



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dwight Davis--Complimentary Airline Ticket--Official Travel

File: B-257704

Date: November 14, 1994

DIGEST

As a "gesture of concern" for the inconvenience caused by a 5-hour flight delay, an airline gave a government employee traveling on official business a complimentary ticket good for one round trip to any destination served by the airline. Because the ticket is a gift that was received incident to official travel, the ticket belongs to the government, and the employee may not use the ticket for personal travel.

DECISION

The Internal Revenue Service requests a decision whether Mr. Dwight Davis may retain for his personal use a complementary round-trip airline ticket that he received while on official travel.¹ The answer is no.

BACKGROUND

The agency authorized Mr. Davis, who is the Chief of the Examinations Division in the agency's Cleveland District, to travel to Denver, Colorado, for training. Mr. Davis's flight was delayed by 5 hours. Because of the delay, the airline provided him with a letter of apology and, as a "gesture of concern," a complimentary round-trip ticket valid for 1 year for travel to any destination served by the airline.

The agency questions whether Mr. Davis may use the ticket for his personal use because of agency and government-wide regulations obligating employees to turn over to their agencies all "promotion materials . . . received by employees in connection with official travel". Federal Travel Regulation (FTR), 41 C.F.R. § 301-1.1-3(b) (1993). See also Internal Revenue Manual § 470 (Nov. 9, 1993).

¹The request was submitted by the agency's Fiscal Management Officer, Central Region.

Mr. Davis, however, argues that the ticket is not "promotional material" because the airline provided the ticket to him as a result of the airline's poor performance, and not in connection with any specific promotion or incident to the purchase of the initial ticket. Further, he argues that the logic of an exception permitting employees to retain compensation for voluntarily vacating a reserved airline seat when the flight is oversold seems applicable to his case.

OPINION

A fundamental principle of federal personnel law is that an employee must account for any gift or gratuity received from private sources incident to the performance of official duty, since generally such a gift or gratuity is viewed as having been received on behalf of the government. See Elizabeth Duplantier, 67 Comp. Gen. 328 (1988), and John B. Currier, 59 Comp. Gen. 95 (1979), and cases cited therein.

This principle is reflected in the Federal Travel Regulation provision, cited above, that prohibits employees from keeping for their personal use promotional items received "in connection with" official travel. This regulation specifically includes among its examples of promotional items "gifts" and "credits toward future free" service. FTR § 301-1.103(b).

Although Mr. Davis would limit the meaning of the term "promotional materials" to items given in connection with booking the travel or purchasing the ticket, the plain meaning of the words used in the regulations would include anything of value given to enhance a company's image or customer service. Clearly, the free ticket given to Mr. Davis was intended to promote the airline's image.

As to the limited exception the FTR provides, to which Mr. Davis analogizes the circumstances of his receipt of the free ticket, this exception applies under specified circumstances to permit employees to retain compensation given to travelers who voluntarily give up their reserved seats when a flight is oversold, FTR § 301-3.5(c). By contrast, the FTR also explicitly prohibits employees from keeping any compensation given them when an airline involuntarily "bumps" them from a flight. FTR § 301-3.5(b). The rationale for this distinction is that the payment given for voluntarily relinquishing a seat is in furtherance of the government's regulatory policy requiring airlines to encourage volunteers to give up their seats on oversold flights to reduce to the smallest number possible those who would be denied boarding on an oversold airline flight. See Charles E. Armer, 59 Comp. Gen. 203, 205 (1980).

Clearly, Mr. Davis's receipt of the free ticket does not fall within the limited exception provided by FTR § 301-3.5(c). An involuntary delay is more analogous to an involuntary "bump" from a flight, the compensation for which employees are required to turn over to their agency. FTR § 301-3.5(b). Accordingly, under the regulations cited above and the long-standing rule that any gift received in such circumstances belongs to the government,

Mr. Davis may not retain the ticket for his personal use but must relinquish it for use by his agency.²

/s/ Seymour Efros
for Robert P. Murphy
Acting General Counsel

²Although it is not clear whether this ticket may be transferred to another agency employee for use on official business, it clearly would be available for use by Mr. Davis for any future official travel he may perform to a destination served by the airline within the period of the ticket's validity.