

DECISION



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

FILE: B-215897

DATE: December 31, 1985

MATTER OF: Martha C. Biernaski

DIGEST: An employee who used a free airline ticket issued because of her husband's membership in an airline's frequent travelers club for travel on Government business may not be reimbursed the constructive cost of the airline ticket since she has not demonstrated that she paid for that ticket or had a legal obligation to do so. Thus it is concluded that she acquired the transportation at no direct personal expense.

The Farm Credit Administration has requested an advance decision concerning the propriety of payment of the constructive cost of airfare to Mrs. Martha (Marilyn) C. Biernaski.^{1/} Mrs. Biernaski may not be reimbursed the constructive expense incurred in attending the conference since she acquired the airline ticket in question at no direct personal expense.

Mrs. Biernaski, a former employee of the Farm Credit Administration, was issued a Government Travel Request and purchased an airline ticket to attend a conference in San Diego, California. However, she did not use that ticket^{2/} but instead used a ticket issued to her husband as a member of the Frequent Travelers Club of Eastern Airlines. She claims reimbursement of the constructive cost that the Farm Credit Administration would have paid had she not used the ticket obtained by her husband for travel to attend the conference in San Diego, California. Mrs. Biernaski has based her claim on the fact that the Farm Credit Administration informed her that she could use whatever means of transportation she wished and they would reimburse her on an actual or constructive basis.

^{1/} This decision is issued in response to a request from Victor L. Summers, Chief, Budget and Accounts Section, Administrative Division, Farm Credit Administration.

^{2/} The coach ticket that was procured with the Government Travel Request was returned to the airline and the cost of it was refunded to the Farm Credit Administration.

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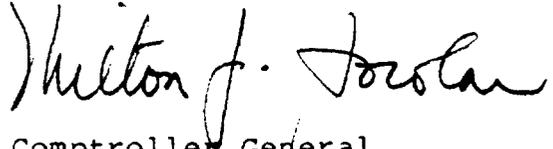
Apparently Mrs. Biernaski was not aware that when the Government reimburses an employee for travel expenses on a constructive basis only actual costs incurred by the employee may be reimbursed and that reimbursement is limited to the constructive amount it would have cost had the Government procured the transportation directly.

When informed that reimbursement on a constructive basis required the employee to present evidence of expenses actually incurred, Mrs. Biernaski submitted a letter from her husband's consulting firm indicating that she had agreed to pay \$600 for use of the free ticket. The letter indicates that no payment had been received by the consulting firm, but that it was expected.

As to the travel of civilian employees of the Government, 5 U.S.C. § 5706 provides that "only actual and necessary travel expenses may be allowed * * *." Implementing regulations contained in paragraph 1-2.1, Federal Travel Regulations, FPMR 101-7, incorp. by ref. 41 C.F.R. § 101-7.003 (1983), provide that, "Transportation expenses which the Government may pay either direct or by reimbursement include fares * * * and other expenses."

Under these provisions of statute and regulation, civilian employees may not be allowed gratuitous payments, but they may be allowed reimbursement of travel expenses necessarily incurred by them in complying with travel requirements imposed upon them by the Government. See, for example, Bornhoft v. United States, 137 Ct. Cl. 134 (1956); and Captain Dene B. Stratton, USN, 56 Comp. Gen. 321 (1977).

Although Mrs. Biernaski claims that she owes her husband's consulting firm \$600 for the free airline ticket issued to him by Eastern Airlines, there is no evidence that a legal obligation has arisen or that payment has been made. In that connection we note particularly that the free ticket was issued because Mr. Biernaski was a member of the Frequent Travelers Club; that it was not issued to his consulting firm; and that it has not been demonstrated to be the subject of a legal obligation for payment. Since we are unable to conclude that Mrs. Biernaski incurred any ascertainable personal expenses for the ticket in question her claim should be disallowed.

for 
Comptroller General
of the United States