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DECISION



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

FILE: B-199185

DATE September 17, 1980

MATTER OF: Walter M. Mangiacotti

DIGEST:

1. Portion of Foreign Affairs Manual which authorizes shipment of foreign-made, foreign-purchased privately-owned vehicle (POV) to United States when it cannot legally be sold or disposed of at overseas post of assignment, is not applicable to employees of FBI.
2. Government employee may not transport foreign-made, foreign-purchased POV from overseas post to United States under authority of 5 U.S.C. § 5727(b) or Federal Travel Regulations.

An authorized certifying officer of the Federal Bureau of Investigation (FBI), Department of Justice, has submitted a travel voucher for \$624.50 in favor of Walter M. Mangiacotti for [reimbursement of expenses] incurred in shipping his privately owned motor vehicle (POV) from Rome, Italy, to Washington, D.C., and requests a decision by our Office pursuant to 31 U.S.C. 82d (1976). AGC00102

Mr. Mangiacotti was officially transferred to the FBI Office of Legal Attache, American Embassy, Rome, Italy, in January 1978. At the time of transfer the claimant did not have a POV shipped. At his duty station in Rome, Mr. Mangiacotti purchased a Volkswagen from a fellow employee who had imported the vehicle from Germany on a duty-free basis. The agency advises that experience of the office in Rome has shown that use of a POV by FBI personnel is absolutely essential for the performance of official duties, and Mr. Mangiacotti used his POV in the performance of his official duties.

On December 14, 1979, claimant was officially ordered to transfer from Rome, Italy, to Washington, D.C. Claimant was advised that the POV could not be shipped to the new

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duty station at Government expense under FBI policy and the provisions of the Foreign Affairs Manual and the Federal Travel Regulations (FTR). Claimant was unable to sell the POV within the 30 days available, and made his own shipping arrangements. The FBI denied Mr. Mangiacotti's claim for reimbursement of the shipping charges on the basis of section 901 of the Merchant Marine Act of 1936, 49 Stat. 2015, 46 U.S.C. 1241(a) (1976). That act prohibits payment of shipping charges for transportation on a foreign-flag ship, and claimant's POV was not transported on a vessel of American registry.

Upon resubmission of his claim for reimbursement it is the agency's opinion that the advice given to him (that his POV could not be shipped at Government expense) was erroneous. The FBI now believes that the claimant met the FTR requirements, and since he could not sell or otherwise dispose of the POV before his return to the United States, section 165.9-1 of FAM, 6 FAM 165.9, presents an exception to the prohibition therein against shipping a foreign-made, foreign-purchased POV to the United States at Government expense.

We do not agree that the cited portion of the FAM applied to the claimant. The FBI's basis for disallowance of the claim is inapposite. However, the disallowance was proper on other grounds, i.e., absence of authority to ship the POV at Government expense.

Section 165.9-1 of the FAM authorizes shipment of an employee's foreign-made, foreign-purchased POV to the United States at Government expense when the vehicle cannot legally be sold or disposed of at the overseas post of assignment, among other grounds. We considered the applicability of Volume 6 of the FAM in 58 Comp. Gen. 385 (1979). There we determined that while the FAM had been statutorily extended to Department of Justice employees, the agency's appropriation act did not extend all of FAM's benefits. We stated there that the authorization in the appropriation act provided only three benefits of the Foreign Service Act, 22 U.S.C. 1136(9), (10), and (11), which were not available to employees who travel under the provisions of 5 U.S.C. §§ 5721 et seq., the statutory basis for the FTR. These related to employee and dependent travel expenses for rest and recuperation; temporary duty assignment; and family visitation in certain specified instances. Therefore, we concluded that the FAM provision advocated there (6 FAM 126.8), authorizing transportation of a newly acquired spouse (overseas) had not been made applicable to the Department of Justice.

Similar to the appropriation act of 1976 for the Justice Department, showing only limited FAM benefits being extended, section 2(9) of the Department of Justice appropriation authorization act for 1980, Pub. L. 96-132, 93 Stat. 1040, 1041, 22 U.S.C. 1160, fails to extend the FAM benefits for the shipment of POVs to employees of the FBI; therefore, the provisions of Volume 6, FAM, authorizing the return of a foreign-made, foreign-purchased POV, in exceptional circumstances, would not apply to Mr. Mangiacotti.

Generally, authority for the transportation of POVs at Government expense is 5 U.S.C. 5727(b), and this authority is implemented by the FTR. B-191180, April 7, 1978. However, we know of no basis under this law or the applicable regulations permitting an employee to transport at Government expense a foreign-made POV purchased in a foreign country.

Accordingly, the disallowance of the claim for reimbursement is sustained.

Harry R. Van Cleave

For the Comptroller General
of the United States