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DECISION

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

FILE: B-191588 DATE: January 2, 1979

MATTER OF: Delbert C. Nahm-[Travel Expenses incident to interruption of vacation for official duty]

DIGEST:

1. Employee, who left on 2-week vacation in Mexico, was ordered to interrupt vacation and return to headquarters for official duty. Where recall was due to unforeseen circumstances and where it would be unreasonable to require employee to assume added travel expense, our Office will not object to agency reimbursement for employee's return travel expenses. See Karl G. Kessler, B-190755, June 15, 1978.

2. Employee's vacation was interrupted by his recall to headquarters for official duty, but there is no authority to pay wife's return travel expenses. Claim for value of lost vacation is analogous to forfeited deposit for which reimbursement may not be made. Finally, GAO will not object to agency recrediting 18 hours of annual leave incident to long distance telephone calls and employee's return travel, but employee's claim for recredit of additional 38 hours annual leave representing vacation leave may not be allowed.

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This action is in response to a request from Margaret E. Wenzel, an authorized certifying officer of the Internal Revenue Service (IRS), Midwest Region, for an advance decision concerning the claim of Mr. Delbert C. Nahm, an IRS employee, for travel and incidental expenses in the amount of $1,534.73 and for restoration of 38 hours of annual leave incident to the interruption of his vacation for the performance of official business.

The record indicates that Mr. Nahm had requested and had received approval for a period of annual leave from May 13 through May 27, 1977. However, on May 12, 1977, Special Agent Bob Zavaglia advised Mr. Nahm that he would be required to appear as a witness in a criminal tax case on May 23, 1977. When Mr. Nahm explained that he was leaving for Mexico on May 13, 1977, and that he would be out of the country on the scheduled trial date, Special Agent Zavaglia and the Assistant U.S. Attorney agreed to allow Mr. Nahm

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to depart on vacation while they attempted to get the trial postponed. The trial was postponed only one day, until May 24, 1977, and after several telephone calls, arrangements were made for Mr. Nahm and his wife to travel from his vacation site to Mexico City and then from Mexico City to St. Louis, Missouri.

The agency paid from Mr. Nahm's return flight from Mexico to St. Louis and restored 26 hours of annual leave. In addition, Mr. Nahm has claimed his travel expenses in Mexico incident to his return to his duty station as well as the "value" of his lost vacation which he computed on the basis of the cost of his trip per day ($118.58) times the number of days his vacation was interrupted. He also requested recredit of an additional 38 hours of annual leave.

The general rule is that when an employee proceeds to a point away from his official duty station on annual leave he assumes the obligation of returning at his own expense. F.A. Calabrese, 56 Comp. Gen. 96 (1976); 39 id. 611 (1960); and 11 id. 336 (1932). However, our Office has considered situations where, due to unforeseen circumstances, an employee is recalled to his permanent duty station very shortly after arriving at his point of leave. See 39 Comp. Gen. 611, supra; Karl G. Kessler, B-190755, June 15, 1978; and Paul P. Magallanes, B-190646, January 25, 1978. Under certain circumstances, we have not objected to agency reimbursement for travel from the employee's leave point where the agency has determined that, because of the personal expense incurred by the employee in traveling to the leave point, it would be unreasonable to require the employee to assume the additional travel expense to comply with the recall order. Kessler, supra. See however, Calabrese, supra.

In the present case, it appears that the IRS has no regulations governing this type of travel situation, but we have held that the absence of such regulations is not a bar to payment in an appropriate case. See Kessler, supra. In addition, it may not have been unforeseen that Mr. Nahm would be called upon to testify in court on this particular matter, and there appears to be some question in the record before us whether Mr. Nahm was notified of the trial date prior to May 12, 1977. On the other hand, Mr. Nahm was permitted to depart for Mexico while attempts were made to postpone the trial, and once it was determined that the trial could not be postponed more than one day, the agency made arrangements for

Mr. Nahm's return travel and paid for his airline flight from Mexico to St. Louis. While the matter is not free from doubt, we will not object to the agency's determination in this case to pay Mr. Nahm's return travel expenses from his leave point to St. Louis.

Since the agency has apparently paid for Mr. Nahm's airline flights from Villahermosa to Mexico City, Mexico, and from Mexico City to St. Louis, Mr. Nahm may now be reimbursed for his taxicab fare to the Villahermosa airport, telephone calls, and subsistence expenses not to exceed the applicable per diem rate for Mexico City. Reimbursement for these expenses must be limited to the cost attributable to the employee alone, since there is no authority under the Federal Travel Regulations (FPMR 101-7) (May 1973) to allow payment for travel expenses incurred by Mr. Nahm's wife. See Kessler, supra. Similarly, there is no authority for reimbursement of the "value" of the lost vacation. This expense is analogous to the forfeiture of a vacation deposit due to the cancellation of approved leave which we have held is a personal expense and not reimbursable by the Government. B-176721, November 9, 1972.

Finally, with regard to the recrediting of annual leave, we have been informally advised that the IRS recredited Mr. Nahm with 26 hours of annual leave on the basis that 8 hours was converted from annual leave to sick leave and 18 hours was charged to administrative leave in connection with long distance telephone calls and the return travel from Mexico. Under the circumstances of this case, we will not object to the agency's action, but we find no basis upon which to allow recredit for any additional hours of annual leave.

Accordingly, the voucher may be certified for payment consistent with the above discussion.

R. F. Keller

Deputy Comptroller General
of the United States