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DECISION



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

FILE: B-212236

DATE: February 24, 1984

MATTER OF: John D. McLaurin - Promotional Gifts
Received as a Result of Official Travel

DIGEST:

An employee received and used a bonus ticket and a free hotel room for personal travel as a result of trips paid by both personal funds and Government funds. Such promotional gifts which were received because of travel paid by Government funds belong to the Government. The employee must pay the full value of the tickets and benefits received to the Government. Since this employee used these gifts prior to the issuance of guidance on the use of such materials, he may reduce his liability for repayment based on the percentage of travel paid by personal funds. Any future use of promotional gifts will result in liability for the full value of the bonus or gift. See B-210717, dated today.

Mr. Richard Mulberry, Inspector General, Department of the Interior, has requested a decision concerning a travel bonus consisting of two free first-class round-trip tickets and four free nights at a hotel received by an Interior employee, Mr. John D. McLaurin. The travel bonus was awarded by United Airlines under their Mileage Plus program and the mileage accumulated by Mr. McLaurin was primarily as a result of official travel. The first issue presented is whether Mr. McLaurin should reimburse the Government for the value of the bonus awards. The second issue is, assuming the Government is to be reimbursed, should the reimbursement be limited to reflect the percentage of private travel versus official travel used to obtain the award. We hold that Mr. McLaurin must reimburse the Government for the bonus awards based on the percentage of official travel used to obtain the award.

Mr. McLaurin registered in the United Airlines Mileage Plus program in October 1981. By February 1983, Mr. McLaurin had traveled over 75,000 miles and, under the

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program, he was entitled to two free first-class round-trip tickets, four free nights at a Westin hotel, and a 50 percent discount on an Avis rental car for the weekend. Mr. McLaurin used the free trip and free hotel for his own personal benefit. The record shows that Mr. McLaurin accumulated the mileage by both official (Government-paid) and private travel, but the record does not show the number of miles of each type of travel. However, it appears that the majority of the miles were accumulated on official travel.

Legal Analysis

The general rule is that a Federal employee is required to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty and any payments tendered to the employee are viewed as having been received on behalf of the Government. John B. Currier, B-195946, 59 Comp. Gen. 95 (1979); B-148879, July 20 and August 28, 1970. Therefore, we have held that an employee may not retain any bonus or gift coupon or similar item of value received from a commercial air carrier on the basis of a purchase of an airline ticket to be used for official travel. B-199656, July 15, 1981.

The bonus ticket and free hotel received by Mr. McLaurin clearly fall within the purview of these decisions. The only distinction is that a small portion of the bonus ticket was earned by private travel. We do not believe the fact that a portion of the bonus ticket was earned by private travel, changes the result that the portion of the ticket earned as a result of the official ticket belongs to the Government. See B-210717, dated today. Therefore, in applying the decisions cited above, we conclude that the portion of the bonus ticket or gift earned as a result of official travel is viewed as having been received on behalf of the Government. Accordingly, since Mr. McLaurin used the bonus ticket and gift for private use, when it was primarily the property of the Government, Mr. McLaurin must reimburse to the Government the value of the bonus ticket and gifts which were property of the Government.

We also note that at the time of Mr. McLaurin's travel under United's Mileage Plus program, a frequent flyer could use the bonus tickets to the place of his choice and the

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bonus tickets were transferable. Therefore, under that program it is clear that the Government could have sent Mr. McLaurin or some other Government employee on a free flight and at a free hotel while on official travel. However, even if airline programs limit the transferability of the bonus flight or restrict bonus flights to specific cities, any bonus earned as a result of official travel belongs to the Government and must be turned into the appropriate agency official. See our decision of today, B-210717, and 41 C.F.R. Part 101-25 amended, 48 Fed. Reg. 48,231, October 18, 1983.

In accordance with the discussion above, the Department of the Interior should collect the full value of the bonus tickets plus the value of the hotel room from Mr. McLaurin. Mr. McLaurin may have this amount reduced by a percentage equal to the percentage of private travel used to obtain the award. However, the burden of proof is on Mr. McLaurin to produce the necessary evidence to show that the travel was paid from personal funds. See generally 4 C.F.R. § 31.7 (1983). If Mr. McLaurin can produce the necessary evidence, then the amount of his liability may be reduced by the appropriate percentage.

We are allowing Mr. McLaurin to reduce his liability because he used these bonus tickets prior to the issuance of the GSA regulations and our decision of today, B-210717, which declare that these bonuses are the property of the Government. After the date of this decision, we hold that any future use of promotional material will result in the employee being liable to the Government for the full value of the bonuses or promotional gifts used.



Acting Comptroller General
of the United States