



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

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B-179213

November 6, 1973

Mr. Donald S. Schneider  
P. O. Box 2511  
Newburgh, New York 12550

Dear Mr. Schneider:

Further reference is made to your letter of June 4, 1973, in which you request reconsideration of a settlement by our Transportation and Claims Division dated May 31, 1973, that sustained the administrative disallowance of your claim for certain travel expenses in connection with your temporary duty assignment in Philadelphia, Pennsylvania, during the period September 6, 1972, to October 6, 1972.

The record indicates you were employed on September 5, 1972, by the Albany District Office of the Internal Revenue Service as an Estate Tax Attorney. Your official duty station was designated as Newburgh, New York, however, you were immediately ordered to travel to the Internal Revenue Service Mid-Atlantic Region Training Center, Philadelphia, Pennsylvania, on September 6, 1972, to begin a training course of approximately 30 days duration. Because of the time limitation, it was not possible for you to move your residence from Syracuse, New York, to the vicinity of your new duty station at Newburgh, New York, and therefore you traveled from your home in Syracuse to Philadelphia. While temporarily assigned in Philadelphia, you returned to your residence in Syracuse on 4 weekends (8 nonworkdays). At the conclusion of the temporary duty you submitted a travel voucher claiming travel expenses and per diem for the aforementioned travel.

Travel expenses from Syracuse to Philadelphia and return were administratively recomputed on the basis of travel from your official duty station at Newburgh to Philadelphia and return. Also your claim for per diem for your temporary duty station at Philadelphia was administratively recomputed to reflect zero cost for lodging during the weekends you spent in Syracuse. The administrative action on your claim was sustained by our Transportation and Claims Division, which you now appeal.

You contend that since you were not given an opportunity to move to your official duty station prior to your temporary duty assignment in Philadelphia, Pennsylvania, you should be entitled to travel expenses and per diem from your residence in Syracuse, New York, instead of from your

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official duty station in Newburgh, New York. For the same reason, you also contend you should be entitled to travel expenses, not to exceed per diem at Philadelphia, for nonworkdays on which you voluntarily returned to your place of abode in Syracuse, since in effect your employing agency prevented you from establishing a place of abode from which you could daily commute to your official duty station.

The general rule is that an employee must bear the expenses of travel to his first permanent duty station in the absence of a statute to the contrary. Therefore, when a new employee, incident to travel to his first duty station is assigned temporary duty away from his permanent duty station, reimbursement of travel expenses is limited to the additional costs of travel related to the temporary duty assignment. See 30 Comp. Gen. 373 (1951). 5 U.S.C. 5723 provides authority for payment of travel expenses of a new appointee as follows:

"§5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions

"(a) Under such regulations as the President may prescribe and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

"(1) travel expenses of a new appointee, or a student trainee when assigned on completion of college work, to a position in the United States for which the Civil Service Commission determines there is a manpower shortage;"

Inasmuch as there is nothing in the record indicating you were appointed to a manpower shortage position or that you were otherwise entitled to travel expenses to your first duty station, there is no authority to pay your travel expenses from your place of residence in Syracuse to Newburgh, New York. Information to the contrary contained in the settlement certificate, issued by our Transportation and Claims Division, stating you would be entitled to such travel expenses was in error and should be disregarded.

Per diem payments for employees traveling on official business is governed by 5 U.S.C. 5702 which provides in part as follows:

"§5702. Per diem; employees traveling on official business

"(a) An employee, while traveling on official business away from his designated post of duty, is entitled to a

per diem allowance prescribed by the agency concerned. For travel inside the continental United States, the per diem allowance may not exceed the rate of \$25."

This statute limits payment of per diem to employees traveling away from their official duty stations. Under provisions of this statute the beginning and terminal point for your per diem and travel expenses incident to your temporary assignment in Philadelphia, Pennsylvania, was your official duty station in Newburgh, New York, notwithstanding the fact you did not travel to Newburgh en route to Philadelphia and return. Therefore, the disallowance of your claim for round trip travel and per diem expenses between Syracuse and Philadelphia and return was proper.

With regard to your claim for travel expenses incurred when you voluntarily returned to your Syracuse residence during nonworkdays, we note that section 6.5c, Office of Management and Budget (OMB) Circular No. A-7 provides:

" \* \* \* In cases of voluntary return of a traveler for non-workdays to his official station, or his place of abode from which he commutes daily to his official station, the reimbursement allowable for the round trip transportation and per diem en route will not exceed the per diem and any travel expense which would have been allowable had the traveler remained at his temporary duty station."

The provisions of this regulation would normally preclude reimbursement of travel expenses to an employee who traveled away from his temporary station and who neither returned to his official station nor his place of abode from which he commutes daily to his official station. The regulation presupposes that an employee on assignment at a temporary duty station has reported to his permanent official duty station and has established himself a residence within commuting distance of his permanent duty station. However, in a situation where an employee is ordered to a temporary duty station at the time he is hired, before he has an opportunity to report in or establish a residence in the vicinity of his new permanent official duty station, we believe it would be unfair to deny travel expenses to his old residence. Thus, under such circumstances, the phrase "\* \* \* place of abode from which he commutes daily to his official station" may be construed so as to include an employee's old residence that is not within normal commuting distance of the station.

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On the basis of the foregoing, you are entitled to reimbursement allowable for the round trip transportation and per diem en route when you voluntarily returned to Syracuse from Philadelphia on the 4 weekends in September 1972, not to exceed the per diem and any travel expenses which would have been allowable had you remained at your temporary duty station at Philadelphia. Inasmuch as you were not in subsistence status on the 4 weekends that you returned to Syracuse, the 8 nights should not be included in the average lodging cost computation. B-176706, October 13, 1972. Computed on this basis your per diem rate is \$22. Also, since the round trip transportation and per diem en route between Newburgh and Philadelphia would exceed your per diem allowance at Philadelphia, you are entitled to an amount equivalent to the per diem you would have received if you had remained in Philadelphia on the 8 nonworkdays you spent at your residence in Syracuse.

Accordingly, your travel voucher will be recomputed and a new settlement will be issued in due course by our Transportation and Claims Division on the basis of the foregoing.

Sincerely yours,

PAUL G. DELBIING

For the Comptroller General  
of the United States