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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-202411.

DATE: December 1, 1981

MATTER OF: Reuben Yudkowsky - Claim for car rental
on temporary duty

DIGEST: An employee who rents an automobile to travel to and from temporary duty site in order to carry food that meets dietary restrictions of his religion may not be reimbursed rental car expense since rental of automobile was not authorized or approved. In determining constructive cost reimbursement for travel by other than authorized mode, taxicab fares employee otherwise would have incurred for travel to kosher restaurants may not be considered. FTR para. 1-2.3b does not authorize payment of local transportation cost occasioned by employee's need for special meals.

The Internal Revenue Service (IRS) requests an advance decision on whether an employee may be reimbursed for the rental and associated expenses of an automobile used to travel to and from a temporary duty assignment. The employee bases his claim for the higher cost of car rental expenses on the fact that he used the vehicle to transport groceries in order to adhere to kosher dietary laws. Because the use of a rental car was not authorized, and for the reasons that follow, we find that the agency correctly limited his reimbursement for travel to and from the temporary duty site to the lower cost of common carrier transportation.

Mr. Reuben Yudkowsky, an employee of the IRS, Mid-Atlantic Region, Baltimore District Office, was assigned to Philadelphia, Pennsylvania, for temporary duty. Mr. Yudkowsky filed a claim for car rental and associated expenses maintaining that it was necessary because of his religious preference for him to transport food to his temporary duty site. Mr. Yudkowsky points out that he is required by his religion to adhere to a strict kosher diet and that there are only two kosher restaurants in the Philadelphia area, neither in close proximity to his hotel or temporary duty site. Because it was impractical for him to eat at either restaurant, he decided to rent a car to transport groceries from his home in order to prepare meals while in Philadelphia.

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He explains that it would have been impractical to transport groceries, including perishable items such as milk, by common carrier.

In justification of his claim for transportation expenses totaling \$243, including car rental expenses of \$90.51, Mr. Yudkowsky has furnished a computation indicating that it would have cost him \$384 in cab fare alone to eat each of his meals at one of the two kosher restaurants in Philadelphia. In essence, Mr. Yudkowsky claims that the cost of a rental car for travel to and from Philadelphia should be reimbursed because it is less than the constructive cost of transportation by the authorized mode (common carrier) for that same travel and local transportation costs that he feels he should be reimbursed for the purpose of obtaining meals.

Paragraph 1-2.3b of the Federal Travel Regulations (FTR) provides for payment of local transportation costs in the following limited circumstances:

"1-2.3. Local transportation.

* * * * *

"b. To places where meals are obtained. Where the nature and location of the work at a temporary duty station are such that suitable meals cannot be obtained there, the expense of daily travel required to obtain meals at the nearest available place may be approved as necessary transportation not incidental to subsistence. * * *"

Paragraph 1-3.1a of the FTR specifically provides that the use of taxicabs may be authorized or approved for local travel authorized under paragraph 1-2.3b.

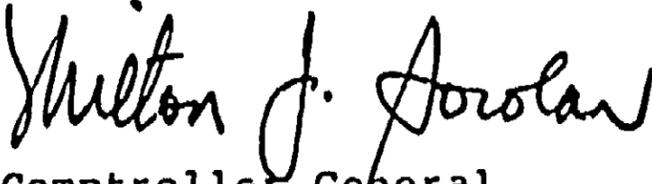
Our decisions have stressed that the concept of suitability under the above regulation is not an individualized standard. If a restaurant, cafeteria or other facility at or near the temporary duty site offers meals adequate to the needs of most employees, the standard of

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suitability is met and an employee who prefers or requires different meals would not be entitled to transportation expenses for the purpose of accommodating his particular dietary needs or desires. The regulation does not make any exception for restaurant service or variety, nor does it recognize individual diet requirements. If an employee is not satisfied with the restaurants at or near his temporary duty station or lodgings, he may, at his own expense, go elsewhere. Special meals or desires as to service and variety are personal and are not incident to official business, and the employee may not be reimbursed for such travel expenses. Robert B. Giknis, B-187248, March 1, 1977, and George E. Townsend, B-195226, August 10, 1979.

While this regulation may indirectly impose an economic burden on certain individuals whose religions require adherence to dietary restrictions, it has a secular purpose which does not prohibit or impede the employee's observance of his religion or discriminate invidiously between religions. Contrary to Mr. Yudkowsky's suggestion, it does not interfere with the free practice of his religion. See Braunfeld v. Brown, 366 U.S. 599 (1961) and H. Jack Bluestein, B-185618, June 1, 1976.

Since Mr. Yudkowsky would not have been entitled to local transportation expenses for the purpose of obtaining kosher meals while in Philadelphia, the constructive cost of such travel may not be considered in determining the amount of his reimbursement for travel by other than the authorized mode of transportation. Cf. 55 Comp. Gen. 192 (1975). For this reason, and because rental of an automobile was not authorized or approved in accordance with FTR paragraph 1-3.2a, the IRS was correct in limiting his reimbursement to the comparative cost of common carrier transportation from his permanent duty station to his temporary duty station and return.

for 
Comptroller General
of the United States