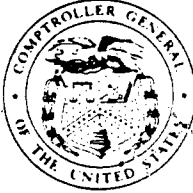


## DECISION



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

30913

FILE: B-182500

DATE: SEP 4 1975

MATTER OF: Carl H. Cotterill - Reimbursement for  
use of privately owned automobile

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- DIGEST:
1. Although on basis of our decisions agency travel regulation requires the actual versus constructive costs for transportation and per diem to be compared separately in determining employee's reimbursement when, for personal reasons, privately owned conveyance is used in lieu of common carrier transportation, our decisions were based on our interpretation of regulations which have been superseded. We interpret the current regulation, FTR para. 1-4.3, as requiring agency to determine employee's reimbursement for such travel by comparing total actual costs to total constructive costs. 45 Comp. Gen. 592 and 47 Comp. Gen. 686 will no longer be followed.
  2. Since rental cars and taxicabs are considered special conveyances under Federal Travel Regulations, the constructive cost of local travel by such modes may not be included as constructive cost of common carrier transportation under FTR para. 1-4.3 for purpose of determining maximum reimbursement when for personal reasons privately owned conveyance is used in lieu of common carrier transportation. However, to extent such local travel is authorized, the constructive cost of common carrier transportation (bus or streetcar) for such travel may be included or use of privately owned conveyance may be approved as being advantageous to the Government and reimbursement determined on this basis.

On the basis of a reclaim voucher submitted by Mr. Carl H. Cotterill representing travel expenses incurred by him while performing temporary duty, an authorized certifying officer for the Bureau of Mines, United States Department of the Interior, has requested an advance decision as to the proper method of determining constructive travel expenses when as a matter of personal preference a privately owned automobile is used for official travel in lieu of common carrier transportation.

PUBLISHED DECISION

55 Comp. Gen. ....

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By a travel order dated June 10, 1974, Mr. Cotterill was authorized to travel from Washington, D.C., to Troy, New York, and return to perform temporary duty. Mr. Cotterill was authorized to travel by a privately owned automobile but reimbursement was limited to a mileage rate of 12 cents per mile, not to exceed the cost of travel by common carrier including consideration of per diem. The travel order also authorized the use of taxicabs.

In submitting his voucher for reimbursement for this travel, Mr. Cotterill claimed reimbursement for the total of his actual mileage plus the actual per diem for this travel. This total was less than the total of the constructive cost of common carrier transportation plus the constructive per diem by that mode of transportation. In computing the constructive cost of common carrier transportation, Mr. Cotterill included a constructive cost of \$54.10 for renting an automobile to perform 108 miles of local travel in Troy. Although Mr. Cotterill has not claimed reimbursement for the use of his automobile for this local travel, his voucher indicates that he did use his car to perform 108 miles of official local travel in Troy.

The Bureau of Mines, however, computed his allowable reimbursement by comparing the actual versus the constructive costs for transportation and per diem separately rather than comparing the total actual costs with the total constructive costs as claimed by Mr. Cotterill. This resulted in a suspension of \$25 of his claim because he was allowed actual mileage cost (\$119.63) which was less than the constructive transportation costs and was allowed constructive per diem (\$118.75) which was less than the actual per diem by 1 day or \$25. The Bureau of Mines states that on the basis of our decisions, 45 Comp. Gen. 592 (1966), and 47 Comp. Gen. 686 (1968), the Bureau of Mines Revised Travel Handbook, May 1972, requires the actual versus the constructive costs for transportation and per diem to be compared separately. Moreover, on the basis of our decision, B-178005, April 4, 1973, the Bureau of Mines has questioned the propriety of including as a constructive transportation cost the constructive cost of renting an automobile for local travel.

In 45 Comp. Gen. 592, supra, we concluded that separate limitations were required on the payment of mileage and per diem. That decision was based on our interpretation of section 3.5b(2) of Bureau of the Budget Circular No. A-7 (March 1, 1965), which

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prescribed in paragraphs (a) and (b) separate methods for determining mileage and per diem payments when, for personal reasons, employees elect to use their own automobile for official travel.

However, that provision was superseded by section 4.3 of Office of Management and Budget Circular No. A-7 (August 17, 1971). Section 4.3 (currently, Federal Travel Regulations (FPMR 101-7) para. 1-4.3 (May 1973)) provided for payment for the use of a privately owned conveyance in lieu of common carrier transportation in part as follows:

"\* \* \* Whenever a privately owned conveyance is used for official purposes as a matter of personal preference in lieu of common carrier transportation under 2.2d payment for such travel shall be made on the basis of the actual travel performed \* \* \* plus the per diem allowable for the actual travel but the total allowable will be limited to the total constructive cost of appropriate common carrier transportation including constructive per diem by that method of transportation. \* \* \*" (Emphasis supplied.)

In view of the references in section 4.3 to "the total allowable" and "the total constructive cost," we believe that this provision should be interpreted as requiring an agency to determine an employee's entitlement to reimbursement for such travel on the basis of his total actual travel costs (transportation and per diem), limited to the total constructive travel costs (transportation and per diem).

This conclusion is supported by the explanation of the revision of section 4.3, Office of Management and Budget Circular No. A-7 (August 17, 1971), contained in the "Summary of Changes" issued by the Office of Management and Budget on August 17, 1971, in connection with the revision of that circular. The "Summary of Changes" explains the purpose of the revision of section 4.3 as follows:

"\* \* \* Reworded to provide that total allowance for actual travel (including per diem) will be limited by total constructive allowance (including per diem)."

The requirement of the Bureau of Mines Revised Travel Handbook to compute an employee's entitlement to reimbursement for the use of a privately owned conveyance as a matter of personal preference in lieu of common carrier transportation on the basis of separate limitations on transportation and per diem is inconsistent with the above interpretation of FTR para. 1-4.3 (May 1973). Accordingly, the Bureau of Mines Revised Travel Handbook should be revised to provide, in accordance with FTR para. 1-4.3 (May 1973), that the total reimbursement allowable for the use of a privately owned conveyance as a matter of personal preference in lieu of common carrier transportation is limited to the total amount of the constructive cost of common carrier transportation plus constructive per diem by that mode of transportation. Since the Bureau of Mines Revised Travel Handbook is valid only to the extent it is consistent with the FTR, Mr. Cotterill's reimbursement should be computed in accordance with the above interpretation of FTR para. 1-4.3 (May 1973). To the extent that our decisions 45 Comp. Gen. 592, supra, and 47 Comp. Gen. 686, supra, are inconsistent with this decision, they should no longer be followed.

Concerning the propriety of including the constructive cost of a rental car for 108 miles of official local travel as a constructive transportation cost for determining the maximum allowable reimbursement for the use of a privately owned conveyance as a matter of personal preference in lieu of common carrier transportation, Mr. Cotterill has requested approval of the use of a rental car and was authorized to use taxicabs. However, rental cars and the use of taxicabs for local travel are regarded as special conveyances under the FTR. See, FTR paras. 1-2.2c(4) and 1-3.2a (May 1973). Thus, except for the use of taxicabs for travel to and from common carrier terminals under FTR para. 1-4.3b (May 1973), the constructive cost of rental cars or taxicabs may not be included as a constructive cost of common carrier transportation under FTR para. 1-4.3 (May 1973) since these modes of travel are not considered to be common carrier transportation. Cf. B-132872, October 3, 1957; B-147285, October 24, 1961; and B-178005, supra.

However, under FTR para. 1-2.3a (May 1973), transportation by bus or streetcar is authorized at a temporary duty station between places of business and between places of lodging and business. Moreover, FTR para. 1-2.3b (May 1973) provides that

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the expense of daily travel at a temporary duty station required to obtain meals may be approved as necessary transportation. To the extent that the 108 miles of local travel performed by Mr. Cotterill was of the type covered by these provisions and where necessary is approved, the constructive cost of this transportation by common carrier (bus, streetcar, etc.) may be included in the constructive cost of transportation under FTR para. 1-4.3 (May 1973). In the alternative, since Mr. Cotterill was authorized to use taxicabs as being advantageous to the Government in the performance of his temporary duty, it appears that it could be determined under FTR para. 1-2.2c(3) (February 6, 1974), that the use of his automobile for local travel at his temporary duty station was advantageous to the Government. In this case reimbursement for the use of his automobile for the local travel would be determined under the provisions of FTR para. 1-4.2a (February 6, 1974).

R.F. KELLER  
Deputy Comptroller General  
of the United States