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DECISION



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

FILE: B-210717

DATE: February 24, 1984

MATTER OF: Discount Coupons and Other Benefits
Received in the Course of Official Travel

DIGEST:

1. The general rule is that a Federal employee is obligated to account for any gift, gratuity or benefit received from private sources incident to the performance of official duty. This rule applies to situations where an employee enters a promotional program sponsored by an airline, and, while traveling on official business, receives a discount as a result of entering that promotional program.
2. A bonus ticket received by an employee as a result of trips paid by both appropriated funds while on official travel and personal funds, is the property of the Government and must be turned into the appropriate official of the Government. If employee wishes to participate in the bonus program and retain the benefits from the program, he should make certain that all trips included in the bonus program are paid from personal funds.
3. An employee who enters a promotional program sponsored by airlines which includes free upgrade of service to first class, membership in clubs, and check-cashing privileges, does not have to turn in such benefits to the Government. The Government is unable to use such benefits, and there is no reason for employee not to use such benefits.

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4. A discount for future travel received by employee while on official travel, which is either non-transferable or carries an expiration date, still is property of the Government and should not be given back to the employee for personal use even if it appears that the Government may have no use for the discount.

The Per Diem, Travel and Transportation Allowance Committee (PDTATAC) of the Department of Defense has requested our opinion concerning the proper disposition of promotional gifts received by employees while on official travel. PDTATAC Control No. 83-1. We hold that such promotional gifts are the property of the Government and that employees may not retain any gift or gratuity received in the course of official travel.

Factual and Legal Background

The request from the Committee states that airlines have instituted frequent-flyer programs which entitle a traveler, who accumulates points or miles on a particular airline, to bonus travel. The more points or miles the individual accumulates, the greater the bonus. Participation in these programs is not automatic and requires the traveler to submit an application. Some airlines charge a fee to enroll and, in addition to discounts on fares or bonus points, some airlines offer a free upgrade to first class service on certain flights.

The Committee has raised five questions concerning these airline programs. These questions will be answered individually below. However, the basic issue is whether the employee is entitled to keep any of these bonuses earned as a result of Government-paid travel.

The general rule is that a Federal employee is required to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty, and any payments tendered to the employee are viewed as having been received on behalf of the Government. John B. Currier, 59 Comp. Gen. 95 (1979); and B-148879, July 20 and August 28, 1970. Therefore, we have held that an employee may not retain any bonus or gift coupon or similar item of value received from a commercial air carrier on

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the basis of a purchase of an airline ticket to be used for official travel. B-199656, July 15, 1981. The rationale behind this rule is to prevent double reimbursement to the employee from the Government and a private source and to avoid a conflict of interest.

We note that the General Services Administration (GSA) has recently promulgated regulations in the area. See Federal Property Management Regulation (FPMR) § 101-25.103, 41 C.F.R. § 101-25, as amended, 48 Fed. Reg. 48,231, October 18, 1983. These regulations state that all promotional materials such as bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, received by an employee in connection with official travel and based on the purchase of ticket, are properly considered to be due the Government and may not be retained by the employee. These regulations provide that promotional materials that provide for future free or reduced costs of travel should be integrated into the agency travel plans to maximize the benefits to the Government. Promotional materials that cannot be used by the agency shall be disposed of in accordance with 41 C.F.R. § 101-25.103-4.

Also, we note that the Office of Government Ethics by memorandum of November 16, 1983, to Designated Agency Ethics Officials, requested that employees be warned against making personal use of any travel promotional benefits received in connection with official travel.

Finally, we note that since participation in these programs is voluntary, an employee who wants to receive benefits for private use should make certain that the only trips credited to his bonus account are those paid from personal funds.

Specific Questions

Question 1. Since travel is arranged by the Government based on cost effectiveness, rather than on membership in one of these programs, traffic managers are unaware when a

uniformed member or civilian employee has received a travel bonus. Should the burden be placed on the member or employee to turn in the bonus to the Government when participation on the airline promotion program is voluntary and the Government is without control?

Answer 1. The answer to the question is that it is the traveler's responsibility to return to the Government any discounts or benefits received as a result of official travel. See Currier and the GSA regulations, cited above. However, if the employee had to spend money to enter a program, as discussed above, the employee may submit a voucher which documents his out-of-pocket expenses spent to enter into the program. The Government should reimburse the employee's out-of-pocket expenses if those expenses are less than the discount received by the employee from the airlines. For example, if the employee spends \$25 to enter a program, and, as a result, the Government has received a benefit because his airline fare was reduced from \$400 to \$300 solely as a result of his entering the program, then the employee should be reimbursed for the cost of entering the program. Of course, the Government should only reimburse the employee up to the amount the employee pays to enter the program and only to the extent that the Government has received a benefit solely due to his entering that program.

Question 2. Most bonus travel requires more than one trip to be eligible. Some of those trips may be paid from personal funds. If a free ticket is obtained from a combination of appropriated and personal funds, who does the ticket belong to?

Answer 2. Consistent with the regulations, above, our answer to this question is that the ticket (or certificate) is the property of the Government if part of the ticket was obtained through the use of appropriated funds while on official travel. This result prevents a conflict of interest from arising. See, generally, 5 C.F.R. §§ 735.201 et seq. The employee has an obligation to turn in the bonus ticket to the Government based on the general rule cited above. If the employee has used the bonus ticket for personal use, he must reimburse the value of the bonus ticket to the Government. See B-212236, dated today. Finally, as stated above, if the employee wishes to

participate in the bonus program and retain the benefits from the program, he should make certain that all trips included in the bonus program are paid from personal funds.

Question 3. Besides travel bonuses, most programs provide other optional benefits, such as free upgrade to first class, membership in executive clubs, i.e., Delta's Crown Room Club, check-cashing privileges, etc., which have no value to the Government. Should such items be turned over to the Government if the value cannot be redeemed?

Answer 3. We do not believe that items such as free upgrade to first class, membership in executive clubs, and check-cashing privileges could be turned over to the Government. Obviously, such benefits could only be used by the employee and could not be used by the Government. Therefore, we see no reason that these items could or should be turned over to the Government. We also hold that the employee may use such benefits because denying the employee such benefits would serve no purpose.

Question 4. Travel bonuses are transferable in most cases; however, they may carry an expiration date. Although every attempt is made to take advantage of free travel opportunities, should the recipient of the bonus be denied its use if the Government is unable to use it within a reasonable time?

Answer 4. Even if the Government is unable to take advantage of free travel opportunities after every reasonable attempt, the bonus should not be returned to the employee. The reason for this is that the travel bonus never legally belonged to the employee. If a free flight for personal use was given to an employee by an agency, this would be tantamount to an illegal supplement of the employee's salary. In the case where the bonus is transferable, the employee who received the bonus as a result of official travel has no more legal right to this bonus than any other employee of the agency.

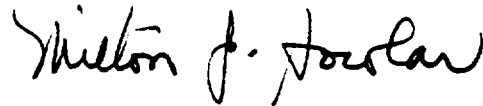
Question 5. Some items are non-transferable. One uniformed member was given a flight coupon worth \$200 as involuntary denied boarding compensation. Under Comptroller General decision B-195946, November 26, 1979, the coupon was turned over to the Government; however, unless this particular

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traveler is given further travel orders, it will go unused. Should non-transferable travel bonuses be denied to the recipient if the Government is unable to use them?

Answer 5. If the items are not transferable such as the coupon here, then if it is necessary to send that employee on official travel the coupon would be available for such a purpose. If the coupon is returned to the employee for personal use and then the agency decides to send the employee on official travel the discount coupon will not be available. Therefore, the Government should retain the coupon even if it is unable to use it at this time.

This concludes the questions raised by the Committee. However, we note one situation which has also arisen lately, that is, the receipt of gifts of nominal value as a result of official travel. We note that the Government Ethics Regulation allows employees to keep promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value. See 5 C.F.R. § 735.202(b)(4) (1983). We see no reason why employees on official travel who receive such gifts should return them to the Government. Accordingly, employees may keep gifts which are of nominal intrinsic value.



Acting Comptroller General
of the United States