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B-111642, May 31, 1957

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B-111642, MAY 31, 1957

TO THE SECRETARY OF THE INTERIOR:

ON MAY 14, 1957, THE ADMINISTRATIVE ASSISTANT SECRETARY, REQUESTED OUR DECISION UPON THE QUESTION WHETHER IT IS PROPER TO PAY THE TRAVEL AND MISCELLANEOUS EXPENSES INCURRED BY THE SURVIVING SPOUSE OF A DECEASED EMPLOYEE ELIGIBLE FOR THE DISTINGUISHED SERVICE AWARD IN ORDER FOR SUCH SPOUSE TO RECEIVE POSTHUMOUSLY THE AWARD AT A DEPARTMENTAL CONVOCATION IN WASHINGTON, D.C.

THE LETTER STATES THAT IN THE DEPARTMENT OF INTERIOR CONSIDERABLE IMPORTANCE ATTACHES TO THE DISTINGUISHED SERVICE AWARD BECAUSE IT IS THE HIGHEST AWARD MADE TO AN EMPLOYEE FOR OUTSTANDING OR EXCEPTIONAL SERVICE WITHIN AND BEYOND THE CALL OF DUTY. IT IS POINTED OUT THAT THE HONOR CONFERRED IS CONSIDERED TO BE OF SUFFICIENT IMPORTANCE TO REQUIRE ITS PRESENTATION AT THE SECRETARIAL LEVEL AT DEPARTMENTAL CONVOCATION.

THE APPLICABLE LAW HERE INVOLVED IS THE "GOVERNMENT EMPLOYEES' INCENTIVE AWARDS ACT," 68 STAT. 1113, 5 U.S.C., SUPP. IV. 2121-2123. IT PROVIDES IN PERTINENT PART AS FOLLOWS:

"SECS. 2123. AWARDS--- (A) DEPARTMENTAL.

"THE HEAD OF EACH DEPARTMENT IS AUTHORIZED TO PAY CASH AWARDS TO, AND TO INCUR NECESSARY EXPENSES FOR THE HONORARY RECOGNITION OF, CIVILIAN OFFICERS AND EMPLOYEES OF THE GOVERNMENT WHO BY THEIR SUGGESTIONS, INVENTIONS, SUPERIOR ACCOMPLISHMENTS, OR OTHER PERSONAL EFFORTS CONTRIBUTE TO THE EFFICIENCY, ECONOMY, OR OTHER IMPROVEMENTS OF GOVERNMENT OPERATIONS OR WHO PERFORM SPECIAL ACTS OR SERVICES IN THE PUBLIC INTEREST IN CONNECTION WITH OR RELATED TO THEIR OFFICIAL EMPLOYMENT.

"/C) DEATH OR SEPARATION FROM SERVICE.

"AWARDS UNDER THIS SECTION MAY BE PAID NOTWITHSTANDING THE DEATH OR SEPARATION FROM THE SERVICE OF THE OFFICER OR EMPLOYEE CONCERNED: PROVIDED, THAT THE SUGGESTIONS, INVENTIONS, SUPERIOR ACCOMPLISHMENTS, OTHER PERSONAL EFFORTS, OR SPECIAL ACTS OR SERVICES IN THE PUBLIC INTEREST FORMING THE BASIS FOR THE AWARDS ARE MADE OR RENDERED WHILE THE OFFICER OR EMPLOYEE IS IN THE EMPLOY OF THE GOVERNMENT.

"/E) HONORARY RECOGNITION.

"AWARDS TO EMPLOYEES AND EXPENSES FOR THE HONORARY RECOGNITION OF EMPLOYEES MAY

BE PAID FROM THE FUNDS OR APPROPRIATIONS AVAILABLE TO THE ACTIVITY PRIMARILY BENEFITING OR MAY BE PAID FROM THE SEVERAL FUNDS OR APPROPRIATIONS OF THE VARIOUS ACTIVITIES BENEFITING AS MAY BE DETERMINED BY THE PRESIDENT FOR AWARDS UNDER SUBSECTION (B) OF THIS SECTION, AND BY THE HEAD OF THE DEPARTMENT CONCERNED FOR AWARDS UNDER SUBSECTION (A) OF THIS SECTION.'

IN OUR DECISION OF SEPTEMBER 12, 1952, B-111642, 32 COMP. GEN. 134, TO YOU, WE HELD THAT OFFICERS AND EMPLOYEES WHO INCUR TRAVEL AND MISCELLANEOUS EXPENSES INCIDENT TO PARTICIPATING IN CEREMONIES HELD AT A DEPARTMENTAL CONVOCATION IN HONORARY RECOGNITION OF EXCEPTIONAL OR MERITORIOUS SERVICE UNDER THE INCENTIVE AWARDS PROGRAM COULD BE CONSIDERED AS NECESSARY EXPENSES UNDER THE THEN APPLICABLE LAW.

UNDER THE NEW LAW THE GOVERNMENT EMPLOYEES' INCENTIVE AWARDS PROGRAM MUST BE CARRIED OUT UNDER SUCH REGULATIONS AND INSTRUCTIONS AS THE UNITED STATES CIVIL SERVICE COMMISSION SHALL ISSUE. THE CIVIL SERVICE COMMISSION IN ITS REGULATIONS, 5 CFR 32.102, PROVIDES AS FOLLOWS "* * * IT IS THE POLICY OF THE COMMISSION (A) TO ESTABLISH BROAD PRINCIPLES AND STANDARDS FOR THE ADMINISTRATION OF THE INCENTIVE AWARDS PROGRAM, (B) TO DELEGATE TO HEADS OF DEPARTMENTS AUTHORITY TO ESTABLISH AND OPERATE INCENTIVE AWARDS PLANS CONSISTENT WITH THESE PRINCIPLES AND STANDARDS, (C) TO ASSIST DEPARTMENTAL OFFICIALS IN THE DEVELOPMENT OF EFFECTIVE PROGRAMS, (D) TO ENCOURAGE THE EXCHANGE OF EMPLOYEE CONTRIBUTION AMONG DEPARTMENTS * * *.' THE REGULATIONS, 5 CFR 32. 103 (H), PROVIDE,"THE TERM, "HONORARY AWARD" MEANS AN INCENTIVE AWARD GRANTED BY THE HEAD OF A DEPARTMENT IN THE FORM OF A CERTIFICATE, EMBLEM, PIN OR OTHER ITEM THAT CAN BE WORN OR DISPLAYED BY THE RECIPIENT.' ALSO, PROVISION IS MADE IN THE REGULATIONS, 5 CFR 32.201, THAT THE INCENTIVE AWARDS MAY BE GRANTED THE ESTATES OF DECEASED EMPLOYEES.

THE CIVIL SERVICE REGULATIONS ISSUED PURSUANT TO THE ACT DO NOT SPECIFICALLY GRANT TO THE DEPARTMENTAL HEADS THE AUTHORITY TO PAY THE TRAVEL AND MISCELLANEOUS EXPENSES OF SUCH PERSONS AS HERE INVOLVED; NEITHER DOES THE LEGISLATIVE HISTORY OF THE ACT INDICATE A LIMITATION ON SUCH AUTHORITY. HOWEVER, THE TERMS OF THE LAW AND REGULATIONS, SECTION 2123 (C) AND 32.201, RESPECTIVELY, REASONABLY MAY BE CONSTRUED AS CONTEMPLATING THE ALLOWANCE OF OTHERWISE PROPER TRAVEL AND MISCELLANEOUS EXPENSES TO THE SURVIVING SPOUSE FOR ATTENDING (AT THE DEPARTMENT'S REQUEST) A DEPARTMENTAL CONVOCATION ON BEHALF OF THE DECEASED EMPLOYEE. SEE B-52848, OCTOBER 9, 1945, 29 COMP. GEN. 419.

CONSEQUENTLY, WE HOLD THAT TRAVEL AND MISCELLANEOUS EXPENSES INCURRED BY THE SURVIVING SPOUSE FOR THAT PURPOSE IS CONSIDERED AS BEING WITHIN THE SCOPE OF THE PHRASE "NECESSARY EXPENSES" AND MAY BE PAID BY THE DEPARTMENT OF INTERIOR.