



TaxNewsFlash

United States



No. 2021-490
December 14, 2021

D.C. Circuit: Airline's claims for refunds of ticket-related security fees from TSA

The U.S. Court of Appeals for the District of Columbia Circuit today—in a case concerning an airline's requests for refunds of security fees imposed on passenger tickets—remanded to the Transportation Security Administration (TSA) an issue concerning the fees imposed on involuntary ticket transfers but upheld the TSA's denial of refunds of the security fees with regard to currency exchange rate differences.

The case is: *United Airlines, Inc. v. TSA*, No. 20-1222 (D.C. Cir. December 14, 2021). Read the D.C. Circuit's [decision](#) [PDF 243 KB]

Summary

The airline sought refunds from the Transportation Security Administration (TSA) of the U.S. Department of Homeland Security for amounts that the airline paid to the TSA. The payments related to fees charged to airline passengers, and collected by airlines, that fund aviation security measures and are to be remitted monthly to the TSA—that is, security fees imposed on tickets for travel on the airline.

In its refund request, the airline claimed that it had erroneously remitted the security fees in two circumstances:

- Tickets associated with passengers who purchased their tickets from other airlines but who were later involuntarily assigned to take this airline's flights—referred to as "involuntary transfer" tickets
- Tickets for which, because of currency exchange rate fluctuations, the recorded and remitted fee amount deviated from the fee amount statutorily required

The TSA denied both of these requests for refunds of the security fees with regard to both sets of tickets. The airline eventually appealed to the D.C. Circuit.

- The D.C. Circuit today concluded that the TSA's denial of the security fee refund with regard to the involuntary transfer tickets was "arbitrary and capricious."
- However, the D.C. Circuit agreed with the TSA's denial of the security fee refund regarding the second set of tickets—that is, the claim based on currency exchange rate fluctuations.

Accordingly, the appeals court granted the taxpayer's petition for review in part, and vacated and remanded the involuntary transfer ticket issue to the TSA, but found the TSA's action regarding the currency exchange rate differences was reasonable and denied the airline's petition concerning this issue.

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