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DECISION



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

FILE:

B-186578

DATE: JAN 3 1977

MATTER OF:

Harry Phipps

DIGEST:

Shipment of privately owned vehicle of transferred federal employee is not allowable expense under BOB Circular No. A-56 unless head of agency or his designee determines in accordance with para. 10.2a of that circular that it is in interest of Government. Since determination is within agency discretion, it is not discriminatory for different agencies in same location to have different policies concerning reimbursement of cost of shipping privately owned vehicle.

This action is in response to a request dated May 20, 1976, from Mr. Matthew N. Novick, Authorized Certifying Officer, United States Department of the Interior, for a decision on the propriety of certifying for payment a voucher submitted by Mr. Harry Phipps, Supervisory Auditor, Office of the U. S. Government Comptroller for the Virgin Islands. Mr. Phipps claims reimbursement for the cost of shipping his privately owned vehicle to St. Thomas, Virgin Islands, on September 9, 1970, in connection with his permanent change of official station on September 1, 1970, from Arlington, Virginia, to St. Thomas, Virgin Islands.

Mr. Phipps was not authorized to ship his privately owned vehicle to St. Thomas because at the time of his transfer it was the policy of the Department of Interior not to pay the cost of transporting privately owned vehicles to St. Thomas. That policy reflects the determination that conditions of employment in St. Thomas did not meet the regulatory requirements, *infra*, for shipment of privately owned vehicles at Government expense. However, during the latter part of 1971, Interior changed its policy in favor of reimbursing employees for the cost of transporting their privately owned vehicles.

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Mr. Phipps shipped his automobile to St. Thomas at his own expense and now claims reimbursement for the \$283.70 cost of such shipment on the following grounds:

- (1) That Interior has recognized that its 1970 policy was in error and should now correct that error retroactively.
- (2) That he relied on the statement in his travel order authorizing "allowable expenses under BOB Circular No. A-56, Rev; . . ."
- (3) That denial of his claim is discriminatory since other federal employees located on St. Thomas, employed by U. S. agencies other than Interior, have been reimbursed for shipment of their privately owned vehicles during the same time period in which Mr. Phipps shipped his vehicle.

With regard to Mr. Phipps' contention that Interior's change in policy in the latter part of 1971 was a recognition of error, we note that the record does not substantiate this allegation of error and reflects only that a policy change did occur. Legal rights and liabilities concerning travel allowances are established at the time the travel is performed under the travel authorization and the authorization may not be revoked or modified retroactively so as to increase or decrease the rights which have become fixed under the applicable statutes or regulations. B-175433, April 27, 1972. An exception may be made only when an error is apparent on the face of the orders and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence in preparing the orders. 23 Comp. Gen. 713 (1944); B-175433, *supra*. Since authorizing officials intended not to provide for reimbursement of the cost of transporting Mr. Phipps' vehicle to St. Thomas and since Mr. Phipps' orders accurately reflect that intention, this exception is inapplicable.

Bureau of the Budget (BOB) Circular No. A-56, § 10.2a, Revised October 12, 1966, effective on the date of Mr. Phipps' transfer

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(currently superseded by Federal Travel Regulations, FPMR 101-7, para. 2-10.2c. May 1973), provides for the shipment of an employee's privately owned motor vehicle at Government expense when an employee is transferred from within the continental United States to an official station outside the continental United States provided that all of the following conditions are met:

"(1) The transfer or assignment is for the convenience of the Government and not at the request of or for the benefit of the employee.

"(2) The employee has signed an agreement as provided in subsection 1.3c.

"(3) The head of the department or his designee has determined that it is in the interest of the Government for the employee to have the use of a privately owned motor vehicle at the post to which the employee is transferred or assigned. Such a determination may be made only if (a) use of the vehicle will not be primarily for the benefit of the employee and his immediate family; (b) local conditions at the official station where the vehicle is to be used make it desirable from the Government's viewpoint for the employee to have the use of the vehicle; (c) the use of the vehicle by the employee will contribute to his effectiveness; (d) suitable motor vehicles owned or leased by the Government are not available; (e) the cost of transporting the vehicle to and from the post of duty will not be excessive considering the time the employee has agreed to serve at the post of duty or at other posts of duty outside the continental United States where use of a privately owned motor vehicle by the employee is determined to be in the Government's interest; and (f) if the vehicle is of foreign manufacture, its use will conform to current policies concerning control of balance-of-payments problems."

Under the above regulation and consistent with the requirement of 5 U.S.C. § 5727(b)(2), a privately owned vehicle may be

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shipped at Government expense only if the head of the department or his designee determines that it is in the interest of the Government for the employee to have the use of a privately owned motor vehicle at his new post. In the case of Department of the Interior employees assigned to the office of the U.S. Government Comptroller for the Virgin Islands, authority to make the necessary determination and hence to authorize shipment of automobiles at Government expense is delegated to the Comptroller for the Virgin Islands. In Mr. Phipps' case the Comptroller declined to make that determination, in the absence of which the cost of shipping Mr. Phipps' automobile to the Virgin Islands is not an allowable expense under Bureau of the Budget Circular No. A-56, supra. B-152568, January 16, 1964; B-153786, May 27, 1964.

Lastly, with regard to Mr. Phipps' allegation of discrimination, we note that under 5 U.S.C. § 5727 and the regulation quoted above, authority to determine whether transportation of the privately owned vehicle of an employee is in the Government's interest rests with each agency. The determination is a factual matter to be decided on a case by case basis and, therefore, it is not discriminatory for one agency to permit reimbursement and another to prohibit such reimbursement if the differing determinations are made in accordance with appropriate regulatory standards.

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Comptroller General
of the United States