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DECISION

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

FILE: B-187928

DATE: November 15, 1977

MATTER OF: Paul A. Proulx - Mileage costs from residence
to official station

DIGEST: Although IRS field representative performs no official duties while driving privately owned vehicle from home to official duty station, it is necessary for him to use POV extensively during duty day for official business. IRS regulation requires employee to bear cost of transportation between his residence and official station. Amendment of the IRS travel regulations presents a policy matter for consideration by the IRS, GAO, and General Services Administration.

This action is in response to a request dated November 3, 1976, from an authorized certifying officer of the North-Atlantic Region, Internal Revenue Service (IRS), Department of the Treasury, as to the propriety of paying the claim of Mr. Paul A. Proulx, an IRS field representative, for mileage costs from his residence to his official duty station on regular workdays. The administrative record indicates that a determination has been made that the use by Mr. Proulx of his privately owned automobile for official business is advantageous to the Government, and therefore he has received such authorization. The usual circumstances in which the disputed mileage occurs is when the employee finds it necessary to briefly stop at his official station to pick up files or perform other limited functions before proceeding to his official assignments for the day.

Although the IRS allows its agents reimbursement for mileage from official assignments to their residences, they do not allow mileage from home to official station. It is stated that section 252(3)(b) of the Internal Revenue Manual 1763-22 provides that an employee must bear the cost of transportation between his residence and his place of duty at his official station and therefore work assignments shall be arranged so that no unnecessary commuting transportation expenses will be incurred. The IRS has interpreted this regulation to mean that an employee will not be reimbursed for travel from his residence to his duty station on days when he uses his privately owned automobile on official business. The disallowance results from IRS's categorization of such mileage as commutation travel. The General Accounting Office

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has long held that there is no authority for reimbursing an employee for travel between his residence and his office. This is an expense that must be borne by the employee. 19 Comp. Gen. 836 (1940); 15 id. 342 (1935); 11 id. 417 (1932); and B-171969.42, January 9, 1976.

The essence of Mr. Proulx's position, which has been endorsed by the National Treasury Employees Union (NTEU), is summarized by the District Director, Providence District in a memorandum to the Assistant Regional Commissioner, North-Atlantic Region, dated November 7, 1975, and stated as follows:

"* * * the position raised by Chapter 54, NTEU, is not clearly defined as 'commutation travel'. Their position, as I understand it, is that while the employee himself may well be commuting from home to his place of employment, and that while it may well be that driving to work is the most convenient means for him to commute, and that while such commutation travel is not reimbursable under the Internal Revenue Service discretionary authority, such factors are beside the point. It is their contention that the employee is bringing his private automobile from his residence to his place of employment so that it may then be used in the furtherance of the government's business, and thus is done for the convenience of the government, and thus should be reimbursable. Under this theory, whether or not the employee who is driving the car is also commuting to work is not material to the argument. * * *"

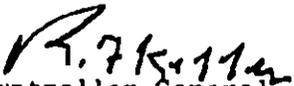
Mileage allowances are to be prescribed in accordance with Federal Travel Regulations (FPMR 101-7) (May 1973) which provide that the mileage rate may be paid from whatever point the employee begins his journey. FTR para. 1-4.1b(1) (May 1973). The general rule governing the mileage field concerning employees using their privately owned vehicle on Government business was set forth in 36 Comp. Gen. 795 (1957) as follows:

"* * * that where an officer or an employee is properly authorized to use a privately-owned automobile for official business, it is within

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administrative discretion to allow him mileage from whatever point he begins his journey with no requirement that there be deducted from the computation of such mileage the distance that the employee would normally travel between his home and his headquarters, irrespective of whether he performs duty on that day within or without the corporate limits of his headquarters city or at his headquarters office. The administrative officials, however, in exercising their discretionary power in this matter are to give due consideration to the interests of both the Government and the employee. Where appropriate they may and should in the exercise of this discretion restrict the mileage allowable, by way of a reduced rate or distance."

Since the regulations issued by the IRS preclude reimbursement of expenses to an employee for travel from his residence to his duty station on days when he uses his privately owned automobile on official business, the claim may not be paid. Further, the issue raised by the submissions of the parties, as to whether reimbursement could be authorized if the IRS regulations were amended, presents policy considerations which would appear to be a matter for consideration by the IRS in consultation with this Office and the General Services Administration.


Deputy Comptroller General
of the United States