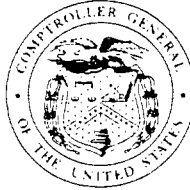


**DECISION**

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

*L. W. Ward & Co.**G F M**GAO 00044**8807*

FILE: B-193104

DATE:

JAN 9 1979

*AC 600004*

MATTER OF: Internal Revenue Service - [Reimbursement  
for Purchase of Rainwear]

DIGEST: Raincoats, umbrellas and rubber boots to be used by Internal Revenue Service (IRS) clerks required to make daily trips in New Orleans' frequently inclement weather may not be purchased from appropriated funds in the absence of specific statutory authority. Such items constitute personal furnishings and may not be deemed "special clothing and equipment" for purposes of 5 U.S.C. § 7903.

This is in response to a letter from Elizabeth A. Allen, Certifying Officer and Chief, Fiscal Section, Southwest Regional Office (Region), Internal Revenue Service (IRS), requesting an advance decision as to whether a small purchase imprest fund maintained in IRS' New Orleans District Office (District) may be reimbursed from appropriated funds for \$68.80 paid from the imprest fund for the purchase of umbrellas, raincoats, and rubber boots for use by clerks performing official business during New Orleans' frequently inclement weather.

In November, 1977, James Anthony Jones, an IRS employee in the District, purchased two umbrellas, two raincoats, and two pairs of rubber boots for use by a mail clerk required to make daily trips to the New Orleans Post Office and a supply clerk required to make trips to the New Orleans General Services Administration Store. The submission indicates that these items were purchased for the District and were not to be the personal possessions of the individual clerks. The imprest fund cashier paid Mr. Jones \$68.80 upon presentation of a duly approved purchase invoice. Prior to approving the purchase, District personnel had sought advice from the Regional Office having operating authority over the District, and were told by Mr. Ed Teinert, Chief, Acquisition, Telecommunications and Printing, that the purchase would be proper. However, the cashier's reimbursement voucher--Invoice No. 5467, subvoucher No. 34--for the purchase was disallowed by IRS' Regional Fiscal Management Branch. The IRS Regional Counsel was subsequently consulted and concurred with the disallowance.

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The disallowance was based on numerous decisions of this Office construing 5 U.S.C. § 7903 (1976), which provides:

"Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. \* \* \*"

Questions concerning the propriety of furnishing special clothing and equipment to civilian employees have been considered many times by this Office and it has been held that where such equipment is essential to the safe and successful accomplishment of the work involved, payment may be made from appropriations otherwise available for such work. However, if the equipment is solely for the protection of the employee without resulting benefits to the Government, and of the type that the employee might be expected to furnish as part of the personal equipment necessary to enable him to perform the regular duties of his position, then payment may not be made from appropriated funds in the absence of specific authority therefor. 32 Comp. Gen. 229 (1952); 3 id. 433 (1924). The equipment must be "special" and the employees for whom it is purchased must be engaged in hazardous duty. 51 Comp. Gen. 446 (1972).

While raincoats, umbrellas, and rubber boots certainly provide protection from rain, we are not willing to consider walking in the rain as hazardous duty. In our view, such items must be viewed as personal to the employees and relate only incidentally to their employment with the Government. In a very similar case, we said:

"While raincoats are, of course, a protection in rainy weather, they are in no sense special equipment but are ordinary and usual articles of clothing and equipment, such as individuals in any walk of life may and frequently do possess and use in the performance of their duties or otherwise." B-122484, February 15, 1955. See also 5 Comp. Gen. 318 (1925).

We must conclude, therefore, that the use of appropriated funds for the purchase of such items is not authorized by 5 U.S.C. § 7903. Further, the items in question are not required uniform items pursuant to 5 U.S.C. § 5901 (1976) nor are we aware of any other specific statutory authority which would permit the purchase in question. Accordingly, the imprest fund reimbursement voucher cannot be allowed. The fact that, as stated in the submission, the purchase was made in good faith with no intention to defraud the Government is immaterial with respect to the propriety of the expenditure.

In informal discussions with IRS personnel in connection with this case, the question was raised whether the imprest fund cashier may be relieved of liability for the improper disbursement of \$68.80 from the imprest fund. The accountability for imprest funds rests with the disbursing officer who advanced the funds. 7 GAO Policy and Procedures Manual § 27.6 (1967). Under 31 U.S.C. § 82a-2 (1976), the Comptroller General or his designee may relieve a disbursing officer from liability for an illegal, improper or incorrect payment if the Comptroller General or his designee determines that such payment was not the result of bad faith or lack of due care on the part of the disbursing officer. Such relief may be denied in any case in which the Comptroller General or his designee determines that the agency concerned has not diligently pursued collection action, where appropriate, in accordance with the Federal Claims Collection Act of 1966, 31 U.S.C. §§ 951 et seq. (1976), and its implementing regulations at 4 C.F.R. Parts 101 et seq. Therefore, "relief" of an imprest fund cashier in the case of an illegal or improper payment must be accomplished through 31 U.S.C. § 82a-2.

This Office has authorized administrative resolution of irregularities under \$500 in the accounts of accountable officers. 54 Comp. Gen. 112 (1974). Accordingly, in view of the amount involved, the question of relief in this case is for consideration by the appropriate IRS officials, in conformity with the standards set forth in 31 U.S.C. § 82a-2. See Internal Revenue Manual 1724, Imprest Funds Handbook, Chapter 900 (1978).

R.F.KELLER

Deputy      Comptroller General  
             of the United States