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DECISION



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

FILE: B-195288

DATE: January 29, 1980

addressed

MATTER OF: Payments for Quarters Maintenance and Operation Expenses from Salary Deductions for Quarters

DIGEST: Forest Service Certifying Officer may use amounts remaining in appropriations as a result of payroll deduction for use of Government quarters, for maintenance and operation expenses of such quarters. 5 U.S.C. § 5911(c) allows such deductions to remain in applicable appropriation and Forest Service's appropriations from which salaries are paid are available for such expenses.

The Unit Certifying Officer, Black Hills National Forest, Forest Service, Department of Agriculture (Department), has requested an advance decision on the propriety of using rent collected from Forest Service employees for the use of Government quarters to pay for the maintenance and operation expenses of such quarters. He also questions the propriety of the Office of Management and Budget (OMB) determination that salary deductions be treated as reimbursements rather than refunds.

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The rental charges are collected from employees through salary deductions pursuant to 5 U.S.C. § 5911(c). The certifying officer states--

"The Office of Management and Budget has determined that employee salary deductions for quarters must be treated as reimbursements rather than appropriation refunds.

"My instructions are to charge quarters maintenance and operational expenses, up to the amount of salary deductions to the reimbursement accounts.

"The law authorizing the furnishing of quarters to employees (5 U.S.C. § 5911) does not provide for applying the deduction for quarters to maintenance of buildings.

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"Does the OMB determination supersede the law?"

For reasons set forth below, we conclude that payroll deductions for the use of Government quarters may be used to pay for quarters maintenance and operation expenses since the Forest Service appropriations out of which salaries are paid are available for such purposes.

The statutory provision in question, 5 U.S.C. § 5911, authorizes heads of agencies to provide employees with quarters and facilities "when conditions of employment or of availability of quarters warrant the action." Under 5 U.S.C. § 5911(c), rates for quarters and charges for facilities--

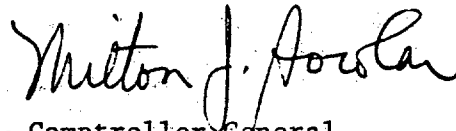
". . . shall be paid by, or deducted from the pay of, the employee or member of a uniformed service, or otherwise charged against him in accordance with law. The amounts of payroll deductions for the rates and charges shall remain in the applicable appropriation or fund. When payment of the rates and charges is made by other than payroll deductions, the amounts of payment shall be credited to the Government as provided by law." (Emphasis added.)

Under the above statutory provision, the amount of the rental charges may be collected from employees either through payroll deductions or by direct payment. If the amount is collected through a payroll deduction, it remains in the appropriation or fund out of which salaries are paid. If payment "is made by any other method, such as payment in cash, the amounts of the payment shall be credited to the Government as otherwise provided by law. In most cases such cash payments would go to the general fund of the Treasury, or to a revolving fund or appropriation from which the expenses of the operation involved are paid." H. Rep. No. 88-1459, 88 Cong. Sess., 12 (1964).

The statute, 5 U.S.C. § 5911(c), supra, specifically states that payroll deductions "shall remain in the applicable appropriation or fund." We understand that the Forest Service appropriation out of which salaries are paid is available for the payment of operation and maintenance expenses of Government quarters. Therefore, any funds remaining in the appropriation as a result of payroll deduction for Government quarters would be available for the expenses of operating and maintaining those quarters as well as any other expenses properly payable from that appropriation.

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OMB's Assistant Director for Budget Review advised in a letter to us that deductions from employees for quarters and subsistence should be treated as reimbursements to be credited to the appropriation or fund account that provides the service when there is legal authority--such as that contained in 5 U.S.C. § 5911(c)--to do so. In the absence of specific statutory authority to return them to agency appropriations, employee payments (as distinguished from salary deductions) for quarters and subsistence must be deposited to miscellaneous receipts. We agree with OMB's position.



For the Comptroller General
of the United States