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DECISION



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

FILE: B-201361

DATE: December 30, 1981

MATTER OF: John C. Schwappach - Claim for Mileage from Residence

DIGEST: Employee of Internal Revenue Service performed temporary duty at various locations around Los Angeles, California. Claims for mileage may be paid from employee's second residence in West Los Angeles from which he normally commuted to temporary duty locations. Claims for mileage from Desert Hot Springs where family resided and where employee resided on weekends may not be paid.

ISSUE

The issue in this decision is whether an employee may be reimbursed for mileage for travel to temporary duty locations near his official duty station from both a temporary residence near his official duty station as well as his family residence 100 miles away. We hold that where the employee normally commutes from his temporary residence he may not be reimbursed for mileage from his family residence which he visits on weekends.

BACKGROUND

This decision is in response to a request from an authorized certifying officer of the Western Region, Internal Revenue Service (IRS), Department of the Treasury, for an advanced decision concerning mileage reimbursement claims of Mr. John C. Schwappach, an IRS Revenue Agent (since retired).

Mr. Schwappach's official duty station was Los Angeles, California, and his family residence was in Desert Hot Springs, California, a community about 100 miles east of Los Angeles. His duties for the period in question, February through November 1979, involved assignments in various locations around Los Angeles with only occasional visits to the IRS Office. Normally, Mr. Schwappach would drive from his Desert Hot Springs residence on Monday to his temporary assignment, and he would return to Desert Hot Springs on Thursday or Friday evenings. During the week he would commute from a motor home which he parked in the West Los Angeles area.

Mr. Schwappach claimed and was reimbursed for mileage based on a residence located in West Los Angeles. He now seeks the additional mileage to and from his residence in Desert Hot Springs on the grounds that Desert Hot Springs is his only residence for purposes of mail, voting, and community activities.

DISCUSSION

As a general rule an employee may not be reimbursed for mileage between his residence and official duty station. Mary L. Caudill, B-199197, July 20, 1981. However, given the proper exercise of administrative discretion, an employee may be allowed reimbursement for travel between his residence and places of temporary duty in the vicinity of the official station. Caudill, supra, and Customs Service Inspectors, B-191104, May 9, 1979. The IRS has exercised this discretion in Section 252 of the IRS Travel Handbook, IRM 1763-37 (May 8, 1978), which permits reimbursement for mileage between an employee's residence and a temporary duty site.

Mr. Schwappach contends that his "residence" can only refer to his Desert Hot Springs home for the reasons stated above. However, Section 114 of the IRS Travel Handbook, IRM 1763-5, defines residence as follows:

"(c) Permanent residence, residence and home - These terms refer to the house, apartment, etc., in which an employee lives at or in the vicinity of the official station, and from which he/she normally commutes daily to work at the official station.* * *"

Our Office has considered the question of what constitutes an employee's residence for the purpose of reimbursement for temporary duty travel, and we have held it is the place from which the employee commutes daily. B-176650, February 28, 1973; and B-157760, January 16, 1970, and November 16, 1965. Our Office has also considered cases where the employee has two residences from which he commutes to and from work. In Gilbert C. Morgan, 55 Comp. Gen. 1323 (1976), modified in 57 Comp. Gen. 32 (1977), we considered the situation of an employee whose family residence was 100 miles from his official station in Oklahoma City, Oklahoma. In our 1976 decision in Morgan we held that since the employee

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commuted to work from a residence in Oklahoma City, his reimbursement for mileage to temporary duty assignments must be limited to mileage from that residence rather than his family residence 100 miles away. Mr. Morgan requested reconsideration of that decision, stating that he had no residence at his official duty station from which he commuted since while he was in Oklahoma City he stayed in various motels on a daily basis where he paid a commercial rate. Upon reconsideration we held that under the circumstances the renting of a motel room on a daily basis does not constitute a "residence" within the meaning of the Federal Travel Regulations. 57 Comp. Gen. 32, at 33. See also Merwin S. Durham, B-197360, July 15, 1980; and B-157760, November 16, 1965.

In the present case the residence from which Mr. Schwappach commuted to work on a regular basis during this period was his temporary residence in West Los Angeles. Mr. Schwappach's decision to maintain a separate residence in Desert Hot Springs to which he commuted on weekends was a matter of personal choice and should not affect his entitlement to mileage for travel to temporary duty locations. Under the circumstances we find no basis to allow Mr. Schwappach's claims for additional mileage reimbursement.

For the

Harry R. Van Cline
Comptroller General
of the United States