



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Tri-State Motor Transit Co.

File: B-259879

Date: March 22, 1995

DIGEST

A carrier's claim for additional charges is untimely under 31 U.S.C. § 3726 when, on appeal to this Office more than 3 years after the original payment, the carrier revises its claim, proposing that it should have applied a different tariff in lieu of the tariff it applied in its claim with the Administrator of General Services. The Administrator correctly denied the claim as originally filed by the carrier. This Office will not consider the revised claim because it is untimely.

DECISION

Tri-State Motor Transit Company requests that we review the General Services Administration's (GSA) denial of its claim for additional charges under Government Bill of Lading (GBL) transaction D-0,699,704. The company asks us to determine which rate authority applied to this shipment. We find that GSA correctly applied Tri-State's Tender 392, and we affirm GSA's settlement.

The September 30, 1990, shipment included the transportation of a cargo truck from Fort Rucker, Alabama to Jacksonville, Florida. The GBL indicates that the shipment was associated with Operation Desert Shield and that the shipper intended to transport it as a part of a Freight All Kinds (FAK) shipment. Tri-State billed, and on October 19, 1990, the Defense Finance & Accounting Service paid, \$735 in charges on this shipment. In October 1993, Tri-State claimed an additional \$117.50 contending that its higher tariff rates applied to this shipment because the lower tender rates that it originally billed did not apply to shipments of wheeled vehicles after April 23, 1990.¹ GSA denied this claim on August 11, 1994, and we received Tri-State's request for review on December 20, 1994. In its administrative report of February 14, 1995, GSA provided a copy of Tri-State's Tender 392, the basis of its settlement, which showed that Tender 392 applied to motor vehicles as well as FAK shipped between August 10, 1990, and August 9, 1992. In its response to GSA's report, which we received on February 27, 1995, Tri-State asserts a

¹See Tri-State Motor Transit Co., B-254372, et al., July 15, 1994.

new basis of recovery. It now requests that we suspend our decision in this matter until the Court of Federal Claims determines whether export rates applied in similar shipments.² The carrier also alleges that its legal counsel only recently obtained information showing that foreign governments reimbursed the United States for transportation expenses and argues that government rate tenders do not apply to shipments such as this one because there was foreign reimbursement.³

Without considering Tri-State's new basis for recovery, GSA clearly demonstrated that Tender 392 applied to motor vehicles shipped on September 30, 1990. Moreover, we need not decide the merit of Tri-State's revised claim; it is untimely. Under 31 U.S.C. § 3726(g)(1), a carrier may request the Comptroller General to review GSA's settlement if the request is received not later than 6 months after GSA acts or, in relevant part, if it is received within 3 years after accrual of the claim or payment for the transportation (whichever is later). Tri-State did not indicate whether the export tariff rates that it now would apply would result in a claim in the same amount as the amount it filed with GSA or in a higher amount. But, when reviewing a disallowed claim, a revision of the basis for the claim, or an increase in amount, is a new claim and must be filed within the statutory period. See Tri-State Motor Transit Co., B-257287, Feb. 14, 1995; Trans Country Van Lines, Inc., B-188647, Dec. 28, 1977; and 39 Comp. Gen. 448, 450 (1959). The basis of Tri-State's revised claim is unrelated to the basis of the claim it filed at GSA, and the carrier did not assert the new basis until well after the third anniversary of the original payment.

We affirm GSA's settlement.

for \s\ Seymour Efros
Robert P. Murphy
General Counsel

²In Court of Federal Claims Case 94-347C, Tri-State is arguing that shipments it moved between two states require the application of its higher export rates if it was intended that the material it transported would move outside the United States, even in a government conveyance.

³On January 25, 1995, Tri-State filed a motion in the Court of Federal Claims for leave to amend its complaint, suggesting that it should be able to claim additional amounts on Desert Shield/Storm-type shipments because government rate tenders did not apply them for the same reason that Court did not apply tenders to Arms Export Control Act shipments in Baggett Transp. Co. v. United States, 670 F.2d 1011 (Cl. Ct. 1982).