



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Federal Executive Board--Appropriations--Employee Tax Returns--
Electronic Filing

File: B-259947

Date: November 28, 1995

DIGEST

In the absence of statutory authority, member agencies of the New Orleans Federal Executive Board may not use appropriations to provide employees with the means to electronically file their personal income tax returns because such costs are personal to the employees. Exceptions to this rule have been permitted where the expenditure primarily benefits the agency. Absent specific statutory authority, in order to use appropriated funds for this purpose, each agency must demonstrate that the employee electronic filing program is reasonably related to the purpose of the agency's appropriation.

DECISION

The Chair of the New Orleans Federal Executive Board has requested our opinion regarding whether federal agencies in New Orleans, other than the Internal Revenue Service (IRS), may use their appropriations to provide computer hardware and pay related expenses to enable employees to electronically file their personal income tax returns. For the reasons discussed below, we conclude that before a federal agency may pay for an employee electronic filing program, it must show that the program is necessary or incidental to the purpose of its appropriation.

Background

The New Orleans Federal Executive Board is a quasi-governmental organization composed of the chief federal executives in the New Orleans area. The Board coordinates governmental policy on matters impacting the New Orleans federal community and provides leadership in the sharing of services between agencies.

The Board has asked us whether its member agencies may provide their employees with the means to electronically file their personal income tax returns from agency offices at no cost to the employees. This question arose after the Director of the New Orleans District of the IRS informed the Board that our Office had authorized IRS to implement an agency-wide employee electronic tax return program. See

71 Comp. Gen. 28 (1991). The Director stated that this program should be extended to other federal agencies and that IRS would furnish entry and communication software to any agency willing to provide the computer hardware and telephone lines necessary to electronically transmit the employee personal income tax returns to IRS.

Discussion

As a general matter, agency appropriations are not available to pay the costs of filing employee income tax returns. Because the Internal Revenue Code imposes the duty on taxpayers to file returns, 26 U.S.C. §§ 6011, 6012, the cost of electronically filing a tax return is considered a personal expense of the employee. Unless the agency can show that the expense primarily benefits the government, personal expenses of employees are not payable from appropriated funds absent specific statutory authority. 68 Comp. Gen. 502, 505 (1989).

In our decision approving the use of appropriations to implement the IRS employee electronic tax return program, we held that IRS overcame the personal expense prohibition because it clearly and convincingly explained the link between the expenditure and the benefit to the IRS. 71 Comp. Gen. at 30. See 68 Comp. Gen. at 505. IRS explained that the employee electronic filing program would be used to publicize the benefits of electronic filing, familiarize IRS employees with the Electronic Filing System and permit IRS to evaluate and refine the system. 71 Comp. Gen. at 29. Based on this, we agreed with IRS that the employee electronic filing program was reasonably related to the purpose of the agency's "processing tax returns" appropriation. Although IRS employees received some benefit from the program, we concluded that the personal benefit to employees was nominal and collateral to overall IRS system improvement. In accordance with the prior decision, we would not object to IRS's use of its "processing tax returns" appropriation to pay all reasonable costs of electronic filing at other federal agencies.

If other agencies want to use their appropriations for this purpose, they must establish, as did IRS, that the expenditure will directly support agency responsibilities. 68 Comp. Gen. at 505. See B-214833, Aug. 22, 1984. The other federal agencies in New Orleans would have to show that the use of federal funds to pay for employees' electronic filing of tax returns is necessary or incidental to the objects of the appropriations to be charged. Accordingly, in the absence of an

agency's justification of the availability of its own appropriation for this purpose, similar to that provided by IRS, we cannot approve of an agency's use of its appropriations to finance employees' electronic filing of tax returns.

/s/Robert P. Murphy
for Comptroller General
of the United States