the latter instance, with reasons therefore. A carrier may appeal a rejected application to the Assistant Commissioner, Office of Field Operations, within 15 days of the date of the rejection notice.

To apply to participate in the APIS program, a prerequisite to participating in the test program, air carriers should contact the Customs port director with jurisdiction over the airport where they intend to operate under the test or contact Mike Cronin, Acting Associate Commissioner for Programs, U.S. Immigration & Naturalization Service, 425 I Street, N.W., Washington, DC 20536.

Misconduct

If a test participant fails to follow the procedures or meet the requirements set forth in the "Conditions of Operation," or otherwise fails to follow applicable laws or regulations, the participant may be suspended from the test and or, where warranted, subjected to penalties, and or liquidated damages, and or other administrative sanctions. Customs has the discretion to fully or partially suspend a participant based on the determination that an unacceptable compliance risk exists. This suspension

may be invoked at any time after a carrier's acceptance in the test.

A notice of proposed suspension from the test will be issued by the port director to the participant, apprising the participant of the facts and or conduct warranting suspension and whether the suspension is full or partial. The notice will state that the participant's written response must be received by Customs within 15 calendar days from the date of its issuance (the 15 day response period). The notice also will inform the participant that a failure to timely respond will result in the suspension taking effect on the day after the 15 day response period expires and that the notice of proposed suspension becomes a notice of suspension, and is effective, on that date.

Where the participant elects to respond, the participant should address the facts and or conduct charges contained in the notice of proposed suspension, provide an explanation of the problems that resulted in the proposed suspension, and state how it has corrected these problems and will maintain compliance. The port director will decide whether to suspend the participant from the test or allow continued participation. The port director will so notify the participant in writing. Where suspension is warranted, the port director will issue a notice of suspension providing reasons for the suspension and setting forth an effective date. In the case of willfulness or where public health and safety are concerned, the suspension need not be proposed but may be effective immediately, in which case the port director will issue a notice of suspension providing reasons therefore and setting forth an effective date.

At the time a notice of suspension becomes effective, the participant will no longer be permitted to participate in the test. This is not changed by the filing of an appeal.

A notice of suspension may be appealed in writing to the Assistant Commissioner, Office of Field Operations, within 15 days of the date the notice of suspension became effective. In the appeal, the participant should address the reasons provided by the port director in the notice of suspension and may include additional arguments. Where the suspension resulted from a participant's failure to timely respond to a notice of proposed suspension, the appeal should address the facts or conduct charges contained in the notice of proposed suspension, provide an explanation of the problems that resulted in the proposed suspension, and state how it has corrected these problems and will

maintain compliance. The Assistant Commissioner will respond to the appeal in writing within 15 days of its receipt. Where the appeal is granted, the participant will be permitted to resume participation in the test. Where the appeal is denied, the carrier may reapply to participate in the test only upon showing that all deficiencies resulting in suspension have been corrected.

A full suspension from the test may be proposed where a test participant has been suspended from operating under the APIS program. A partial suspension may be proposed where the loss of Blue Lane eligibility for a given flight (or flights) does not result in a participant's suspension from the APIS program, in which case a partial suspension decision will affect only that flight (or those flights). Where a full suspension decision was based on the participant's suspension from APIS, the granting of an appeal is conditioned on the participant's reinstatement in APIS. Where a partial suspension decision was based on loss of Blue Lane eligibility, the grant of an appeal is conditioned on restoration of that status. (See the notice of February 23, 2000, for a discussion of APIS and Blue Lane eligibility.)

A test participant also may face a proposed full or partial suspension for less than satisfactory performance of any of the conditions of operation. Also, where the port director determines that a participant's test performance is unsatisfactory in any way that may compromise the Customs enforcement mission, the participant may face a full or partial suspension.

A participant who has been suspended from the test for any reason (as of the date the notice of suspension became effective) will be required to file an air cargo manifest that lists ITI baggage under ordinary procedures (manually or electronically), in accordance with the requirements of the Customs Regulations (19 CFR 122.48(e) and 122.101), or to have its in-transit passengers take their baggage through Customs processing as provided under § 122.101(a). If there has been a full suspension from the test, all covered flights will be affected. If the partial suspension was limited to a certain flight (or flights) or to a certain airport, only those flights or that airport will be affected.

New Time Elements

Both the time period for applying to participate in the test program and the targeted test commencement date have been affected by this modification of the program test. The deadline for applying

to participate in the test is extended to the date that is 45 days from the date of publication of this document, as specified in the "Dates" section of this document. The commencement date of the test is 60 days from the date of publication, also specified in the "Dates" section.

The test may be extended beyond one year if extension is warranted. The test will be evaluated six months after its implementation, using the test criteria set forth in the notice of February 23, 2000.

Dated: June 8, 2000.

Robert J. McNamara,

Acting Assistant Commissioner, Office of Field Operations.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 990-W

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 990-W, Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations.

DATES: Written comments should be received on or before August 15, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations.

OMB Number: 1545-0976.

Form Number: 990-W.

Abstract: Form 990-W is used by tax-exempt trusts and tax-exempt corporations to figure estimated tax liability on unrelated business income and on investment income for private foundations and the amount of each installment payment. Form 990-W is a worksheet only. It is not required to be filed.

Current Actions: Because of section 501 of the Tax Relief Extension Act of 1999 (Public Law 106-170), beginning in tax year 2000 the aggregate amounts of credits allowed under Subtitle A, Chapter 1, Subchapter A, Part IV, Subpart A of the Internal Revenue Code, will offset both a corporation's regular tax liability and its minimum tax. Because of this law change, Line 6 (alternative minimum tax) is being relocated to Line 3 and a new total line (Line 4) is being added so taxpayers can determine their total tax before applying their estimated tax credits. The other lines will be renumbered to reflect these changes.

Type of Review: Revision of a currently approved collection.

Affected Public: Not-for-profit institutions and business or other for-profit organizations.

Estimated Number of Respondents: 27,265.

Estimated Time per Respondent: 14 hours, 13 minutes.

Estimated Total Annual Burden Hours: 387,749.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the