

**DECISION**

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

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FILE: 8-214610

DATE: February 19, 1985

MATTER OF: Paul S. Begnaud -- Use of Foreign-Flag  
Vessel -- Constructive Travel Costs**DIGEST:**

1. Employee claims reimbursement on the basis of constructive cost where he and his family performed permanent change-of-station (PCS) travel from Frankfurt, Federal Republic of Germany, to Denver, Colorado, by mode of transportation other than that authorized, and by an indirect, i.e., circuitous or not usually traveled route. Instead of flying, they took the Queen Elizabeth II, a foreign-flag ocean vessel, to New York and drove by privately-owned vehicle (POV) from New York to Denver. Employee's constructive cost comparison should be based only on the portion of his trip from Frankfurt to New York since Federal Travel Regulations (FTR) specify that POV use for portion of travel from New York to Denver is deemed to be advantageous to the Government.
2. Under GAO's internal travel policy, PCS air travel by an employee and his family is limited to "coach class" fare. Therefore, "coach class" is the proper measure for constructive cost reimbursement.
3. Reimbursement for expenses of shipping POV on a foreign-flag vessel, here the Queen Elizabeth II, is prohibited under section 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a) (1982), which requires justification for the use of a foreign-flag vessel where, as here, American-flag vessels were available. This includes its exclusion from use on a constructive cost basis since those items which would not be allowed on an actual basis cannot be

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used for comparison on a constructive basis.

4. Paragraph 1-4.3b of the FTR is sufficiently broad in scope to allow reimbursement of constructive cost of excess baggage when such charge was authorized, and covers case where, as here, there has been a change in the mode of transportation used. However, claim is denied because the claimant did not document the weight or cost of what would be deemed excess baggage, but merely estimated the costs involved.

Ms. M. G. Wilkins, an Authorized Certifying Officer of the General Accounting Office (GAO), requests an advance decision as to the proper calculation of certain items related to a comparison between actual and constructive cost travel and transportation expenses of a GAO employee and his family incident to a permanent change-of-station (PCS) from Frankfurt, Federal Republic of Germany, to Denver, Colorado. For the following reasons, we hold that the disposition of the various items involved by the Authorized Certifying Officer was correct.

#### Background

Mr. Paul S. Begnaud, a GAO employee, accompanied by his wife and two children, was authorized PCS travel from Frankfurt to Denver which he commenced on August 17, 1983, under travel order 3151000031. This order identified both Mr. Begnaud's entitlements and specified restrictions. Those germane to this decision are as follows: 1) the mode of transportation authorized was by common carrier; 2) shipment of Mr. Begnaud's privately-owned vehicle (POV) was authorized; 3) shipment of excess baggage was authorized; and 4) travel by circuitous (i.e., indirect or not usually traveled) route was authorized provided that he bear any and all excess cost and charge excess time to annual leave.

Rather than flying from Frankfurt to New York, and driving by POV to Denver (which POV could have been shipped beforehand on an American-flag carrier), the Begnaud family traveled as follows:

- Frankfurt to Cherbourg, France via POV,
- Cherbourg to New York via the Queen Elizabeth II, a foreign-flag carrier (Mr. Begnaud's POV was also shipped on this vessel), and
- New York to Denver via POV.

As we have modified the questions presented by the Authorized Certifying Officer, the issues in this case may be framed as follows:

- 1) What is the correct method to be used in computing constructive costs?
- 2) May the constructive cost of shipping the POV on a foreign-flag carrier be allowed?
- 3) May the constructive cost of shipping excess baggage be allowed?

#### Legal Analysis

The basic statutory authority for the reimbursement of PCS travel expenses incurred by a civilian Government employee is found in 5 U.S.C. § 5724 (1982). This section also governs the transportation expenses of the immediate family and movement of household goods of such an employee. Ancillary to such entitlements, 5 U.S.C. § 5724a (1982) authorizes the payment of per diem, temporary quarters subsistence expenses, and reimbursement of certain other expenses not applicable here. The implementing regulations are found in the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), reproduced for GAO employees as Part II of GAO Operations Manual, Order No. 0300.1 (chg. 8, May 25, 1978), as amended (hereinafter cited by FTR paragraph number), and more specifically implemented by Parts III and IV of the Order.

Paragraph 1-2.2 of the FTR lists a rather broad range of methods of transportation (including airlines and ships) which are authorized for employee travel on official business. However, FTR para. 1-2.2c(1)(a) provides, in relevant part, that:

"[S]ince travel by common carrier (air, rail, or bus) will generally result in the most efficient use of energy resources and in the least costly and most expeditious performance of travel, this method shall be used whenever it is reasonably available."

Furthermore, FTR para. 1-2.2(e) provides, in relevant part, that:

"[E]xcept for travel between points served by ferries, travel by ocean vessel shall not be regarded as advantageous to the Government in the absence of sufficient justification that the advantages accruing from the use of ocean transportation offset the higher costs associated with this method of transportation; i.e., per diem, transportation, and lost worktime."

Thus, travel on the Queen Elizabeth II in this instance cannot be considered as travel on a common carrier; nor has it been suggested that it was as advantageous to the government. Where, as here, such an alternate mode of travel was chosen, the employee may be reimbursed only for the constructive cost of air travel (less than first class) and must bear any extra expense attributable to the alternate mode of travel. Tour Renewal Agreement Travel, 62 Comp. Gen. 596 (1983).

Additionally, paragraph 1-2.5a of the FTR provides that travel shall be performed by a usually traveled route and that an indirect or circuitous route between the authorized points of travel must be justified as officially necessary. When an employee, for his own convenience, however, travels by an indirect route, reimbursement for such travel is limited to expenses the employee would have incurred had he traveled by a usually traveled route. FTR para. 1-2.5b. See F. Leroy Walser, B-211295, March 26, 1984; Thea D. Willenburg and Warren R. Ham, B-211775, October 5, 1983. The fact that an employee's travel orders authorize circuitous travel is not controlling in the absence of an administrative determination that such travel is officially necessary. Sydney Smith, B-193923, January 3, 1980.

In this regard we note that the wording of paragraph 4a of Chapter 1, Part III of GAO-OM, Ord. No. 0300.1 (chg. 22, September 12, 1980) (para. 4a) implements FTR para. 1-2.5 in a more specific manner for GAO employees. Para. 4a, in relevant part, provides:

"a. Use of Indirect Routes. A traveler may use an indirect route for his convenience if he bears any resulting excess transportation costs and has the excess time charged to his annual leave. Transportation requests will not include such excess transportation (5 GAO 2020.80), but the travel voucher will show the actual itinerary (dates and places) used over the indirect route. Per diem allowable will not exceed that which would have been incurred on uninterrupted travel over a usually traveled route."

As discussed previously, Mr. Begnaud's travel from Frankfurt to New York was by a circuitous route. It is clear, therefore, that para. 4a, quoted above, sets forth the basic criteria for adjudicating Mr. Begnaud's claim for reimbursement on a constructive cost basis on that portion of his travel from Frankfurt to New York.

With one exception not relevant here, paragraph 2-2.3a of the FTR specifies that when an employee who is eligible for travel allowances uses a POV for PCS travel, that use is deemed advantageous to the Government. For example, Dominic D. D'Abate, B-210523, October 4, 1983, 63 Comp. Gen. \_\_\_\_\_, held that where the applicable regulations prescribe that travel by POV is deemed advantageous to the Government, the employee is entitled to be reimbursed on that basis despite a clause in his travel orders purporting to limit his reimbursement to the cost of travel by common carrier. Thus, FTR para. 2-2.3a governs reimbursement for Mr. Begnaud's use of his POV for that portion of his PCS travel from New York to Denver.

Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a) (1982), provides that the Comptroller General shall not allow expenditure of Government funds for foreign-flag vessels where American-flag vessels are available unless the necessity for the use of the foreign-flag vessel is demonstrated. Mary C. Garland, B-212359, December 27, 1983.

Finally, paragraph 1-4.3b of the FTR allows reimbursement of the cost of excess baggage when such cost would have been allowed had the traveler used the carrier upon which the constructive transportation costs are determined, provided the traveler certifies as to the weight of the baggage or presents other acceptable evidence of its weight. While, due to the wording of FTR para. 1-4.3, the former paragraph of the FTR seems to apply only where a POV is used for official purposes as a matter of personal preference instead of common carrier transportation, we believe its scope is sufficiently broad to allow reimbursement for the constructive cost of excess baggage when it is authorized as it was here. Thus, we believe it would cover the present case where there has been a change in the mode of transportation used to steamship.

#### Decision

Applying the above principles to this case, we observe that Mr. Begnaud can be reimbursed only for the constructive cost of air travel (less than first class) from Frankfurt to New York, and he must bear any extra expense attributable to the alternate mode of travel. Tour Renewal Agreement Travel, 62 Comp. Gen. 596, *supra*. In addition, he used an indirect route (instead of flying from Frankfurt to New York, he drove his POV to Cherbourg and took a steamship). Thus, para. 4a mandates that since the indirect travel was for Mr. Begnaud's own convenience, he can be reimbursed only for the travel expenses which he would have incurred had he traveled by direct route between Frankfurt and New York.

Continuing his trip, Mr. Begnaud then traveled by POV from New York to Denver. FTR para. 2-2.3a specifies that such use for PCS travel is advantageous to the Government. Thus, a constructive allowance based on a direct flight from Frankfurt to Denver plus shipment of his POV to Denver, as requested by Mr. Begnaud, is not appropriate. Instead, the Certifying Officer correctly limited Mr. Begnaud's reimbursement to (1) the constructive cost of a flight from Frankfurt to New York and (2) a mileage allowance and per diem on a direct routing from New York to Denver.

Mr. Begnaud contends that his constructive airfare should be based on "ambassador (business) class" rather

than "coach class." We disagree. As a general principle, the lowest-cost service is to be used when different fares are charged for the same type of accommodations between the same points unless the higher cost is administratively determined to be more advantageous to the Government. FTR para. 1-3.4b(1)(a); Tour Renewal Agreement Travel, supra, 62 Comp. Gen. at 597. GAO's travel policy implementing this general principle is to restrict PCS travel to economy class; the policy has been followed with regard to constructive cost reimbursement. Therefore, Mr. Begnaud's constructive cost should be based on the lower "coach class" for PCS travel.

On his travel voucher, Mr. Begnaud claimed \$1,353.84 for shipment of his POV on the Queen Elizabeth II, a foreign-flag carrier. American-flag carriers are available for freight shipments of POVs from most European ports. Thus, Mr. Begnaud's claim was denied in accordance with the provisions of § 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a) (1982). Mary C. Garland, B-212359, supra, at 2. Mr. Begnaud contends that this statutory authority does not apply in his case since he is claiming reimbursement on a constructive basis. His contention is in error. When an employee uses an unauthorized mode of travel or an indirect route, his agency must construct the correct mode or route in accord with the FTR. Thus, any items which would not have been allowed on an actual basis cannot be used for comparison on a constructive basis.

Finally, Mr. Begnaud's travel orders authorized excess baggage; he claimed \$266.40 based on a constructive shipment of such excess baggage. The Certifying Officer denied his claim pending receipt of documentation. See FTR para. 1-11.3c(1). As noted above, the scope of paragraph 1-4.3b of the FTR is broad enough to allow reimbursement of constructive costs for excess baggage when it is authorized, and covers the present case where there has been a change in the mode of transportation used. Thus, in accordance with his travel order authorization, Mr. Begnaud was eligible for reimbursement of his excess baggage on a constructive cost basis to the extent that the excess baggage expenses are based only on such charges as would have been incurred by a usually traveled route, i.e., on an airplane from Frankfurt to New York. However, although Mr. Begnaud was eligible for reimbursement of the

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excess baggage charges, he did not obtain any documentation of the weight or cost of what would be deemed excess baggage, but merely estimated the cost involved. Such a claim must be denied in view of FTR para. 1-11.3c(1) which requires receipts, and the general rule of 4 C.F.R. § 31.7 (1984) that the burden is on claimants to establish the liability of the Government and their right to payment.

Mr. Begnaud's voucher should be processed in accordance with the above.

*for* *Milton J. Arolan*  
Comptroller General  
of the United States