

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 96-187-085(B)R2, dated January 29, 1997.

Issued in Renton, Washington, on October 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Dockets Nos. OST-97-3014 and OST-97-2881]

Computer Reservations System (CRS) Regulations

AGENCY: Office of the Secretary, (DOT).

ACTION: Request for comments, petition for rulemaking on rules governing computer reservations systems.

SUMMARY: The Department is inviting interested persons to comment on a petition for rulemaking filed by American West Airlines that requests two new rules governing computer reservations systems (CRSs). America West asks the Department to amend its CRS rules (14 CFR Part 255) to include a prohibition against certain CRS practices that allegedly impose higher booking fee costs on airlines and enable travel agents to make transactions that damage an airline's ability to control its inventory. The Department invites persons wishing to comment on America West's proposal to include those comments in their responses to the Department's advance notice of proposed rulemaking in Docket OST-97-2881.

DATES: Comments and reply comments must be submitted on or before December 9, 1997, and January 23, 1998, respectively, the due dates for comments and reply comments in Docket No. OST-97-2881.

ADDRESSES: Comments must be filed in Room PL401, Docket OST-97-2881, U.S. Department of Transportation, 400 7th St., SW., Washington, DC 20590. Late filed comments will be considered to the extent possible. To facilitate consideration of comments, each commenter should file six copies of its comments. The comments should state that they are filed in Docket OST-97-2881.

FOR FURTHER INFORMATION CONTACT:

Thomas Ray, Office of the General Counsel, 400 Seventh St., SW., Washington, DC 20590, (202) 366-4731.

SUPPLEMENTARY INFORMATION: The Department adopted its regulations governing CRSs, 14 CFR Part 255, because, if CRS firms were unregulated, they could use the systems to injure airline competition and deny consumers and travel agents access to accurate and complete information on airline services. We recently began a proceeding to reexamine our regulations to see whether they are still necessary and, if so, whether they should be changed, by publishing an advance notice of proposed rulemaking. 62 FR 47606, September 10, 1997. The comments and reply comments on that advance notice will be due on December 9, 1997, and January 23, 1998, under the revised comment schedule established by us.

We note that the rules will expire on December 31, 1997, unless we change the termination date. We are holding an expedited rulemaking proceeding to consider amending the rules' sunset provision so that the rules will remain in effect during our overall examination of them, as we noted in the advance notice, 62 FR at 47610-47611.

The advance notice summarizes our findings in earlier proceedings on the need for CRS rules and lists a number of issues that parties should address in their comments. 62 FR at 47607, 47609-47610. Among other things, the advance notice describes our past findings that market forces do not discipline the prices and quality of service offered by systems to participating airlines (participating airlines are the airlines whose services are sold through a system). 62 FR at 47608. *See also* 61 FR 42197, 42198, 42201-42202, August 14, 1996. Whether these findings are still valid is one of the issues that will be considered in our reexamination of the rules.

After we published the advance notice, America West filed a petition for proposed rulemaking that asks up to adopt two rules to stop CRS practices that allegedly impose unreasonable costs on participating airlines. America West alleges that each system offers incentive programs to travel agencies that encourage travel agents to make unnecessary and abusive airline transactions. A travel agency typically pays a much lower fee (or no fee) for CRS services if it makes a certain number of booking transactions each month. According to America West, a travel agency may have an incentive to make illegitimate booking transactions because doing so will enable it to receive CRS services at lower cost, even though the agency's legitimate transactions are too few to make the agency eligible for the discounted fees. America West asserts that travel agencies also make illegitimate or unnecessary books transactions for other reasons. Whatever the reason, all booking transactions generally impose a booking fee liability on a participating airline.

America West contends that, since each system uses a transactional methodology for calculating booking fees (the fees charged participating airlines), an airline must pay fees whenever travel agents conduct transactions involving its services, whether or not the transaction benefits the airline or results in the airline's carrying revenue passengers. According to America West, a participating airline like itself therefore must pay fees for many booking transactions that allegedly provide it no benefit. America West further asserts that the systems refuse to make any real effort to stop illegitimate travel agent transactions that create booking fee revenue for the systems. America West additionally charges that Sabre and Apollo, the two largest systems, each protects its major airline affiliate, respectively American and United, from similar abuses by denying travel agents the ability to conduct certain types of transactions that often lead to illegitimate bookings. America West alleges that the systems, however, have been unwilling to provide similar protection for participating airlines. Finally, America West alleges that the Internet has made matters worse, for the Internet booking sites created by travel agencies and other firms use a CRS as the booking engine.

America West therefore asks us to adopt rules allowing systems to charge booking fees only for a transaction involving actual travel and requiring each system to deny its travel agency

users the ability to create a passive booking on an airline if that airline asks the system to terminate that capability (a passive booking is a booking transaction that is not sent to the airline's internal reservations system).

We believe that the issues raised by America West's petition warrant further consideration. We are aware of complaints from other participating airlines raising similar concerns. Our advance notice of proposed rulemaking in Docket OST-97-2881 therefore included this among the specific issues that we asked commenters to address. 62 FR at 47610 (para. 12). We thus intended to consider this issue in our overall reexamination of the rules.

To facilitate our consideration of the issues presented by the America West petition, commenters should include their responses to the petition in their comments and reply comments on our advance notice of proposed rulemaking. America West itself is filing its petition as a response to the advance notice. Petition at 2, n. 2. Considering America West's proposals in that proceeding, Docket OST-97-2881, will be more efficient than considering them in a separate docket. Commenters therefore should not file comments on the petition in the docket for America West's petition.

Issued in Washington, DC on October 31, 1997, under authority delegated by 49 CFR § 1.56a(h)2.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-243025-96]

RIN 1545-AU61

Tax Treatment of Cafeteria Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking, amendment to notice of proposed rulemaking, and notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: This document withdraws portions of the notice of proposed rulemaking published in the **Federal Register** (54 FR 9460) on March 7, 1989 and amends proposed regulations relating to changes in family status. In

the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance on the circumstances under which a cafeteria plan participant may revoke an existing election and make a new election during a period of coverage. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by February 5, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-243025-96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-243025-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at <http://www.irs.ustreas.gov/prod/taxregs/comments.html>.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Sharon Cohen, (202) 622-6080; concerning submissions or to request a public hearing, Evangelista Lee, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Q&A-8 of § 1.125-1¹ and Q&A-6(c) and (d) of § 1.125-2² provide that a participant may make benefit election changes pursuant to changes in family status and separation from service. The temporary regulations set forth the standards under which a cafeteria plan can allow an employee to change his or her health coverage election during a period of coverage to conform with the special enrollment rights under the Health Insurance Portability and Accountability Act of 1996, and to change his or her health coverage or group-term life insurance coverage in a variety of other "change in status" situations. Thus, these proposed regulations modify Q&A-8 of § 1.125-1 and Q&A-6(c) and (d) of § 1.125-2, and clarify that the "change in family status rules" in the existing proposed regulations continue to apply to qualified benefits (including dependent

care assistance under section 129 and adoption assistance under section 137) other than accident or health coverage and group-term life insurance coverage. Election changes continue to be permitted where there has been a significant change in the health coverage of the employee or spouse attributable to the spouses's employment.

In addition, the temporary regulations provide that the rules of section 401(k) and (m), rather than the rules in the temporary regulations that apply to other qualified benefits, govern election changes under a qualified cash or deferred arrangement (within the meaning of section 401(k)) or with respect to employee contributions under section 401(m). Therefore, the proposed regulations withdraw Q&A-6(f) of § 1.125-2.

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 125. The temporary regulations contain rules relating to the circumstances under which a cafeteria plan participant may revoke an existing election and make a new election during a period of coverage.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) do not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any

¹ Published as a proposed rule at 49 FR 19321 (May 7, 1984).

² Published as a proposed rule at 54 FR 9460 (March 7, 1989).