



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Jerrold Schroeder - Transportation of Household
Goods - Actual Expenses vs. Commuted Rate

File: B-226868

Date: November 4, 1988

DIGEST

The Internal Revenue Service initially authorized reimbursement for an employee's shipment of household goods under the GBL method, and then, in the light of further evidence which was subsequently found to be erroneous, authorized reimbursement under the higher commuted rate method. We hold that the employee's reimbursement is limited to his actual costs.

DECISION

This decision is in response to a request from Mr. G. Fannin, an Authorized Certifying Officer with the Internal Revenue Service (IRS), for an advance decision as to whether Mr. Jerrold Schroeder is entitled to be reimbursed for household goods moving expenses under the commuted rate method or the Government Bill of Lading (GBL) method.^{1/} For the following reasons, we hold that Mr. Schroeder may be reimbursed under the commuted rate method but limited to his actual costs.

1/ Under the commuted rate system an employee makes his own arrangements for transporting household goods between points within the conterminous United States, and the employee is reimbursed in accordance with schedules of commuted rates which are contained in General Services Administration (GSA) Bulletin FPMR A-2. Para. 2-8.3a(1) of the Federal Travel Regulations (Supp. 1, Nov. 1, 1981), incorp by ref. 41 C.F.R. § 101-7.003 (1985). Under the GBL method, the government assumes responsibility for awarding contracts and for other negotiations with carriers.

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BACKGROUND

Mr. Schroeder, an IRS employee, was transferred from Omaha, Nebraska, to Toledo, Ohio, effective February 2, 1986. On January 9, 1986, the IRS initially authorized the transportation of Mr. Schroeder's household goods by GBL. In a memorandum dated February 11, 1986, Mr. Schroeder asked the IRS to change his travel orders and authorize the commuted rate method rather than GBL method since he had been advised by an IRS traffic coordinator that there was only a \$216 difference between the estimates for the two methods (\$4,952 vs. \$4,736). However, the information provided to Mr. Schroeder by the IRS traffic coordinator was erroneous because it compared only the line-haul rate and failed to take into account additional charges listed on the GSA rate comparison of \$2,582.40, consisting of \$2,288 for packing and \$294.40 for accessorial charges.^{2/} Thus, the estimated commuted rate based on shipping 16,000 pounds should have been \$7,534.40 while the GBL method was only \$4,736. On February 14, 1986, the IRS issued new travel orders which authorized shipment of Mr. Schroeder's household goods under the commuted rate method.

On March 6, 1986, Mr. Schroeder contracted with Allied Van Lines to load, transport and unload his household goods, which weighed 18,620 pounds. The actual cost for these services was \$3,300. Mr. Schroeder submitted a voucher which claimed \$7,695 for the movement of household goods. This amount was based on the published commuted rate schedule of \$42.75 per hundredweight for the maximum allowable 18,000 pounds.^{3/} We note that the Fiscal Management Branch of IRS believes that, despite the fact that the appropriate IRS official had authorized the commuted rate, Mr. Schroeder's reimbursement should be limited to his actual cost of \$3,300, and IRS has reimbursed him only that amount. Mr. Schroeder disagreed with the disallowance and submitted a reclaim voucher for \$4,395 which is the difference between the actual cost and the commuted rate method.

^{2/} This GSA rate comparison for the commuted rate was based on total estimated charges for line-haul shipment, packing, and accessorial charges instead of the rate per hundredweight which is normally used to compute reimbursement under the commuted rate system.

^{3/} We believe that the correct rate should be \$43.15. Table 3, Supp. 103, GSA Bulletin FPMR A-2, eff. Dec. 4, 1985. However, the correct rate does not affect our result.

OPINION

Title 5 U.S.C. § 5724(c) (1982) provides that, under regulations prescribed by the President, an employee who transfers between points inside the continental United States, instead of being paid for the actual expense of transporting his household goods and personal effects, shall be reimbursed on a commuted rate basis unless the head of the agency determines that payment of actual expenses is more economical. At the time of the events in the present case, the regulations in 41 C.F.R. Subpart 101-40.2 (1985) controlled Mr. Schroeder's household goods entitlement. Under these regulations, it was the responsibility of the appropriate official in the employee's agency to request a cost comparison from the General Services Administration (GSA) and to take that into consideration when making a final decision as to whether to authorize the GBL method or commuted rate method. 41 C.F.R. § 101-40.203-4(c) (1985).

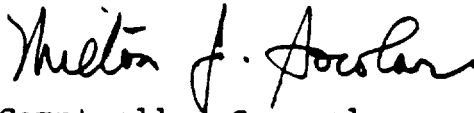
As a general rule, legal rights and liabilities with regard to travel expenses vest under the statutes and regulations when the travel is performed. As a result, such orders may not be revoked or modified retroactively so as to increase or decrease the rights which have become fixed under the statutes and regulations after the travel has been performed. However, exceptions to this rule have been recognized in cases involving errors which are apparent on the face of the original orders, or where all the facts and circumstances surrounding the issuance of the original travel orders clearly demonstrate that some provision which was previously determined and definitely intended had been inadvertently omitted in their preparation. See e.g., Sergeant Paul D. Wilson, USMC, 65 Comp. Gen. 884 (1986) (military members); Dr. Sigmund Fritz, 55 Comp. Gen. 1241 (1976) (civilian employees).

In the present case the estimate furnished to Mr. Schroeder was clearly erroneous because, as noted above, it failed to take into account additional charges of \$2,582.40. Thus, the IRS committed an administrative error when it agreed to a change in Mr. Schroeder's travel orders from the GBL method to the commuted rate. Under those circumstances, we find no basis to allow the employee a windfall from the government's error. Accordingly, we hold that Mr. Schroeder's reimbursement is limited to his actual cost of \$3,300, which has already been paid to him.

Mr. Schroeder requests that if we do not reimburse him under the commuted rate method, we consider his claim of \$900 which he states he paid to his parents for helping him to move by hauling plants, and packing, disassembling and

assembling furniture. Aside from the fact that he has not established his claim with sufficient specificity, see 4 C.F.R. § 31.7 (1988), we believe these services were more in the nature of gratuitous services rendered for the Schroeder family, rather than an arms-length contract for services. Thus, this part of his claim is not reimbursable. See Sherman A. Lynch, B-183951, Feb. 9, 1976.

Accordingly, Mr. Schroeder's claim for further reimbursement beyond his actual costs of \$3,300 is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States