



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

B-217805

April 11, 1986

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FOR 30 DAYS

The Honorable E. Thomas Coleman
House of Representatives

Dear Mr. Coleman:

This is in response to your letter of February 19, 1985, with enclosures, asking us to report on the merits of an incentive award submitted by your constituent, [redacted] to his employing agency, the Small Business Administration. [redacted] proposes a system under which employees traveling on official business on behalf of the Government would be exempt from state and local taxes for lodging expenses incident to their official travel. Although we believe our previous decisions do not preclude the proposed system, it appears that practical considerations may render it economically disadvantageous. In any event, the General Services Administration (GSA), the executive branch agency responsible for administering the travel reimbursement statutes and regulations, would be the agency authorized to implement this proposal.

Citing GSA's figures, [redacted] asserts that Federal employees traveling on official business are annually reimbursed \$1.75 billion for hotel and motel accommodations--\$158 million of which are state and local taxes. Basically, Mr. [redacted] suggests that the Government assume direct responsibility for the lodging costs of its employees so it could exercise its constitutional immunity from paying state and local taxes. His proposal contemplates providing Federal employees with credit cards issued in the name of the Government, thereby making the Government rather than the employee the purchaser of the accommodations.

Mr. [redacted] refers to two decisions of the Comptroller General, 55 Comp. Gen. 1278 (1976) and 53 Comp. Gen. 69 (1973), as explaining the current rule concerning the reimbursement of Federal travelers. As he points out, the decisions state that although the Government eventually reimburses the employee, the legal incidence of state and local taxes is on the employee and not on the Government so that the Government cannot claim its constitutional exemption.

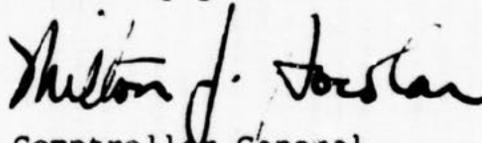
Mr. [redacted] suggests that we overrule or modify our holdings in 55 Comp. Gen. 1278 and 53 Comp. Gen. 69. However, these decisions do not preclude the Government from entering into contracts with hotels to pay for the lodging expenses of Federal employees. In fact, under certain circumstances the Government does enter into such contracts. See e.g., 41 Comp. Gen. 780 (1962); B-122198, August 1, 1955. Our decisions merely indicate that the Government may exercise its constitutional immunity not to pay state and local taxes only when it is a party to the lodging contract. Accordingly, the cited cases would not preclude implementation of Mr. [redacted] s suggestion.

Although there is no legal bar to Mr. [redacted] proposal, we believe there are certain practical matters which might render the system economically disadvantageous. Distribution of credit cards issued in the Government's name could subject the Government to liability for expenses resulting from inappropriate use of the cards. Further, issuance of such cards would require new administrative services, the cost of which could exceed the savings realized by eliminating state and local taxes.

While we do not believe the system proposed by [redacted] is legally precluded, it is not clear that the suggestion has economic merit in light of these practical considerations. In any event, the General Accounting Office is not authorized to implement such a suggestion. Implementation of such a proposal would have to be effected by GSA, the executive branch agency responsible for administering the travel reimbursement statutes and regulations.

We appreciate the time and effort which [redacted] put into his suggestion.

Sincerely yours,



Acting Comptroller General
of the United States