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DECISION



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

FILE: 5-106829

DATE: JAN 27 1977

MATTER OF: Harry Kushner--Claim for additional travel expenses

DIGEST: Employee on temporary duty incurred additional travel expenses when his automobile broke down upon return to official duty station. Claim for travel to residence and return travel to pick up automobile may be allowed since additional expenses were incurred incident to official travel where use of automobile was advantageous to Government, employee's actions were reasonable and in accord with agency instructions, and overall saving to Government was effected. Also, under circumstances charge to annual leave for excess traveltime should be restored by administrative agency.

This action is in response to the request for an advance decision from Marguerite J. Pietrangolo, an authorized certifying officer of the Internal Revenue Service (IRS), Mid-Atlantic Region, dated August 7, 1975, reference AIF:WFO/ag, regarding payment of the voucher of Mr. Harry Kushner, an IRS employee assigned to the Philadelphia Regional Office, for additional travel expenses incurred while on temporary duty due to the breakdown of his privately owned automobile.

The record indicates that on June 12, 1975, Mr. Kushner was authorized to travel to the Newark, New Jersey, IRS office and return by privately owned automobile. He departed from his residence on the morning of June 12, drove to Newark, and completed his business that day. Upon his departure from Newark that day Mr. Kushner experienced a mechanical breakdown of his automobile. He then left his vehicle in Newark to be repaired and returned to Philadelphia and his residence that evening by train and bus. Mr. Kushner returned to Newark the next morning at his own expense on annual leave and drove his automobile back to Philadelphia. Mr. Kushner has already been reimbursed for his mileage to Newark (\$9.96), tolls (\$.60), and his bus fare from Philadelphia to his residence the evening of June 12 (\$.65). Mr. Kushner used a Government Transportation Request for the return travel by train from Newark to Philadelphia. The employee has now claimed reimbursement for his train fare back to Newark

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on June 13 (\$5.25) and his mileage (\$9.96) and tolls (\$1.00) back to Philadelphia. In addition, Mr. Kachner's supervisor has requested that he not be charged annual leave on June 13.

It has been held that a mechanical breakdown of an employee's automobile and the resulting delay in travel is not incident to official duty but personal to the employee and not compensable through additional per diem. 20 Comp. Gen. 120 (1940); and B-199509, June 16, 1959. Moreover, it was later held that where use of the employee's automobile has been determined to be advantageous to the Government, where the delay incurred was reasonable, and where the traveler's actions were in accord with administrative instructions, the breakdown and subsequent delay may be viewed as incident to official travel and per diem need not be reduced. 42 Comp. Gen. 436 (1963), modifying 20 14. 120, supra.

The submission from the agency states that this claim has met the conditions set forth in 42 Comp. Gen. 436, supra, in that use of the automobile was determined to be advantageous to the Government, the traveler's actions were reasonable in returning to his residence rather than incurring per diem expenses in Newark overnight, and his actions were approved administratively, although after the fact. From the facts presented it appears that the employee acted prudently and an overall savings to the Government in travel expenses was realized since the additional expense to the Government, the total of the train fares of \$5.25 each and one bus fare of \$.65, is less than the expense of per diem for one night in Newark. Therefore, these expenses may be paid in accordance with 42 Comp. Gen. 436, supra. See also B-178558, June 20, 1973.

Accordingly the voucher may be certified for payment if otherwise proper.

With regard to the question of charging the employee annual leave while he returned to Newark to retrieve his automobile, our Office has held that, although matters of charging leave to an employee are primarily matters for the administrative office, our Office will in an appropriate factual situation disapprove the granting of excessive time off without a charge to annual leave, as well as an unwarranted charge to annual leave. 39 Comp. Gen. 250, 251 (1959). In that case we disapproved the charge of annual leave

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for the reasonable time required by an employee to drive between his old and new stations upon transfer when he had been authorized to use his privately owned automobile. In other cases, our Office has not objected to an administrative determination to excuse an employee without a charge to leave where the employee's travel was delayed due to an airline strike, B-160278, December 23, 1966, and has disapproved a leave charge where an employee failed to report for duty one afternoon after having returned from temporary duty by airplane overnight and travel was not required during nonduty hours. B-181363, August 23, 1974. Under the circumstances present in the instant case annual leave should not be charged to the employee.

R. F. KELLER

Deputy | Comptroller General
of the United States