

United States Senate

WASHINGTON, DC 20510

July 29, 2011

Richard H. Anderson
Chief Executive Officer
Delta Air Lines, Inc.
P.O. Box 20706
Atlanta, GA 30320-6001

Dear Mr. Anderson:

We write you today regarding the recent expiration of the authority of the Federal government to collect taxes for the Airport and Airway Trust Fund.

Under current law, several taxes exist to maintain and improve United States airport and airway infrastructure. Passengers on domestic flights pay a 7.5 percent tax on the price of airfare, plus a \$3.70 tax on each segment of the flight. International passengers pay a \$16.30 tax per arrival or departure. Revenues from these taxes are deposited in the Airport and Airway Trust Fund and spent on programs such as airport planning and construction, improving air traffic control facilities and for operations and maintenance. Federal aviation taxes are imposed on passengers, but it is the responsibility of the airlines to act as withholding agents for the Internal Revenue Service (IRS) by collecting aviation taxes on their passengers' behalf and remitting the taxes to the IRS. The authority to collect taxes and to make expenditures from the Airport and Airway Trust Fund expired on Friday, July 22, 2011.

Because the Federal government's authority to collect Federal aviation taxes has expired, airlines no longer have any responsibility to withhold taxes on their passengers' behalf. As a result, we hope that you are reducing airfares for your customers by the amount of these taxes. For some passengers, this could reduce the cost of flying by upwards of 10 percent per flight, or hundreds of dollars for frequent flyers.

We also ask you to issue refunds to consumers for travel occurring while the Federal aviation taxes have lapsed, as many in the industry have done whenever these taxes have lapsed in the past. As the withholding agents for the IRS, airlines are in the best position to provide refunds to passengers for excise taxes paid on flights occurring during the lapse period, but purchased before July 23, 2011. We understand that you and your competitors already have such refund processes in place because you provide refunds for Federal ticket taxes on your refundable tickets if they are canceled. Specifically, if a refundable ticket is cancelled, we understand that you refund the airfare, including the tax withheld, to the passenger. At the same time, you deduct the amount of tax refunded from future excise tax payments if you have already remitted the associated tax to the IRS.

It would impose large costs on the IRS – and taxpayers – if airlines were not willing to facilitate the process of issuing refunds for travel occurring while the taxes have lapsed. Airlines

are in the best position to know when a passenger purchased a ticket, how much he or she paid, and whether and when the consumer flew. The IRS has no system in place for handling millions of paper individual passenger ticket tax refund claims. Processing these returns would require the IRS to reallocate thousands of man hours away from enforcement and taxpayer service, and would be inefficient for the economy from a cost benefit perspective.

We have heard that some airlines are concerned about reducing airfares or facilitating refunds because they fear Federal aviation taxes will be reinstated on a retroactive basis. We want to assure you that we have no intention of applying the current expired taxes retroactively. There is no precedent for, and no intention that Congress would, retroactively impose aviation taxes on tickets purchased while the taxes have lapsed or used for travel during the period of the lapse. After the authority to collect taxes for the Airport and Airway Trust Fund expired twice, on January 1, 1996 and January 1, 1997, Congress did not retroactively impose aviation taxes.

Congress must pass a Federal Aviation Reauthorization bill. We are committed to this task and are currently working hard to achieve that goal. While we work to this end, we ask that that you pass on the savings from the expired taxes to your customers. We also ask that you work with your passengers to facilitate the issuance of refunds for taxes that they no longer owe on air travel purchased before July 23, 2011 and occurring during the expiration period.

Sincerely,



Senator Max Baucus



Senator Benjamin Cardin



Senator Kent Conrad



Senator John D. Rockefeller IV



Senator Sheldon Whitehouse



Senator Kirsten Gillibrand



Senator Bill Nelson