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

B-179036

September 24, 1973

Miss Esther Sackin
Authorized Certifying Officer
Internal Revenue Service
United States Treasury Department
90 Church Street
New York, New York 10007

BEST DOCUMENT AVAILABLE

Dear Miss Sackin:

This refers to your letter of June 26, 1973, with enclosures, reference AD:FF, requesting our decision whether you may certify the enclosed voucher in the amount of \$340.80 representing traveling expenses incurred in traveling from Glendale, California, to Greenwich, Connecticut, during the period September 10 through September 17, 1970.

The papers accompanying the claim show that Miss Dorothea Gaitanis was separated by a reduction-in-force (RIF) action from her position with the United States Army Los Angeles Procurement Agency, Pasadena, California, on January 12, 1970. On December 22, 1970, she applied for employment with the Internal Revenue Service (IRS) and showed a Greenwich address from September 1970 and outside employment in the Stamford-Greenwich area from September 1970 to January 1971. Miss Gaitanis entered on duty in the Stamford office on January 11, 1971. The employing office states that at the time Miss Gaitanis was employed they were unaware that she could be authorized moving expenses and there was no intent at any time to incur such expenses.

Section 5724a(c) of title 5, United States Code, reads:

"(c) Under such regulations as the President may prescribe, a former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) and (b) of this section, in the same manner as though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated."

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Section 1.3a(7) of Office of Management and Budget Circular No. A-56, revised June 26, 1969, implementing 5 U.S.C. 5724a(c), reads:

"(7) A former employee separated by reason of reduction in force or transfer of function who, within one year of the date of separation, is reemployed by a department for a nontemporary appointment effective on or after July 21, 1966, at a different permanent duty station from that where the separation occurred, may be allowed and paid the expenses and other allowances (excluding nontemporary storage when assigned to an isolated permanent duty station within the continental United States) in the same manner as though he had been transferred in the interest of the Government to the permanent duty station where reemployed, from the permanent duty station where separated, without a break in service, and subject to the eligibility limitations as prescribed in these regulations."

Section 5724a(c) of title 5, United States Code, and the implementing regulation cited constitute authority for granting an employee who is separated by reason of a RIF and is reemployed by a nontemporary appointment within one year after the date of separation the same travel, transportation and relocation benefits that are payable to an employee incident to a transfer of official station. However, it is our view that before reimbursement can be made it must be shown that the travel and transportation performed was reasonably incident to reemployment with a Government agency.

The information of record in the present case indicates that the expenses claimed were incurred in September of 1970 incident to the acceptance of employment in private industry. It was not until December 22, 1970, or approximately 3 months after the move, that Mico Gaitanis applied for employment with IRS and she did not enter on duty until January 11, 1971. Thus, on the basis of the facts appearing we cannot properly conclude that such expenses were incurred incident to her reemployment with IRS which agency at the time of hiring was unaware of any possible entitlement that she might have had to reimbursement of the expenses in question.

Therefore, the voucher returned herewith may not be certified for payment.

Sincerely yours,

Paul G. Demblin:

For the Comptroller General
of the United States

Enclosure