

the itinerary. The carrier must refund to the passenger the amount of the September 11th Security Fee previously collected when the passenger initially purchased the ticket, and the carrier must not collect the fee for the reissued ticket.

Example 2. If a passenger purchases a ticket before the suspension period and the carrier reissues the ticket during the suspension period because the passenger redeems frequent flier awards in order to obtain an upgrade, the carrier must not refund the September 11th Security Fee it collected when the passenger initially purchased the ticket. Similarly, if the carrier reissues the ticket during the suspension period because the carrier provided a free upgrade, the carrier must not refund the September 11th Security Fee.

Example 3. If a passenger purchases a ticket prior to the suspension period and the travel is already underway during the suspension period and there is a repricing of the ticket, the carrier must not collect the September 11th Security Fee for the changed or unused portion of the itinerary. Therefore, any fee collected for the changed or unused portion of the itinerary must be refunded to the passenger.

Prepaid Air Transportation. In the case of prepaid air transportation (for example, prepaid ticket advice), if the passenger fully prepays air transportation before the suspension period and the carrier issues a ticket against the prepaid amount during the suspension period, the carrier must collect the September 11th Security Fee for that ticket, because TSA considers the air transportation to have been purchased before the suspension period. However, if a passenger fully prepays air transportation during the suspension period and the carrier issues a ticket against the prepaid amount during or after the suspension period, the carrier must not collect the September 11th Security Fee for that ticket.

Tickets for Passengers on Public Charter Flights. As discussed above, under TSA's regulation at 49 CFR 1510.9, where a passenger purchases a ticket from a direct or foreign air carrier, or from the carrier's agent such as a travel agent, the carrier must collect the September 11th Security Fee from the passenger at the time of ticket purchase. On January 25, 2002, TSA issued a letter clarifying when the fee is considered to be collected in the case of passengers who purchase tickets on public charter flights.¹

¹ You may obtain an electronic copy of the letter by accessing TSA's electronic docket for TSA 2001-11120. Using the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search/>), type in the last 5 digits of the docket number shown above. Click on "search." On the next page, which contains the docket summary information for the docket you selected, click on the link for TSA 2001-11120-11.

Unlike in the case of scheduled passenger flights, passengers on public charter flights purchase their tickets from a public charter operator. Regulations of the Department of Transportation require the charter operator to place all funds collected from passengers in an escrow account and to forward payment to the direct or foreign air carrier operating the flight at a later date.² In its January 25th letter, TSA made clear that tickets purchased by public charter passengers are not considered to be sold for purposes of TSA's regulations governing the September 11th Security Fee, until the earlier of: (1) The time the direct or foreign air carrier receives funds from the public charter escrow account; or (2) the date the direct or foreign air carrier operates the flight. The purpose of this interpretation by TSA was to more closely align a direct or foreign air carrier's obligation to pay the fee to TSA with its actual receipt of the fee from the public charter operator. TSA will maintain the existing payment structure for the charter operators to remit the September 11th Security Fees to direct and foreign air carriers while also maintaining the requirements for direct and foreign air carriers to remit the fees to TSA during and after the suspension period.

As a result, however, the definition of when air transportation is sold on a public charter flight for purposes of 49 CFR part 1510 does not coincide with the time the passenger actually purchases a ticket for that flight. As discussed above, the Appropriations Act suspends the imposition of fees on air transportation that a passenger actually purchases during the suspension period. Accordingly, TSA is providing the following guidance to direct and foreign air carriers related to air transportation on public charter flights. During the suspension of the September 11th Security Fee, TSA will (1) continue to allow direct air carriers to remit the already collected fees to TSA according to the structure identified in the January 25, 2002, letter; however (2) Charter operators may not collect September 11th Security Fees from passengers paying in full during the suspension period.

Additional Guidance for Suspension of Fees for Public Charter Passengers. For passengers on public charter flights, when the passenger purchases a ticket from the charter operator, which means paying the charter operator *in full* for the ticket at any time from 12 a.m., Eastern Daylight Time, on June 1, 2003 through 11:59 p.m., Eastern Daylight

Time, on September 30, 2003, the public charter operator must not collect the September 11th Security Fee from the passenger. In addition, since the fee will not be imposed on passengers, the direct or foreign air carrier operating the flight must not collect the September 11th Security Fee from the charter operator for any passengers who purchased tickets from the public charter operator during the suspension period. Notwithstanding 49 CFR 1510.9(c), the direct or foreign air carrier will not incur any obligation to pay the amount of such fee (not collected from passengers) to TSA.

Continuing Payment of Fees to TSA. Under 49 CFR 1510.13(a), direct and foreign air carriers must pay all September 11th Security Fees imposed each calendar month to TSA by the last calendar day of the month following the imposition of the fee. Therefore, direct and foreign air carriers must pay to TSA any September 11th Security Fees imposed on tickets purchased during the month of May, 2003, no later than June 30, 2003. In addition, any other security fees imposed prior to the suspension period, but not remitted by air carriers to TSA, are still due to TSA during and after the suspension period.

In the case of tickets purchased on public charter flights, direct and foreign air carriers must continue to forward to TSA, in accordance with 49 CFR 1510, any September 11th Security Fees paid by passengers who purchased tickets prior to the beginning of the suspension period. These payments continue to be due to TSA by the last calendar day of June, July, August, and September of 2003.

For example, if a passenger purchases a ticket from a public charter operator on May 15, 2003, for a flight that will take place on June 15, 2003, the public charter operator will collect the September 11th Security Fee from the passenger and place it in an escrow account. As explained in TSA's letter of January 25, 2002, in order to more closely align a direct or foreign air carrier's obligation to pay the fee to TSA with the carrier's actual receipt of the fee from the public charter operator, the ticket is considered to be sold at the time the charter operator provides the escrow funds to the direct or foreign air carrier operating the flight or the date the flight occurs, whichever comes first. If the public charter operator, in the example, provides the escrow funds to the carrier on June 14, 2003, the carrier must pay the fee to TSA by July 31, 2003. If a direct or foreign air carrier does not collect the appropriate fee from a passenger, the air carrier is still responsible for paying the fee to TSA.

² See 14 CFR 212.8.