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March 23, 1987

Larry Kirk, CPA  
Deputy Legislative Auditor

STATEHOUSE MAIL

RE: State Travel/Private-ly-Owned Automobiles

Dear Larry:

Thank you for your inquiry of March 19, 1987, concerning the possible implications of reimbursing a state employee for the deductible that the employee was required to pay under his auto insurance policy; the employee was involved in an accident while using his vehicle on state business.

As you may know, the Board of Examiners' travel policy contemplates the use of privately-owned vehicles for state business under certain circumstances. Regulation 7 states in part:

The use of privately-owned automobiles, airplanes, or other conveyances may be authorized whenever it is more practical than transportation by common carrier or State vehicles. Privately-owned conveyances shall be adequately covered by public liability and property damage insurance. The cost of transportation by private conveyance shall be paid at the rate set by the Board of Examiners up to the maximum allowed by law.

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The above-quoted regulation permits state agencies to authorize employee use of private vehicles when such use is deemed to be the most practical means of transportation. Such authorizations frequently arise when state vehicles are not available. We believe that the intent of this regulation is that state employees, when authorized to use their own vehicles for state business, should not be required to sustain losses arising from such use which would not have arisen had a state vehicle been used.

If the employee referenced in your letter had been operating a state vehicle when the accident occurred, he would have sustained no personal financial impact. We believe that fairness dictates the same result when his superiors have authorized him to use his own auto. We note that the Board of Examiners' policy specifically states that private vehicles must be "adequately covered by public liability and property damage insurance." It would appear that one reason this language was included was to insure that state employees suffer no personal loss under circumstances such as those you describe in your letter.

You suggest that, by reimbursing the employee for the deductible, the state could be implicitly admitting liability for the accident. We doubt that, as an evidentiary matter, reimbursement of the deductible would be compelling evidence of the state's ultimate liability. However, to the extent this is a concern, it could conceivably be remedied by remitting along with the reimbursement a reservation of the state's right to deny liability in any future litigation along with a specific provision that the reimbursement is merely a matter of state policy and should not be deemed an admission of any kind.

In summary, while we do not intend to encourage the expanded use of privately-owned vehicles for state business, we do believe that, under the limited circumstances where such use is appropriate, the employee should not be compelled to incur monetary losses he would not have suffered had he been driving a state vehicle. Further, we do not envision any significant concerns in terms of the state's future liability arising from such reimbursements.

Please note that the foregoing is an informal and unofficial expression of the views of this office.

Larry Kirk, CPA  
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If you have any additional questions or would like to discuss this matter further, please call at any time.

Yours truly,



Patrick S. Kole  
Deputy Attorney General  
Chief, Legislative Affairs

PMT/PJK/jas