

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

Office of the General Counsel

B-221940

October 7, 1987

G. J. Pellon, Certifying Officer
Internal Revenue Service
Southeast Region
P.O. Box 926
Atlanta, Georgia 30301

Dear Mr. Pellon:

This is in response to your request (your reference RM:F:A:GP) for relief of Ms. Cynthia F. Mays, imprest fund cashier at the Nashville District, from liability for improper payments in the amount of \$119.63 made in November 1985. For the reasons stated below, relief is granted.

The expenditure in question represents the purchase of coffee, cups, donuts, and a coffee pot to be used in "Excel Thru People" training seminars conducted for Internal Revenue Service employees. You, as certifying officer, denied reimbursement to the imprest fund for these expenses based on 47 Comp. Gen. 657 (1968).

At the outset, on the record presented, we are unable to determine with certainty whether the expenditures in question were improper. Your interpretation of 47 Comp. Gen. 657, supra, was quite correct. As a general proposition, meals or snacks may not be furnished to government employees at their normal duty stations. However, meals or snacks may be authorized as a necessary expense under the Government Employees Training Act, specifically 5 U.S.C. § 4109, if the agency determines that this is necessary to achieve the objectives of the training program. Generally, this requires a determination that attendance at the meals or snack periods is necessary in order for the employees to obtain the full benefit of the training. See, e.g., B-193955, September 14, 1979. We do not have enough facts to determine whether this concept would apply to the "Excel Thru People" seminars. However, even if we proceed on the assumption that the expenditures were unauthorized, there is adequate basis in this case to grant relief to the disbursing officer from personal liability.

Under 31 U.S.C. § 3527(c), we are authorized to relieve a disbursing officer from liability for an improper payment upon finding that the payment was not the result of bad faith or lack of reasonable care on the part of the officer. Application of these standards depends on the facts and circumstances of the particular case.

The documents you forwarded to us include a letter (undated) from John C. Stocker, Chief, Resources Management Division, IRS Nashville District, which states as follows:

" . . . At the time the sub-vouchers were presented to the Cashier for payment, she did question their legality. The Cashier contacted the Chief Contracting Officer who stated that he had read a recent decision regarding purchases of this type which greatly reduced prior restrictions. The Chief Contracting Officer advised the Cashier to proceed with the disbursements. The Chief Contracting Officer has since retired and we are unable to locate the decision to which he referred. With the required approvals on the necessary forms and the Chief Contracting Officer's specific approval, the Cashier would not have questioned the purchase further."

This case is substantially similar to B-211265, June 28, 1983 (copy enclosed), in which we granted relief to another imprest fund cashier in your region. We concluded that the cashier in that case "exercised reasonable care in paying a voucher with approvals by proper authorities including a contracting officer." The same applies to Ms. Mays in this case. (We too are unaware of which decision the former contracting officer may have had in mind, but this is irrelevant since our granting of relief is premised on the payment being unauthorized.) Also, there is no indication of bad faith on the part of Ms. Mays. On the contrary, she did attempt to question the propriety of the payment. Accordingly, relief is granted and the imprest fund may be reimbursed.

Sincerely yours,



(Mrs.) Rollee H. Efros
Associate General Counsel

Enclosure