



United States
General Accounting Office
Washington, D.C. 20548

158704

Office of the General Counsel

B-276403

May 19, 1997

General Counsel
Railroad Retirement Board
844 North Rust Street
Chicago, Illinois 60611-2092

Dear Ms. :

This is in response to your letter dated February 26, 1997, requesting advice as to whether frequent flyer miles earned through an employee's personal travel on one airline may be exchanged for frequent flyer miles earned through official travel financed with appropriated funds on a different airline where the exchange would allow the agency and the employee to each obtain a usable ticket at the time of the exchange.

You state that consistent with travel regulations, Railroad Retirement Board policy requires that frequent flyer miles earned through official business travel may be used only for official business. Your question arises because some employees have frequent flyer accounts on several airlines containing miles earned on both personal and government travel, but without sufficient government or personal mileage alone to qualify for a ticket.¹ You have provided an example of an employee who will be leaving the agency this year who has frequent flyer accounts with Delta Airlines and Trans World Airlines, each account containing both government and personal mileage. While the total government and personal mileage in each account is sufficient to qualify for a free ticket, neither account has sufficient government or personal mileage alone to qualify for a ticket. The employee involved would like to trade the personal mileage from one account for the government mileage in the other account. This would enable the employee to qualify for a ticket for personal use on one airline and for a ticket for official business use on the other airline.

¹We understand that Railroad Retirement Board employees are required to file quarterly reports with the agency, separately accounting for the government and personal miles in each account, in conformance with the requirements set out in our decision, Panama Canal Commission, B-257525, Nov. 30, 1994.

You have indicated that if this trade is not permissible, the alternatives would be to allow the miles to expire, or never use them if they are non-expiring miles; or for the employee to use his personal miles combined with government miles to obtain tickets for official business, which he would prefer not to do.

We understand that it is your view that not only the employee, but also the agency, would benefit from such a trade, since each would obtain a usable ticket. It is also your view that since the agency would obtain a ticket in the exchange, this arrangement would not appear to violate the rule that mileage earned on official travel belongs to the government and may be used only for official travel. You ask our opinion, however, because you have not found a decision of our office addressing this issue.

As you know, frequent flyer miles earned on government-financed travel are the property of the government and may not be retained by the employee for personal use. 63 Comp. Gen. 229 (1984). See also, Federal Travel Regulation (FTR), 41 C.F.R. § 301-1.103(b) and (f); and Federal Property Management Regulations, 41 C.F.R. § 101-25.103-2, promulgated by the General Services Administration (GSA). In the absence of GSA property disposal regulations providing otherwise, an employee may not retain such miles for his or her own use even if, ultimately, the government is unable to take advantage of the miles. 69 Comp. Gen. 643 (1990). What you propose, however, is not simply allowing the employee to retain for personal use miles earned on government travel; you propose an exchange of such miles in consideration for miles rightfully belonging to the employee with a resulting benefit to both the agency and the employee.

It is relevant to note that in an effort to encourage cost savings in official travel, Congress enacted section 6008, Public Law No. 103-355, 108 Stat. 3367 (1994),² which directs the Administrator of GSA to issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by federal employees who engage in official travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel. Section 6008 further provides that any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel. To inform agencies of methods available to comply with the requirements of section 6008, GSA issued Bulletin FTR 17, October 24, 1995, in which GSA referred to its instructions in FTR § 301-1.103(f) directing agencies to avail themselves of cost savings opportunities by encouraging employees to participate in frequent traveler programs, and authorizing agencies to reimburse employees for the cost of entering such programs when it is expected to result in

²5 U.S.C. § 5702, note.

savings to the government.³ Bulletin FTR 17 also encouraged agencies to use their authority under the Government Employees Incentives Awards Act, 5 U.S.C. §§ 4501-4507, to develop incentive awards programs under which cash awards may be paid to employees who accrue travel savings to the agency through participation in frequent traveler programs.

While GSA's guidance and regulations do not address trading frequent flyer miles between an agency and an employee, we believe that a trade of mileage credits which would otherwise go unused and which results in savings to the agency by enabling it to obtain free transportation, and also provides a benefit to the employee, falls within the spirit and intent of the GSA guidance. In addition, such a trade appears consistent with the purposes of section 6008, Pub. L. No. 103-355, to encourage participation in, and to use awards under, frequent traveler programs to realize cost savings for official travel to the maximum extent practicable. Also, in our view, the fact that some of the government mileage would be traded to the employee would not violate the requirement of section 6008 that such mileage be used only for official business travel since ultimately its use in this manner would result in the government obtaining a free ticket on another airline for use on official business, thus securing the cost saving at which section 6008 is directed. Accordingly, we have no objection to the trade of mileage credits you propose.

Since agencies' use of frequent flyer programs and the disposition of mileage credits accrued on official travel under such programs are matters within GSA's purview, we suggest you also bring the matter to the attention of appropriate GSA officials.

Sincerely yours,

Robert P. Murphy
General Counsel

³By its own terms, Bulletin 17 expired December 31, 1996.