



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

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B-179072

November 6, 1973

Captain W. A. Yohey, USAF
Accounting and Finance Officer
Through Assistant Comptroller for
Accounting and Finance (HQ USAF)
AF/ACFXS
3800 York Street
Denver, Colorado 80205

Dear Captain Yohey:

We refer further to your letter of May 11, 1973, reference ACF, forwarded here on June 29, 1973, by Mr. Earl W. Bauman, Deputy Director, Directorate of Plans and Systems, Assistant Comptroller for Accounting and Finance (HQ USAF), wherein you requested an advance decision as to the propriety of an allotment of civilian pay of Mr. George A. Toliver, an employee of the Department of the Air Force, to effect payment of premiums on a commercial life insurance policy.

The question presented is whether the provisions of 31 U.S.C. 492 as amended by Public Law 90-365, approved June 29, 1968, 82 Stat. 274, permit an allotment of pay to a financial institution for payment of commercial insurance premiums under the circumstances stated below.

Your letter sets forth the facts as follows:

"a. Mr. George A. Toliver, a federal employee, purchased a commercial insurance policy. Representatives of the insurance company concerned secured Mr. Toliver's authorization to establish a savings account, in Mr. Toliver's name, with the Central Park Bank, San Antonio, Texas. In addition, the representatives secured Mr. Toliver's signature on a Standard Form 1198 (Request by Employee for Allotment of Pay for Credit to Savings Account With a Financial Organization) to establish an allotment for credit to the savings account to be established. The amount of the allotment requested is identical to the amount of premiums due on the commercial insurance policy.

"b. A recently received allotment request of this nature was claimed, by the employee concerned, to

[Propriety of Allotment of Civilian Pay for Payment on Commercial Life Insurance]

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have been forged and, to protect both the employees and employer, subsequent allotment requests were confirmed with employees to ascertain validity.

"c. Mr. Toliver confirmed the validity of the allotment request and readily offered the information contained in paragraph 2a, above. The allotment, while designated for credit to a savings account, is intended solely for the purpose of automatic payroll deductions for payment of premiums on a commercial insurance policy."

Mr. Bauman states that at some Air Force installations in the continental United States, a large number of savings allotments currently in effect and established under Public Law 90-365 are being used for deposit of insurance premiums. The accounts credited are joint accounts, the titles of which include the names of the allottees and the insurance company. He states that the Department has permitted these allotments on the basis of the Department of the Treasury Transmittal Letter No. 59 and supplemental guidance issued by that Department. Mr. Bauman notes that the Treasury instructions prohibit allotments for the payment of union dues.

You point out that the legislative history of Public Law 90-365 indicates that the law was designed to provide a vehicle to enable Federal employees to save through a payroll savings plan. Additionally, Mr. Bauman refers to 5 U.S.C. 5525 which, as implemented by the Civil Service Commission in 5 CFR 550.571, authorizes allotments by civilian employees for direct payment to carriers of commercial insurance premiums on the life of the allottee when he is: (1) Assigned to a post of duty outside the continental United States; (2) Working on an assignment away from his regular post of duty when the assignment is expected to continue for 3 months or more; or (3) Serving as an officer or member of a crew of a vessel under the control of the Federal Government.

It is stated that in view of the legislative history of Public Law 90-365 and the fact that there is no statutory authority for allotments for direct payment of commercial insurance premiums by employees permanently assigned to a post of duty within the continental United States, the validity of the proposed allotment is in doubt.

The applicable subsection of 31 U.S.C. 492 provides:

"Agency authorization for drawing checks in favor of financial organizations and for credit of employee's checking account, deposit of savings, or purchase of shares; reimbursement; definitions"

"(b) (1) Notwithstanding subsection (a) of this section or any other provision of law, and under regulations to be prescribed by the Secretary of the Treasury, the head of an agency shall, upon the written request of an employee of the agency to whom a payment for wages or salary is to be made, authorize a disbursing officer to make the payment in the form of one, two, or three checks (the number of checks and the amount of each, if more than one, to be designated by such employee) by sending to each financial organization designated by such employee a check that is drawn in favor of the organization and is for credit to the checking account of such employee or is for the deposit of savings or purchase of shares for such employee: Provided, That the agency shall not be reimbursed for the cost of sending one check requested by such employee but shall be reimbursed for the additional cost of sending any additional check requested by such employee by the financial organization to which such check is sent. For the purposes of the foregoing proviso, the check for which the agency shall not be reimbursed shall be the check in the largest amount.

"(2) If more than one employee to whom a payment is to be made designates the same financial organization, the head of an agency may, upon the written request of such employee and under regulations to be prescribed by the Secretary of the Treasury, authorize a disbursing officer to make the payment by sending to the organization a check that is drawn in favor of the organization for the total amount designated by those employees and by specifying the amount to be credited to the account of each of those employees.

"(3) In this subsection, the term 'agency' means any department, agency, independent establishment, board, office, commission, or other establishment in the executive, legislative (except the Senate and House of Representatives), or judicial branch of the Government, or wholly owned or

controlled Government corporation, and the municipal government of the District of Columbia; and the term 'financial organization' means any bank, savings bank, savings and loan association or similar institution, or Federal or State chartered credit union.

"Payment of check drawn as required and properly endorsed as full receiptance for amount due employee"

"(c) Payment by the United States in the form of more than one check, drawn in accordance with subsection (b) of this section and properly endorsed, shall constitute a full receiptance for the amount due to the employee requesting payment."

As you know allotments authorized under the provisions quoted above are governed by regulations set forth in Treasury Department Circular No. 1076 (First Revision) dated November 22, 1958, and the requirements stated in chapter 7000, Part III, Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies. The Treasury Department's Transmittal Letter No. 59 to the Manual, dated June 7, 1971, was designed to:

"* * * (1) apprise agencies of the policy of the Department of the Treasury with respect to allotments of pay of employees which are for credit to savings accounts in financial organizations, and (2) guide agencies in the application of that policy in situations where knowledge of the manner in which an employee will dispose of his savings generates a question as to the propriety of the savings allotment itself. * * *"

The regulatory provisions of Department Circular No. 1076 (First Revision) as summarized in Transmittal Letter No. 59 states:

"(a) The employee's allotment must be to a 'financial organization' (as defined in the regulations);

"(b) The employee's allotment must be for credit to a savings account; and

"(c) The title of the savings account, which may be either a single or joint account, must include the name of the authorizing employee."

B-179071

As you point out and as set forth in Transmittal Letter No. 59, the Department of the Treasury does not look behind the allotment in terms of how the employee intends to dispose of his savings in cases when the savings allotment meets the above-stated criteria unless the specific purpose of the allotment is to circumvent other fundamental requirements, such as contained in statutes, executive orders and executive branch regulations.

In this connection you submitted a copy of a letter dated August 5, 1971, to the Assistant Secretary of Defense (Comptroller) from the Commissioner of Accounts, Department of the Treasury, wherein the problem at issue was discussed and it was noted that certain Air Force employees' savings allotments were discontinued because they were recognized as deposits for the purpose of paying insurance premiums. The Commissioner of Accounts stated that the action stopping such allotments was in direct conflict with the requirements of the Department of the Treasury and asked that steps necessary to rectify the situation be taken.

Accordingly, we are of the opinion that the described use of savings allotments is proper under the applicable law and regulations despite the fact that the ultimate use of the savings is for the payment of premiums on a commercial life insurance policy.

Sincerely yours,

Paul G. B... ..

For the Comptroller General
of the United States