



United States  
General Accounting Office  
Washington, D.C. 20548

137356

Office of the General Counsel

B-206396.2

November 15, 1988

The Honorable Tom Tauke  
House of Representatives

Dear Mr. Tauke:

This is in response to your letter of October 18, 1988, concerning a ruling which held that Members of Congress must receive their full salary as determined by law and that it is illegal for a member to refuse any or all of his or her salary.

We believe the ruling you are referring to is a decision of the Comptroller General of the United States in A-8427, Mar. 19, 1925, which has been reaffirmed in B-159835, Apr. 22, 1975, B-123424, Mar. 7, 1975, and B-123424, Apr. 15, 1955. These decisions hold that the salaries of Members of Congress are fixed by law and that, absent specific statutory authority, members cannot waive all or part of their statutory salaries.

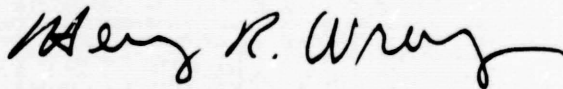
These decisions are based on the principle that if compensation is fixed by law, an appointee may not agree to waive all or part of such compensation. 54 Comp. Gen. 393 (1974); 26 Comp. Gen. 956 (1947). To waive all or part of the compensation fixed by statute would violate the prohibition against voluntary service in 31 U.S.C. § 1342 (1982) and, in any event, would be ineffective under decisions of the United States Supreme Court. United States v. [redacted], 240 U.S. 90 (1916); [redacted] v. United States, 182 U.S. 595 (1901).

We would point out, however, that there is no prohibition against a member accepting his or her salary and then donating part or all the salary to the United States Treasury. United States v. [redacted], 339 U.S. 87 (1950). In fact, there is a specific statutory provision that gives

anyone an opportunity to make a gift to the United States for the sole purpose of reducing the public debt. 31 U.S.C. § 3113 (1982).

We trust that this is responsive to your inquiry. Enclosed for your ready reference are copies of the Comptroller General decisions cited above.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Henry R. Wray". The signature is fluid and cursive, with a long horizontal stroke at the end.

Henry R. Wray  
Senior Associate General Counsel

Enclosures