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DECISION



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

FILE: B-205694

DATE: September 27, 1982

MATTER OF: Rand E. Glass - Computation of Constructive
Travel Costs - Rental Cars

DIGEST:

When an employee uses a privately owned vehicle for official travel as a matter of personal preference in lieu of common carrier transportation, payment is limited to the total constructive cost of common carrier transportation including constructive per diem by that method of transportation. Paragraph 1-4.3 of the Federal Travel Regulations, FPMR 101-7 (May 1973). Despite the unavailability of common carrier transportation for local travel, the constructive cost of a rental car for local travel at the temporary duty location may not be included in the total constructive cost of common carrier transportation.

C. M. Lampman, an authorized certifying officer of the Defense Logistics Agency, has requested an advance decision from our Office as to whether the constructive cost of a rental car for temporary duty (TDY) local travel may be included in the computation of the total constructive cost of common carrier transportation when an employee uses a privately owned vehicle (POV) for official travel as a matter of personal preference and common carrier transportation for local travel is unavailable. This request for an advance decision has been approved by the Per Diem Travel and Transportation Allowance Committee and assigned PDTATAC Control No. 81-36.

We conclude that, when an employee uses a POV for official travel as a matter of personal preference in lieu of common carrier transportation, the constructive cost of a rental car for local travel at the temporary duty location may not be included in the total constructive cost of common carrier transportation.

Mr. Rand E. Glass, an employee of the Defense Logistics Agency, was ordered on TDY for several days in August 1981 from his permanent duty station in Orlando, Florida, to the Washington, D.C., area, and return. At his election, as a matter of personal preference, he flew from Orlando to Norfolk, Virginia, and then drove a POV from there to Washington, D.C. He used the POV for his TDY local travel and for return travel to his residence in Orlando. Mr. Glass incurred actual travel expenses of \$399.01, of which \$10.70 was for TDY local travel on a mileage basis. He claimed \$337.20, as the upper limit of the total constructive cost of appropriate common carrier transportation. Mr. Glass arrived at his constructive cost figure by adding \$35 as the round-trip taxi fare between his residence and the airport at Orlando, \$230 for round-trip air fare between Orlando and Washington, and \$72.20 as the cost of a rental car for the TDY local travel. Mr. Glass' agency disallowed the constructive cost of a rental car from the total constructive cost of appropriate common carrier transportation. Mr. Glass continues to seek inclusion of the cost of the rental car for the TDY local travel in computing the total constructive cost.

Subchapter I of Chapter 57 of Title 5, United States Code (5 U.S.C. §§ 5701-5709), provides the authority to allow travel expenses and mileage allowances for Federal employees, and is supplemented by the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). Paragraph 1-4.3 of the FTR provides that when an employee uses a POV for official travel as a matter of personal preference in lieu of common carrier transportation, payment is limited to the total constructive cost of appropriate common carrier transportation, including constructive per diem by that method of transportation. The subordinate regulations governing Mr. Glass' agency are contained in volume 2 of the Joint Travel Regulations (2 JTR), which provide in paragraph 2152 (change 185, March 1, 1981) that, when an employee uses a POV as a matter of personal preference while traveling on official business, the total payment may not exceed the total constructive cost of the mode of common carrier that would have been provided by the transportation officer, including constructive per diem for travel by that mode.

Rental cars and taxis for local travel are special conveyances, under the FTR, rather than common carriers. See FTR paragraphs 1-1.3c(5) and 1-2.2c(4). For that reason, we have held that the constructive cost of rental cars or taxis may not be included as a constructive cost of common carrier transportation under FTR paragraph 1-4.3 for the purpose of determining the employee's maximum reimbursement when for personal reasons a POV is used in lieu of common carrier transportation. Carl H. Cotterill, 55 Comp. Gen. 192, 195 (1975); B-178005, April 4, 1973.

Further, the purpose of FTR paragraph 1-4.3 is to provide a limitation on reimbursement based on the constructive costs of traveling to and from the TDY area. It was not intended to include constructive local travel expenses in the TDY area, including special conveyances among other modes of local travel. The wording "total constructive cost" was not present in section 3.5a of Standard Government Travel Regulations Circular No. A-7 (August 1, 1956), a predecessor to FTR paragraph 1-4.3. However, by Bureau of the Budget Circular No. A-7, Transmittal Memorandum No. 6, (February 7, 1967), the words "constructive cost" were added, specifically including "related per diem." Apparently because of the use of a conjunctive, a problem arose with separate constructive cost limitations being applied to mileage and per diem. See B-183480, September 4, 1975. Office of Management and Budget Circular No. A-7 (August 17, 1971) section 4.3, subsequently remedied that problem by adding the word "total" to the phrase "constructive cost" and specifically including per diem as a component of this cost. The "Summary of Changes" in that document specifically states that that change was, "[r]eworded to provide that total allowance for actual travel (including per diem) will be limited by total constructive allowance (including per diem)."

Thus, the word "total" as used in FTR paragraph 1-4.3's phrase "total constructive cost" was intended to include constructive common carrier and per diem costs together in the limitation; it was not intended to include constructive local travel costs in the TDY area. Our decisions have long ago recognized that local travel costs in the TDY area are separate from constructive travel costs to and from the TDY area and not to be considered as

a unit in determining the constructive cost of travel by common carrier, See Albert L. Hedrick, B-181046, November 12, 1974; B-147285, October 24, 1961; B-132872, October 3, 1957.

Accordingly, Mr. Glass' claim for inclusion of the constructive cost of a rental car in the computation of his constructive cost by common carrier under FTR paragraph 1-4.3 is denied.

Mr. Glass argues that the Government cannot determine that the use of a POV for travel to and from a TDY area is not advantageous to the Government, and then determine that the use of that POV once it is at the TDY area is advantageous to the Government--without paying the cost of getting that POV to and from the TDY area. We point out that Mr. Glass chose to travel by POV in getting to and from the TDY area; he must bear the financial consequences of his election. Once the employee is at the TDY area, he may only be reimbursed his actual authorized local travel expenses incurred--not the constructive local travel in the TDY area.

Based on the unavailability of commercial public transportation and the agency practice of authorizing Government rental cars as the normal mode of transportation for its employees on TDY in the Washington area, the certifying officer suggests either that a change in the JTR regarding the use of special conveyance costs in constructive cost calculations should be made, or that B-182500 (Carl H. Cotterill) should be reconsidered. We disagree because our position is required by FTR paragraph 1-4.3. Any change in this regulation must come from the General Services Administration, not from our Office.

While the constructive cost of rental cars or taxis may not be included as a constructive cost of common carrier transportation under FTR paragraph 1-4.3, the usual transportation costs to and from common carrier terminals may be included under FTR paragraph 1-4.3(b). The record indicates that Mr. Glass' agency has properly allowed the inclusion of that constructive cost under FTR paragraph 1-4.3.

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Under FTR paragraph 1-2.2(c)(3), and Carl H. Cotterill, previously cited, if properly authorized, an employee may be paid on a mileage basis for the use of a POV at the place of TDY. Thus, if properly authorized, Mr. Glass may be reimbursed on a mileage basis for the use of a POV for his TDY local travel.

Accordingly, Mr. Glass may be reimbursed in accordance with the above determinations.

Harvey W. Glass
Comptroller General
of the United States