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**DECISION**



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

**FILE:** B-212851

**DATE:** January 4, 1984

**MATTER OF:** Charles W. Haas

**DIGEST:** A civilian employee, who is a member of the Army Reserve, may not use annual leave and military leave interchangeably for workdays missed because of performing active duty as a member of the Reserve in order to avoid charge of military leave for nonworkdays. Military leave ordinarily will be used until it is expended then annual leave will be charged. But regardless of how leave is charged an employee cannot avoid charge of military leave for nonworkdays otherwise falling within a period of military leave by having annual leave charged on certain days.

This action concerns whether the military and annual leave accounts of Mr. Charles Haas, a civilian employee at the Naval Supply Center, Pearl Harbor, Hawaii, were properly charged from 1980-1982 for periods that he was absent from his civilian position while performing active duty as a member of the Navy Reserve.<sup>1</sup> We conclude that both leave accounts were properly charged and no adjustments in the accounts are warranted.

Military leave for civilian Federal employees is authorized in subsection 6323(a) of title 5, United States Code. It provides that civilian Federal employees who are members of Reserve units of the Armed Forces accrue 15 days' leave each fiscal year which may be used for days they are ordered to active duty as members of an Armed Forces Reserve unit. Prior to October 1, 1980, this leave accrued on a calendar year basis. However, this was changed with the enactment of Public Law 96-431, October 10, 1980, 94 Stat. 1850, which amended 5 U.S.C. § 6323.

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<sup>1</sup> The request for a decision was made by the commanding officer of the Naval Supply Center, Pearl Harbor, Hawaii, and was forwarded here by letter dated August 23, 1983, from the Office of the Comptroller of the Navy.

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than military leave for days he is absent from his civilian employment while performing active military duty under orders at his own option. However, the employee may be involuntarily assessed annual leave, or leave without pay if appropriate, for the days he is absent from civilian employment to perform active duty for training after his military leave has been exhausted. In that situation the employing agency should ordinarily charge the first 15 days of active duty to military leave, and then charge the days of absence from employment for the performance of additional active duty to annual leave or leave without pay.\* \* \*"  
Matter of McMillian, cited above. See also 41 Comp. Gen. 320 (1961).

Additionally, we have held that the 1980 amendments to 5 U.S.C. § 6323(a), which changed the accrual basis for military leave from calendar year to fiscal year, did not change this long-standing principle. See Matter of McMillian, cited above.

While it is unfortunate that Mr. Haas was not aware of the change in the law, the fact remains that as of October 1, 1980, the law required military leave to accrue and be charged on a fiscal year basis, and we are not aware of any authority which would provide an exception to this requirement.

*for*   
Comptroller General  
of the United States