



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-173783.127

FEB 7 1975

Mr. B. K. Meade, Chief
Control Networks Division (Retired)
National Geodetic Survey
NOAA-National Ocean Survey
Rockville, Maryland 20852

Dear Mr. Meade:

We refer to your letter of January 13, 1975, with enclosures, requesting a ruling on the legal aspects of a decision by your former employing agency, the Department of Commerce, to change the official payday for its employees from January 1, 1975, to December 31, 1974.

It has long been our practice to render formal decisions only to heads of departments and agencies, disbursing and certifying officers, and to claimants who have filed monetary claims with our Office, with certain other exceptions not relevant in this instance. See 31 U.S.C. 74 and 82d (1970). However, we offer the following informal comments on the question you have raised.

The decision of the Department of Commerce to change its payday from January 1, 1975, to December 31, 1974, appears to conform to current Government policy with regard to agencies whose paydays fall on holidays. The Division of Disbursements Procedures Manual, Part I, § 1116 (April 1973), issued by the Fiscal Service Bureau of Government Financial Operations, Department of the Treasury, states in pertinent part:

"* * * Special arrangements may be necessary when the payday falls on a holiday. With the exception of central payrolls which are processed on a fragmented basis, each disbursing center may make special arrangements with the agency for dating and releasing the checks on the first workday preceding the normal payday, provided agencies can submit check issue data and certifications in ample time for disbursing office processing. Otherwise, checks will be dated on the first workday following the holiday. When the January 1 holiday

B-173783.127

coincides with the regular payday, the agency will make a determination as to whether the checks will be dated prior to or following the holiday, depending on which tax year the earnings are to be included. * * *

On November 8, 1974, the Washington Disbursing Center of the Bureau of Government Financial Operations submitted to all Federal agencies its services Management Letter No. 14, Supplement 22, allowing each agency whose scheduled payday fell on either Thanksgiving Day 1974, Christmas Day 1974, or New Years Day 1975 to change its payday to the workday preceding or following the holiday. A copy of this letter is enclosed. It appears that the decision of the Department of Commerce to change its payday to the workday preceding New Years Day was precisely as contemplated by the above Division of Disbursements Procedures Manual provision and the enclosed letter. While an advancement of pay is prohibited under 31 U.S.C. § 529 (1970), no advance occurred in this instance, as the pay period for which you were paid on December 31, 1974, ended on December 21, 1974, and all sums were earned by you prior to payment. We can find no other statutory authority which would prohibit the forwarding of a payday by an agency in these circumstances.

In your letter you also state that the payment you received on December 31, 1974, should be excluded from your 1974 taxable income and included with your taxable income for 1975. Our Office lacks jurisdiction to pass upon this question. B-147153, November 21, 1961. However, you have a right to present this matter directly to the District Director of the Internal Revenue Service with whom you file your income tax return.

We hope these comments satisfactorily answer your questions.

Sincerely yours,

Rollae Lowenstein

Rollae Lowenstein
Assistant General Counsel

Enclosure