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OGC Has Reviewed

Executive Registry
175-9745/7

DD/A Registry
76-0278

16 January 1976

DD/A Registry
File Vehicles

MEMORANDUM FOR: Director of Central Intelligence

25X1A SUBJECT: [REDACTED] Claim for Reimbursement of
Cost of Shipping His Foreign-Made, Foreign-
Purchased Automobile

25X1A 1. We have again reviewed the [REDACTED] claim in response to your
25X9 question of whether you have the legal authority to waive the applicable
25X1A Agency regulation in this case, HR [REDACTED]. In doing so, we had occasion
to seek out some additional facts and have a conversation with [REDACTED]
regarding his claim.

2. As you know, the so-called congressional prohibition on the
shipment of foreign-made, foreign-purchased POVs derives from House
Report No. 92-1567, 10 October 1972, as an expression of congressional
intent concerning the shipment by Government officers and employees of
foreign-made, foreign-purchased automobiles. As we have advised before,
the language of the Conference Report does not have the force of law and
accordingly, you have the legal authority to waive the Agency regulation
if you wish to do so. However, the additional facts discovered cause me
to be even more certain that the previous OGC and DDA positions on this
matter are correct.

25X1A 3. We advised that the vehicle purchased by [REDACTED] was not
only foreign-made but foreign-purchased and this determination is not, I
believe, "overly technical." By law, under the Uniform Commercial Code
there was no sale until the specific car was identified to the contract.
25X1A Additionally, though not previously considered, it was a foreign purchase
under applicable tax law. If this purchase had been a domestic purchase,
the dealer was obligated to charge and [REDACTED] was obligated to pay,
an excise tax on the vehicle which at the time was 10% of the purchase price.
25X1A Because this was a foreign purchase, no excise tax was charged or paid as
evidenced by the contract (copy attached) and by a statement from [REDACTED]
to me. Further, no duty was paid on the car, as would have been the case if
it had been a domestic purchase. Similar purchase plans -- order in the U.S.
and pick up in Europe -- have been examined in depth by IRS. Some plans

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have been found to be domestic purchases, others foreign purchases. Ordering the car in the United States, accepting delivery of it in Europe, and then keeping it in Europe for personal use for a period of time has been found to be a foreign purchase and not subject to the U.S. excise tax. In fact this excise tax saving of about \$200 plus the exemption from duty offsets in large part the cost of shipping which would have been paid had the car been a domestic purchase.

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that bad, particularly in view of [redacted] statement in one of his memoranda that he could not have shipped his car before the deadline even if he had been fully aware of all the facts because he would have been without a car for the next eighteen months. In addition, a recently discovered dispatch shows that [redacted] was told over three months in advance of his PCS shipment, 28 June 1974, that he would not be permitted to ship his vehicle at Government expense (see a copy of [redacted], 11 April 1974; [redacted] pseudonym is the one that begins [redacted]

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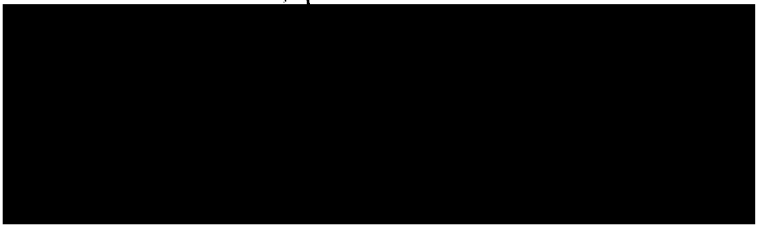
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5. In conclusion, [redacted] situation was no different than that of any Government civilian employee serving overseas. He owned a foreign-made, foreign-purchased automobile which he was told he could not ship at Government expense. If you choose to waive the regulation, you have the legal authority to do so.

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Attachment

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