

FLSA-837

October 18, 1976

This is in reply to your letter of September 23, 1974, in which you make inquiry concerning transportation furnished a domestic employee to and from the place of employment.

Section 3(m) of the Fair Labor Standards Act permits an employer to credit towards the minimum wage required by the Act, the "reasonable cost" to the employer or the "fair value" of the facilities furnished an employee. Thus, an employer wishing to avail himself of this provision may determine, from his own figures, the "reasonable cost" of transportation furnished by him. It would not be appropriate to determine "fair value" based on charges levied by a taxicab company serving the area, since fair value in this kind of situation is used only where the reasonable cost to the employer exceeds the fair value of the facility.

An employer may also credit, toward the minimum wage required, the amount of social security payment levied against the employee but in fact paid by the employer. This is explained in section 531.38 of the enclosed Regulations, Part 531.

If you would like further information concerning the application of the Act to domestic employees, you may wish to contact the Wage-Hour Division office at Suite 305, Mid-South Building, 360 Bay Street, Augusta, Georgia (telephone: 722-2135). The people there will be pleased to answer any questions you may have.

Sincerely,

Herbert J. Cohen
Acting Assistant Administrator
Office of Fair Labor Standards