Text as published on gao.gov, https://www.gao.gov/products/b-241488, archived 2026-07-10. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-241488, Mar. 13, 1991

Number: B-241488

Date: 1991-03-13

B-241488, Mar. 13, 1991

APPROPRIATIONS/FINANCIAL MANAGEMENT - Claims Against Government - Customs duties - Proceeds - Ownership

DIGEST

Customs Service - Transfer of Property to the Virgin Islands:

This decision is in response to a request from the Department of the Treasury, United States Customs Service. /1/ The issue presented is whether title to certain property owned by the federal government, and used by the Customs Service in the Virgin Islands, may be transferred over to the Virgin Islands. For the following reasons, we hold that such transfer may not be made.

BACKGROUND

The United States Customs Service is responsible for the administration of customs laws in the Virgin Islands. 48 U.S.C. Sec. 1395 (1988). The proceeds of the customs duties collected in the Virgin Islands, less the cost of collecting the duties by the Customs Service, are paid into the Virgin Islands Treasury for such use as the legislature of the Virgin Islands may provide. 48 U.S.C. Sec. 1642a (1988).

In May 1986, the Virgin Islands government hired Advisory Services of the Virgin Islands, an independent, nongovernmental entity, to perform an audit. This claim is a direct result of the audit. In addition, Advisory Services has filed additional claims for monies it says are due the Virgin Islands government. See Customs Service, B-241592, dated today.

The Customs Service has several offices located in the Virgin Islands, and it owns one real estate parcel which is used by the Customs' District Director as an official residence. /2/ In addition, Customs has purchased vehicles, vessels, and other equipment necessary to carry out its collection duties.

Advisory Services argues that since the real estate, vehicles, and other property described above were purchased with Virgin Island duty collections, title to the property should be held by the Virgin Islands.

Customs has denied the claim on the basis that 48 U.S.C. Sec. 1406i (1988) clearly authorizes Customs to use money from duty collections to pay for Customs operations in the Virgin Islands. Customs states that it acquired the property in order to carry out its duty to administer customs law in the Virgin Islands.

OPINION

It is clear that the Customs Service's costs of collecting duties for the Virgin Islands are to be paid from the duty proceeds. The Customs Service's authority to collect import duties and customs in the Virgin Islands is defined in pertinent part in 48 U.S.C. Sec. 1406i (1988) as follows:

"That the Secretary of the Treasury shall designate the several ports and sub-ports of entry in the Virgin Islands of the United States and shall make such rules and regulations and appoint such officers and employees as he may deem necessary for the administration of the custom laws in the Virgin Islands of the United States; and he shall fix the compensation of all such officers and employees and provide for the payment of such compensations and other expenses of the collection of duties, fees, and taxes imposed under the customs laws from the receipts thereof." (Emphasis supplied.)

In addition, 48 U.S.C. Sec. 1642a (1988) provides that customs duties are available for payment into the Treasury of the Virgin Islands for such expenditure as the legislature may provide, "less the cost of collecting all said duties." This provision was reenacted by Pub. L. No. 96-304, title 1, 94 Stat. 907, July 8, 1980, as part of a supplemental appropriations bill. /3/

Under the statute, duty collections do not become the property of the Virgin Islands government until after the Customs Service deducts the costs of collection pursuant to 48 U.S.C. Sec. 1395, 1406i, and 1642a (1988), and transfers the net proceeds. The duty collections are appropriated funds because Congress has authorized the Customs Service to collect the duty and has authorized the use of those funds for specified purposes. See Washington National Arena Limited Partnership, 65 Comp.Gen. 25 (1985). As appropriated funds, they may only be applied for the purpose for which they were authorized, except as otherwise specifically provided by law. 31 U.S.C. Sec. 1301(a) (1988); 18 Comp.Gen. 285 (1938); 35 Comp.Gen. 615 (1956). Under the terms of the authorization, Customs was entitled to expend those funds for its administrative and collection costs.

Moreover, we believe the funds were properly expended in accordance with applicable laws. Under 5 U.S.C. Sec. 5911(b) (1988), Customs is authorized to provide, directly or by contract, an employee stationed in the United States with quarters and facilities, when conditions of employment or of availability of quarters warrant the action. The "United States" includes the territories and possessions of the United States. U.S.C. Sec. 5911(a)(4) (1988). And "quarters" means quarters owned or leased by the government. 5 U.S.C. Sec. 5911(a)(5) (1988). The district director pays rent for the quarters in accordance with 5 U.S.C. Sec. 5911(c) (1988).

With regard to the purchase of motor vehicles, appropriations may be used for such purchases as specifically provided by law. 31 U.S.C. Sec. 1343(b)(2) (1988). The Customs Service's annual appropriations act contains such a provision. See for example Treasury Department Appropriations Act of 1988, Pub. L. No. 100-202, 101 Stat. 1329-392 (1987), which authorized purchase by Customs of 700 motor vehicles.

The Advisory Services' claim is simply that the property in question should be transferred to the Virgin Islands government because it was purchased by Customs with the proceeds of customs duty collected in the Virgin Islands. The claim

cannot be allowed because the Customs Service's purchase of the real estate, motor vehicles, and vessels was a reasonable exercise of its authority to deduct from the proceeds its costs of collecting customs duty and administering customs laws in the territory of the Virgin Islands.

Accordingly, the claim of the Virgin Islands Advisory Services for a transfer of property on behalf of the Virgin Islands government is denied.

/1/ Submitted by Edward F. Kwas, Assistant Commissioner (Management).

/2/ The residence was purchased September 21, 1970, at a cost of $60,000.

/3/ See S. Rep. No. 96-829, 96th Cong., 2d. Sess. 277 (1980).