



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Charles H. Kuhns  
**File:** B-248422  
**Date:** September 21, 1992

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### DIGEST

The reimbursement of an employee performing travel within the continental United States on an actual subsistence expense basis may not exceed 150 percent of the maximum per diem rate authorized for the travel assignment location. See 41 C.F.R. § 301-8.3(a)(1) (1991). An employee who incurred lodging expenses in excess of that amount may not be reimbursed that additional cost, even though the excessive cost was caused by agency error in making hotel reservations.

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### DECISION

This action is in response to a request from the Regional Controller - Western Region, Internal Revenue Service Department of the Treasury.<sup>1</sup> It involves the entitlement of Mr. Charles H. Kuhns to be reimbursed for additional lodging expenses incurred by him incident to temporary duty travel to New Orleans, Louisiana, in April-May 1991. We conclude that the employee may not be reimbursed additional amounts.

Mr. Kuhns, among others, was authorized to perform temporary duty travel on an actual expense basis to attend a conference at the National Finance Center in New Orleans, Louisiana. Reservations were made at the Le Pavillon Hotel by the IRS National Office and a daily lodging rate of \$106.45 was established. All of the participants, with the exception of Mr. Kuhns, had reservations at the Le Pavillon. Due to administrative error, his name was not included on the reservation list and he had to seek accommodations elsewhere. However, because the conference coincided with the annual New Orleans Jazz and Heritage Festival, the only lodging he could find was at the Omni Royal Orleans Hotel at a cost of \$146.30 a night.

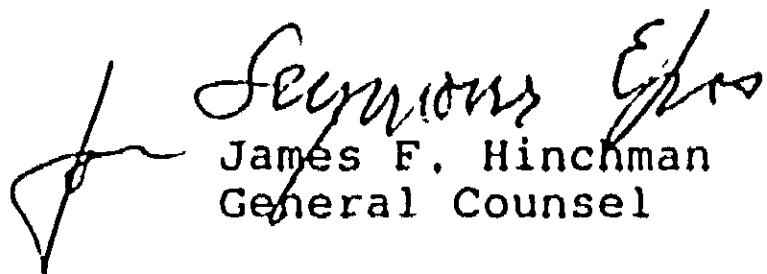
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<sup>1</sup>Mr. Robert R. Craig.

Mr. Kuhns thereafter filed a travel voucher for the cost of that lodging for each of the two nights he was in New Orleans, and for his meals and incidental expenses (M&IE) each day. He was reimbursed \$141 for each full day he was in New Orleans. This resulted in a daily unreimbursed cost to him of \$39.30. On reclaim, since the IRS admits that its error caused Mr. Kuhns to incur that additional expense, the IRS believes that he should be reimbursed.

The provision of the Federal Travel Regulation (FTR) governing actual expense reimbursement for official travel in the continental United States authorizes an employee to be reimbursed up to 150 percent of the maximum per diem rate for the travel assignment location.<sup>2</sup> The maximum per diem rate for new Orleans at that time was \$94.<sup>3</sup> Thus, the maximum amount which was authorized to be reimbursed for actual subsistence expenses in New Orleans at that time was \$141.

The fact that Mr. Kuhns was required to pay excessive lodgings cost is unfortunate. However, in view of the regulatory language of the FTR establishing the maximum amount which may be reimbursed, there is no legal basis upon which the IRS may reimburse Mr. Kuhns for any daily subsistence expenses he incurred in excess of the \$141 already paid.<sup>4</sup>

  
James F. Hinchman  
General Counsel

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<sup>2</sup>41 C.F.R. § 301-8.3(a)(1) (1991).

<sup>3</sup>Appendix A of 41 C.F.R. ch. 301 (1991).

<sup>4</sup>Dr. Merfyn Williams, B-240095, Aug. 1, 1990. Cf. Federal Aviation Administration Employees, B-246554; B-247894, June 9, 1992 (71 Comp. Gen. \_\_\_\_\_), involving foreign travel.