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DECISION



20496
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

P. M. J.
McLain

FILE: B-200262

DATE: January 6, 1982

MATTER OF: Sarah S. Ivey - Travel Expenses While
on Leave

DIGEST: Employee at temporary duty site took annual leave and traveled to her parents' home due to personal circumstances. Her claim for transportation expenses to and from her parents' home while on leave was denied in accordance with Internal Revenue Service regulation implementing the Federal Travel Regulations. The agency regulation is consistent with statutory language, and neither arbitrary nor unreasonable. Thus, our Office will not question such regulation as being beyond agency's authority. Claim is denied.

Is a Federal employee at a temporary duty site who took annual leave due to personal circumstances entitled to reimbursement for transportation expenses to and from her parents' home during the period of leave? For the reasons stated below, we conclude that the employee is not entitled to reimbursement.

This decision is in response to an appeal by Mrs. Sarah S. Ivey from the action of our Claims Group on June 30, 1980, Settlement Certificate No. Z-2824216, which denied her claim for transportation expenses. The facts of this case are not in dispute.

Mrs. Ivey is an employee of the Internal Revenue Service (IRS). Her official duty station is in Philadelphia, Pennsylvania, and her residence is in Wilmington, Delaware. She was originally detailed on temporary duty (TDY) to Pittsburgh for 4 consecutive weeks beginning March 3, 1980. Personal circumstances, however, altered her itinerary. Her father was unexpectedly scheduled for surgery the week of March 10, 1980. She took 1 week of leave beginning late on Friday afternoon, March 7, 1980, and ending Sunday, March 16, 1980, during which time she stayed in Greensboro, North Carolina, at her parents' home. Her travel plans were known to her manager prior to departure.

Section 343.6 of Internal Revenue Manual (IRM) 1763, Travel Handbook, in relevant part, provides:

"When one day or more of leave falls between a holiday and a weekend, or between two weekends, reimbursement of per diem or actual expenses for the nonworkdays may not exceed two days."

However, section 342.2, in relevant part, provides:

"(1) When an employee leaves a temporary duty station over a weekend or holiday for personal reasons other than travel to residence or post of duty, returning to the temporary duty station for the following workday, reimbursement will be computed as follows:

* * * * *

"(2) Transportation expenses for the personal trip may not be allowed."

On the basis of section 342.2(2), IRS denied Mrs. Ivey's claim because it considered the travel to and from Greensboro, North Carolina, to be a personal trip. Mrs. Ivey concedes that section 342.2 of IRM 1763 was properly applied to her situation, but contends that it is inconsistent with the authorizing statute, arbitrary and unreasonable because under section 343.6 of IRM 1763, she would be entitled to reimbursement if the expenses were for per diem or actual subsistence expenses, as the case may be, for Saturday, March 8, and Sunday, March 9, 1980, but similar reimbursement for transportation expenses is precluded by section 342.2(2).

Before examining Mrs. Ivey's contention, we observe that there may be a question of the applicability of section 342.2(2) to her situation because, on its face, it seems to govern only leave from a temporary duty station over a weekend or holiday with return contemplated for the following workday rather than annual leave. However, in view of the purported scope of the title of section 342.2 ("Temporary Absence from Temporary Duty Station"), and both parties' concessions of applicability, we believe this question need not deter us because, in any event, the IRS travel regulations must be consistent with the Federal Travel Regulations (FTR) as interpreted by the Comptroller

General's decisions. Indeed, this is explicitly acknowledged by section 311(1) of IRM 1763.

The question of reimbursement of transportation costs incurred for personal reasons was recently examined in Lewis T. Moore, B-198827, August 3, 1981. As that case demonstrated, the Federal Travel Regulations do indeed authorize reimbursement of round-trip transportation expenses and actual subsistence en route to an employee's voluntary return to his residence or official station on nonworkdays, limited to the necessary travel and subsistence expense which would have been allowable if the traveler had remained at his temporary duty station. By its terms, however, that provision is limited in application to instances in which the employee returns to his or her official station or place of abode from which he or she commutes daily to his official station. This clearly was not the situation in the present case. Furthermore, since the location at which an employee chooses to spend nonworkdays while in a travel status is of no particular concern of the Government insofar as it does not interfere with the performance of assigned duties, the employee's entitlement to per diem or actual subsistence expenses as authorized continues unless otherwise restricted under FTR para. 1-7.5(c) or FTR para. 1-8.4(f). However, this does not entitle the employee to reimbursement of transportation costs incurred for personal reasons. Lewis T. Moore, supra.

In our view, Mrs. Ivey's argument has not demonstrated that the regulation in question is inconsistent with the rather broad discretion conferred by the statutory language of 5 U.S.C. §§ 5701-5709 (1976), nor has she demonstrated that it is arbitrary or unreasonable on its face. In the present case, therefore, our Office will not question IRS's implementation of the FTR as being beyond the agency's authority. See Leave Settlements, B-201706, March 17, 1981. We also observe that Mrs. Ivey's reference to one of our cases, apparently B-161873, February 22, 1971, is also not apposite because that case dealt with abandonment of official travel after arrival at the TDY site.

Accordingly, Mrs. Ivey's claim is denied.

Henry R. Van Cleave
For the Comptroller General
of the United States