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B-114088, Apr 29, 1953

Number: B-114088

Date: 1953-04-29

B-114088, APR 29, 1953

ADMINISTRATOR OF VETERANS AFFAIRS:

REFERENCE IS MADE TO A LETTER DATED FEBRUARY 19, 1953, SIGNED BY THE ASSISTANT ADMINISTRATOR FOR INSURANCE, REQUESTING AN OPINION FROM THIS OFFICE CONCERNING NATIONAL SERVICE LIFE INSURANCE PREMIUMS PAID BY THE GOVERNMENT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF THE MISSING PERSONS ACT, 56 STAT. 144, AS AMENDED, 50 U.S.C. APP. 1003. THE PREMIUMS HERE IN QUESTION WERE DETERMINED TO BE UNEARNED BY REASON OF HAVING BEEN PAID FOR A PERIOD SUBSEQUENT TO THE ESTABLISHED DATE OF DEATH OF THE PERSON IN WHOSE BEHALF THEY WERE PAID.

THE PERTINENT PORTION OF 50 U.S.C. APP. 1003 IS AS FOLLOWS:

"PROVIDED FURTHER, THAT ANY PREMIUM PAID BY THE GOVERNMENT ON INSURANCE ISSUED ON THE LIFE OF A PERSON, WHICH IS UNEARNED BY REASON OF BEING FOR A PERIOD SUBSEQUENT TO THE DATE OF DEATH OF SUCH PERSON, SHALL REVERT TO THE APPROPRIATION OF THE DEPARTMENT CONCERNED."

THIS PROVISION OF LAW IS CLEAR AND UNEQUIVOCAL AND, WHILE IT DOES NOT STATE THE FISCAL YEAR OF THE APPROPRIATION TO WHICH THE UNEARNED PREMIUMS SHOULD REVERT, THE ONLY POSSIBLE APPROPRIATION TO WHICH SUCH PREMIUMS COULD BE RETURNED WOULD BE THE APPROPRIATION WHICH WAS ORIGINALLY CHARGED WITH THE PREMIUM PAYMENT. PLACING SUCH UNEARNED PREMIUMS IN ANY OTHER APPROPRIATION, FOR EXAMPLE, THE ONE FOR THE CURRENT FISCAL YEAR, WOULD RESULT IN AN UNLAWFUL AUGMENTATION OF SUCH APPROPRIATION.

ACCORDINGLY, AS INDICATED IN THE LETTER OF FEBRUARY 19, 1953, THERE IS NO ALTERNATIVE UNDER THE LAW BUT TO DEPOSIT THE UNEARNED PREMIUMS TO THE CREDIT OF THE APPROPRIATION WHICH WAS ORIGINALLY CHARGED WITH THE PAYMENTS, AND IN THE EVENT THAT SUCH APPROPRIATION HAS LAPSED, THE FUNDS INVOLVED SHOULD BE DEPOSITED IN THE TREASURY TO THE CREDIT OF THE ACCOUNT "REPAYMENTS, LAPSED APPROPRIATIONS." 31 U.S.C. 690.