



The Comptroller General
of the United States

Washington, D.C. 20548

134 539

Decision

Matter of: Internal Revenue Service -- Purchase of Safety Shoes

File: B-229085

Date: November 30, 1987

DIGEST

Purchase of steel toe safety shoes by a District Office of the Internal Revenue Service (IRS) for a supply clerk whose work includes movement of heavy objects with various equipment is authorized under Section 19 of the Occupational Safety and Health Act (OSHA) of 1970, if such footwear is administratively determined to be necessary for safety reasons to protect the clerk from the possibility of foot injury. As a federal agency the IRS is subject to OSHA regulations and must satisfy standards set by the Secretary of Labor for personal protective equipment.

DECISION

We have been asked by an authorized certifying officer of the Internal Revenue Service (IRS) for an advance decision on the legality of purchasing safety shoes for a supply clerk whose work includes moving heavy objects. For the reasons that follow, we find such payment is proper.

On March 5, 1987, the IRS District Office in Des Moines, Iowa, purchased safety shoes with steel toes for use by the supply clerk. Work performed by the clerk involved moving heavy objects such as files, desks, and pallets using a variety of equipment--trucks, jacks, and dollies. It was administratively determined by the Chief, Facilities Management Branch (FMB) in Des Moines, that such shoes were necessary to protect the supply clerk from the real possibility of serious foot injury.

As a federal agency, the IRS is subject to Section 19 of the Occupational Safety and Health Act of 1970 (OSHA), and must establish occupational safety and health programs consistent with standards promulgated by the Secretary of Labor. 29 U.S.C. § 668 (1987). Under these standards, the general

requirement is that personal protective equipment for extremities must be provided, used, and maintained whenever hazards of processes or environment may cause injury or impairment in the function of any part of the body. 29 C.F.R. § 1910.132(a) (1986). Occupational foot protection--safety toe footwear--is specifically mentioned as a type of safety equipment. 29 C.F.R. § 1910.136 (1986).

Previously this Office has allowed expenditures on protective footwear for Drug Enforcement Administration agents assigned to temporary duty in jungle environments upon administrative determination under Section 19 of the Occupational Safety and Health Act that such footwear was necessary to protect agents from jungle hazards. B-187507, December 23, 1976. We have also certified reimbursement for ski boots purchased for a U.S. Forest Service snow ranger in accordance with OSHA regulations and proper administrative determination by the District Forest Ranger for such need. B-191594, December 20, 1978. OSHA regulations were also the basis for authorizing the purchase of down-filled parkas for Department of Interior employees assigned to Alaska or high country during the winter months. 63 Comp. Gen. 245 (1984).

Paragraph 1(14)71.4(4) of the Internal Revenue Manual states:

"Regional Commissioners are responsible for the safety of all personnel under their jurisdiction and shall ensure the installation and development of adequate accident and fire prevention programs within their respective regions."

In turn, the Resources Management Division of the IRS has advised us that Regional Office directives designate Chiefs, Facilities Management Branch (FMB) as responsible for developing and administering safety policies within their respective areas. In the instant case, it is clear from the record submitted that the Chief, FMB of the Des Moines Office specifically authorized the purchase of safety shoes. Since the safety shoes were administratively determined to be necessary for employee safety under the IRS Regional Commissioner Directive, we conclude that appropriated funds may be used for their purchase. It is, of course, understood that the acquisition was approved in accordance with authorized procedures and that title to the shoes will vest in the United States.

Finally, 5 U.S.C. § 7903 (1987) authorizes purchases of special clothing for the protection of personnel in the performance of their assigned task. To qualify under this section three tests must be met: (1) the item must be "special" and not that which an employee would ordinarily

furnish for himself; (2) the item must be for the benefit of the government, that is, essential to the safe and successful accomplishment of the work; and (3) the employee must be engaged in hazardous duty. See 63 Comp. Gen. 245, 247 (1984). The purchase of the safety shoes meets the above test. First, safety shoes are not normally purchased by employees and so could be considered special. Second, the record submitted shows that the shoes were purchased in order to reduce the risk of injury to the employee, and, as indicated above, were required to be provided under OSHA and its implementing regulations. Third, the movement of heavy objects using a variety of equipment does involve the danger of foot injury.

We conclude that under these circumstances, appropriated funds may be expended to procure safety shoes for a supply clerk who uses various equipment to move heavy objects.

A handwritten signature in black ink, reading "Milton J. Aoustan". The signature is written in a cursive style with a large initial "M".

Acting Comptroller General
of the United States