



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Transportation of Privately Owned Vehicles from Overseas  
**File:** B-230448  
**Date:** February 17, 1989

### DIGESTS

1. Since no prohibition is found in the authorizing statute or its legislative history, the Federal Travel Regulations may be revised to authorize the transportation of an employee's privately owned vehicle (POV) from overseas at government expense, even though no POV was transported overseas initially, provided the employee was assigned or transferred to a post of duty overseas for other than temporary duty, a determination was made that use of a POV at the overseas station was in the government's interest, and the employee actually used the POV at the overseas station.
2. The Federal Travel Regulations may not be revised to authorize transportation of POVs of employees recruited in Hawaii and Puerto Rico to their first permanent duty station in the continental United States. The statute authorizing transportation of POVs to, from and between posts of duty outside the continental United States provides such authority only where the POV is to be used at a duty station outside the continental United States.

### DECISION

The Chairman of the Per Diem, Travel and Transportation Allowance Committee requests a decision as to whether regulations implementing 5 U.S.C. § 5727 (1982) may be revised to authorize employees, incident to a permanent change of station, to ship their privately owned vehicles (POVs) from posts of duty overseas at government expense even though they did not ship POVs to the overseas stations initially.<sup>1/</sup> The General Services Administration (GSA), the agency delegated the authority to prescribe regulations implementing the statute, provided us with its opinion that

<sup>1/</sup> The Committee assigned the request PDTATAC Control No. 88-1.

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the law is sufficiently broad to allow the return transportation at government expense and asked for our views on a related proposal, presented to GSA by the Federal Bureau of Investigation (FBI), involving employees who are hired in Hawaii or Puerto Rico and assigned to a post of duty in the continental United States.

We agree that the regulations may be revised to authorize the shipment of an employee's POV at government expense from overseas even though a POV was not shipped there initially, provided the statutory prerequisites are met, namely, that the employee was assigned to an overseas post of duty for other than temporary duty, and that the employee's agency determined that it was in the interest of the United States for the employee to have the use of a motor vehicle at the overseas post of duty.

We find, however, that the statute does not provide authority for shipping the POV of an employee who is hired overseas for duty in the continental United States since the statute applies only where the POV is needed at a post of duty outside the continental United States.

#### BACKGROUND

The Committee cites two of our decisions for the rule that a POV may not be shipped from an overseas duty station unless a POV was shipped overseas at government expense, Wilfredo O. Tungol, B-208695, Nov. 30, 1982, and Walter M. Mangiacotti, B-199185, Sept. 17, 1980. See also Michael J. Patnode, B-214942, Oct. 5, 1984, to the same effect. To the Committee, it appears that the determinations in the cited decisions were based on specific provisions in the regulations and the prohibition is not necessarily required by the law, 5 U.S.C. § 5727.

The Committee explains that under the rule, employees who are authorized to ship a POV to an overseas duty station lose the entitlement to return a POV by not shipping one overseas initially, and that some employees probably ship older high-mileage POVs overseas at government expense merely to preserve the return entitlement.

GSA states its view that neither the law's language nor its legislative history indicates an intent to prohibit revising the regulations to accomplish the objectives of the Department of Defense. It also suggests that the law should be liberally construed to accommodate the FBI's proposal to authorize shipment of the POVs of employees hired in Hawaii and Puerto Rico who are assigned to duty stations in the continental United States.

## DISCUSSION

The statute involved, 5 U.S.C. § 5727(b), provides that under such regulations as the President may prescribe, an employee's POV may be transported at government expense "to, from, and between the continental United States and a post of duty outside the continental United States, or between posts of duty outside the continental United States, when--

"(1) the employee is assigned to the post of duty for other than temporary duty; and

"(2) the head of the agency concerned determines that it is in the interest of the Government for the employee to have the use of a motor vehicle at the post of duty."

The statute originally was enacted in section 321 of the Overseas Differentials Allowances Act, Pub. L. No. 86-707, 74 Stat. 792, 797 (1960), legislation which was concerned, generally, with compensation of officers and employees assigned to overseas posts of duty. With respect to the specific authority for transportation of POVs, the legislative history shows that it is for the purpose of transporting the POV of "employees assigned to duty outside the United States," where it is in the interest of the government for the employee to have the use of a POV "at his post of duty." Concern was shown for abuse and costs to the government, and the intent was expressed that the authority be strictly administered to insure it is used only where it is clear that the POV will contribute to the employee's performance of official duties and is in the interest of the government. H.R. Rep. No. 902, 86th Cong., 1st Sess., 23-24 (1959).

The statute is implemented by regulations included in the Federal Travel Regulations (FTR), Chapter 2, Part 10. These regulations currently provide authority to return an employee's POV to the conterminous United States only when it or a replacement vehicle was shipped overseas at government expense. As the Committee indicated, our decisions denying transportation expenses for employees' POV's which do not meet this criterion were based primarily on these regulations rather than the statute they implement since the statutory language does not specifically prohibit return of a POV that was not shipped overseas at government expense. Therefore, it is our view that the statute does not prohibit the changes in the regulations the Committee seeks so long as the appropriate determination has been made as prescribed by FTR, para. 2-10.2c, that it was in the interest of the

government that the employee have the use of the POV at the post of duty outside the continental United States.

As to whether the suggested changes are desirable from a policy standpoint, that is a matter for GSA, which has been delegated the authority to prescribe the regulations.<sup>2/</sup> We do note, however, that the regulations currently require that, with limited exceptions, the POV to be shipped must be of United States manufacture. FTR, para. 2-10.2c(6). This requirement would appear to be of particular note in the case of an employee's POV being returned from outside the United States when the POV was not shipped there but was procured locally.

Concerning the FBI proposal, the FBI states in part as follows:

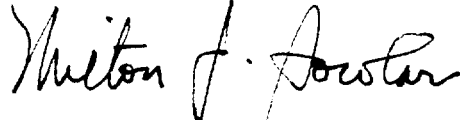
"An individual recruited to be a Special Agent for the FBI will be assigned to the FBI Academy, Quantico, Virginia, for 13 weeks of training. Upon completion of this training the new Special Agent is then assigned to any field division office throughout CONUS, Alaska, Hawaii, and Puerto Rico. Under regulations governing new hires, a new Agent upon graduation from the FBI Academy, being assigned from CONUS to Hawaii or Puerto Rico, would be entitled to ship a POV, at Government expense, as the agency head has certified the POV is necessary at the post of duty. On the other hand, a local hire from Hawaii or Puerto Rico, who upon graduation from the FBI Academy is assigned to a CONUS field division, is not entitled to shipment of a POV at Government expense. The fact that these local hires are not eligible to ship a POV to the new post of assignment causes a financial hardship. They either have to sell the POV locally, sometimes at a loss, or they must pay to have the POV shipped to the new post of assignment."

As is indicated above, the statute, 5 U.S.C. § 5727(b), was enacted to provide authority to ship POV's when they are necessary at posts of duty outside the continental United States. This is clear from the statutory language and the

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<sup>2/</sup> GSA indicates that prior to making the proposed change in the regulations, it will be necessary to coordinate the matter with the Department of the Treasury and the Office of Management and Budget in view of possible balance of payments impacts.

legislative history discussed above. Accordingly, it is our view that a change in the regulations to permit transportation of a POV from a place outside the continental United States which was not a post of duty is not authorized by 5 U.S.C. § 5727(b). Therefore, implementation of the FBI proposal would require additional legislation.

*for*   
Comptroller General  
of the United States