



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

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D-170762

AUG .1 1973

Mr. C. H. Jenkins, Jr.
Regional Fiscal Management Officer
Internal Revenue Service, Southeast Region
Department of the Treasury
Post Office Box 926
Atlanta, Georgia 30301

Dear Mr. Jenkins:

We refer to your letter of May 24, 1973, reference ADFP:ab, together with your subsequent letter of June 27, 1973, reference ADFP:lw, requesting our determination as to the propriety of your agency authorizing a mileage rate of 8 cents per mile in the case of an employee who, while traveling by privately owned automobile on a house-hunting trip, transported another employee traveling to the same location for the same purpose. If such rate is allowable, you ask whether it would therefore be proper to prescribe higher mileage rates, not in excess of 12 cents per mile and in accordance with the graduated rates authorized by section 2.3b of Office of Management and Budget (OMB) Circular No. A-56 for employees traveling with members of their immediate family, in all cases where two or more employees travel in one privately owned automobile incident to a permanent change of station.

The record indicates that two Internal Revenue Service (IRS) employees, Ms. Linda Lyons and Ms. Connie Ritter, were authorized round trips to seek permanent quarters incident to changes in official stations from Covington, Kentucky, to Memphis, Tennessee. Ms. Lyons' authorization is dated October 8, 1971, and Ms. Ritter's is dated October 12, 1971, and each was authorized to travel by privately owned vehicle. However, in making the actual trip Ms. Ritter accompanied Ms. Lyons in the latter's personal automobile. Ms. Lyons seeks reimbursement for the round trip of 959 miles at the rate of 8 cents per mile, the rate specified in section 2.3b of OMB Circular No. A-56 for an employee traveling with one member of his immediate family. No transportation costs are being claimed by Ms. Ritter; however, she would have been entitled to transportation costs by privately owned automobile had she incurred such expenses.

The regulations governing house-hunting trips were contained in section 7 of OMB Circular No. A-56 at the time of the travel. Section 7.2

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provides that when use of a privately owned vehicle is authorized, the "mileage allowance while en route between the old and new official station locations will be as provided in (Circular No. A-56 sections) 2.3b and c." Sections 2.3b and 2.3c provide in pertinent part, as follows:

b. Mileage rates prescribed. Payment of mileage and per diem allowances, when authorized or approved in connection with the transfer, will be allowed as follows:

<u>Occupants of automobile</u>	<u>Mileage rate (cents)</u>
Employee only, or one member of immediate family	6
Employee and one member, or two members of immediate family	8
Employee and two members, or three members of immediate family	10
Employee and three or more members, or four or more members of immediate family	12

c. Mileage rates in special circumstances. Heads of departments may, however, prescribe that travel orders or other administrative determinations may specify higher mileage rates, not in excess of 12 cents, for individual transfers of employees or transfers of groups of employees when--

* * * * *

(?) the common carrier rates for the facilities provided between the old and new stations, the related constructive taxicab fares to and from terminals, and the per diem allowances prescribed under 2.3d below justify a higher mileage rate as advantageous to the Government * * *

It is seldom that circumstances are such that two or more employees, other than members of an immediate family, might travel together in one private automobile incident to a permanent change of station, and the regulations do not deal specifically with the question of prescribing mileage rates in such cases. However, when such occasions do arise it would appear that, taking into account the cost to the Government if each employee traveled separately, an administrative determination to authorize a higher mileage rate based on the number of employees occupying the automobile would be proper under section 2.3c(2), supra.

Therefore, while an agency cannot require two or more employees to travel together in the private automobile of one of the employees on permanent duty travel, where the employees involved find it convenient to do so and the proper administrative determination is made that such an arrangement is advantageous to the Government, we can see no objection to prescribing higher mileage rates in such cases up to 12 cents per mile on the same basis the rate scale is graduated in section 2.3b of OMB Circular No. A-56 when authorized members of the employee's family accompany him.

As to the claim of Ms. Lyons, it is a general rule that legal rights and liabilities in regard to travel allowances vest as and when the travel is performed under valid travel orders and that such orders may not be revoked or modified retroactively so as to increase or decrease rights which have become fixed under the applicable statutes or regulations. However, in this case Ms. Lyons and Ms. Ritter traveled under general travel authorizations which did not prescribe on their face the allowable mileage rate, but which instead were issued in accordance with existing IRS regulations and the mileage rates listed in the regulations. The pertinent part of those regulations are worded similarly to section 2.3b of OMB Circular No. A-56 and provide for graduated rates for employees performing permanent duty travel with one or more members of their immediate family. The IRS regulations are also silent with regard to allowable mileage rates when two or more employees travel together incident to a permanent change of station. Therefore, since such circumstances are not specifically covered in the regulations, and since the method of traveling chosen by Ms. Lyons and Ms. Ritter was advantageous to the Government, we would have no objection to reimbursing Ms. Lyons for the travel at the rate of 8 cents per mile.

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The vouchers are returned herewith for handling in accordance with the foregoing.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States