

DECISION

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

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FILE: B-214412**DATE:** August 23, 1984**MATTER OF:** Richard A. Virden -- Transportation Expenses
for Automobile Ordered Through Foreign
Dealer**DIGEST:**

Although State Department employee states that he was owner at time automobile was shipped from factory, his claim for transportation costs of new vehicle from Japan to Thailand is disallowed since he had not paid full purchase price, nor produced any other clear evidence that legal title of automobile had passed to him at time of shipment as required by section 165.1, Volume 6, Foreign Affairs Manual.

This decision is in response to a request by Mr. James Q. Kohler, Jr., Chief, Financial Operations Division, Office of the Comptroller, United States Information Agency (USIA), Washington, D.C. Mr. Kohler asks whether Mr. Richard A. Virden, an employee of USIA is entitled to reimbursement of transportation expenses for the shipment of a new automobile from Nagoya, Japan, to Bangkok, Thailand. Mr. Virden may not receive reimbursement for the reasons which follow.

Mr. Virden first initiated a supplemental travel voucher for the transportation expenses in the amount of \$509.66 on January 31, 1984, in connection with his permanent change of station from Warsaw, Poland, to Bangkok, Thailand, under Travel Authorization No. 0-0616, dated March 27, 1980. Instead of shipping a vehicle from his old station, Mr. Virden ordered a new Toyota automobile on August 12, 1980, from a local dealer shortly after his arrival in Bangkok. Although the record is somewhat nebulous, it appears that Mr. Virden took possession of the vehicle from the shipping company sometime on or after November 22, 1980. On January 14, 1981, the employee received a statement from the Bangkok dealer which itemized the costs of the vehicle, transportation, and registration charges. The record suggests that all charges were ultimately paid by Mr. Virden although there is no indication as to the date.

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Transportation of motor vehicles for Department of State officers and employees was authorized at the time of Mr. Virden's transfer under 22 U.S.C. § 1138 (1976), which provided in pertinent part:

"§ 1138. Transportation of motor vehicles

"The Secretary may, notwithstanding the provisions of any other law, transport for on behalf of an officer or employee of the Service, a privately owned motor vehicle in any case in which he shall determine that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination." (Emphasis supplied.)^{1/}

The above-quoted statute has been implemented by regulations promulgated by the Department of State in Volume 6, Foreign Affairs Manual (FAM). In this regard, section 165.1 provides as follows:

"165.1 Authorized Transportation of Privately Owned Motor Vehicles

"A travel authorization which includes authority for the transportation of effects constitutes authority for the transportation of one motor vehicle owned by the employee or by a member of the employee's family when such transportation has been determined to be necessary or expedient, unless prohibited by regulation or administrative action. * * *" (Emphasis supplied.)

^{1/} 22 U.S.C. § 1138 was repealed by Public Law 96-465, title II, § 2205(1), October 17, 1980, 94 Stat. 2159, effective February 15, 1981. The essence of this provision now appears at 22 U.S.C. § 4081 (1982), and is found in Public Law 96-465, title I, § 901, October 17, 1980, 94 Stat. 2124.

The above-quoted statute and regulation require that the vehicle to be transported at Government expense be owned by the employee at the time of shipment. See 10 Comp. Gen. 268 (1930); B-175176, March 31, 1972; and B-176295, August 4, 1972.

While Mr. Virden does not suggest that he had any indicia of ownership of the vehicle such as a title or bill of sale before he had received delivery in Bangkok, he contends that "both the letter and spirit of the law entitles me to reimbursement." In support of this contention, Mr. Virden continues as follows:

"* * * Clearly the vehicle belonged to me, rather than Toyota, or else it could not have entered the country duty-free.

"To contend that the key is who is listed as 'consignee' appears to be rather tortured hair-splitting. The bill of lading lists the consignee as 'to order,' and that order can be traced to my confirmed purchase order. Furthermore, in its diplomatic note to the Ministry of Foreign Affairs before the Toyota arrived in Thailand, the Embassy listed me as the consignee for this vehicle in asking that it be allowed in duty free."

The administrative report responded to Mr. Virden's point that the Thai government allowed the car to enter Thailand "duty free" because of his diplomatic status, by noting that the Thai government accepts as proof of ownership of vehicles imported by diplomats the Embassy's request for duty free clearance. The Embassy made such a request to the Thai Ministry of Foreign Affairs on November 21, 1980, the date the bill of lading for Mr. Virden's vehicle was received in Bangkok, after having been dated November 13, 1980, in Nagoya, Japan.

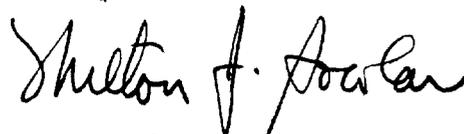
On the basis of the evidence in the present record, we are unable to conclude that Mr. Virden was the owner of the vehicle at the time of shipment. However, the employee may be able to establish his ownership of the vehicle at the time it was delivered to the ocean carrier by providing documentary evidence such as: (1) a

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pre-existing sales agreement indicating that title was to pass at that time, (2) a statement from the insurance company indicating that the employee was the legal beneficiary on the shipment policy in the event of loss or damage during transit, (3) a statement from the Thai Customs Office that the employee was the legal owner of the vehicle when it first arrived in Thailand, or (4) evidence that no intervening party had title to the automobile between the manufacturer and the employee. See Henry Precht, B-180509, October 25, 1974.

Accordingly, on the basis of the present record, the claim may not be paid.



Acting Comptroller General
of the United States

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