



## Protecting Against Financial Liability During Vehicle Rental

Please note this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney

### Introduction

Soldiers often rent vehicles for TDY, but also for personal reasons. But what if the vehicle is damaged during the rental period? No one rents a vehicle expecting damage to occur, but there are steps everyone can take to mitigate the organizational and personal financial risks that arise when a rental vehicle is damaged.

### Official Purposes

The Government established a number of safeguards to protect Soldiers that rent vehicles for official purposes.

First, the Government Travel Card (GTC) must always be used for official travel. The GTC provides insurance coverage for damage to vehicles rented for less than 30 days, unless the rental takes place in Jamaica, Israel or Ireland. However, if damage occurs the driver *must* take the following action to use the insurance protection: (1) within 20 days of damage, notify Visa International Service Association at 1-800-VISA-911 (1-800-847-2911); and (2) submit an accident report to Visa within 70 days of the damage. Please note, this insurance is only for damage caused while an authorized driver was acting within the scope of employment. “Scope of employment” means engaged in conduct related to official duties or purposes, such as driving from a hotel to a duty site, dining facility, place of worship, or other similar place required for a traveler’s subsistence, health or comfort. Conversely, if an employee was driving to an amusement park with the rental vehicle, this conduct is probably outside the scope of employment, and could also constitute Government vehicle misuse which may result in adverse or UCMJ action. In legal terms, the amusement park example is commonly referred to as a “frolic.” Another example of misuse is known as a “detour,” which may include taking an unreasonably different route to an official destination for personal errands or other personal reasons.

Second, when renting a vehicle *always* book through DTS and upon rental check the contract to ensure the GARS supplemental charge appears on the rental contract. For additional information on GARS and the U.S. Government Rental Car program please visit <http://www.defensetravel.dod.mil/site/rentalCar.cfm>. When either of these conditions is met, the U.S. Government Car Rental Agreement automatically includes collision insurance provided by the vehicle rental agency and its insurer. Per the agreement, the rental agency takes responsibility for all collision

damage to the vehicle *as long as* the authorized driver did not willfully or through wanton negligence cause the damage, or commit other misconduct including, but not limited to, racing the vehicle, driving under the influence of an intoxicant, or operating the vehicle in military or training exercises (unless permitted by rental agreement). All insurance exceptions are listed in the U.S. Government Rental Car Agreement, which is available at the Defense Travel website. Additionally, and similar to the GTC, the authorized driver must be acting within the scope of their employment when the damage occurs. If an authorized driver was not acting within the scope of their employment at the time of damage or committed other misconduct which nullifies the insurance, the rental agency must pursue reimbursement from the Government. However, in these instances the Government may deny the claim altogether and the rental vehicle agency may pursue the claim directly against the driver!

In the event a driver is unable to invoke the GTC or U.S. Government Rental Car agreement protections, the costs for loss or damage to rented vehicles is paid directly from unit funds. Either the driver pays the rental agency directly and then submits for reimbursement on a DD 1351-2, or the agency can submit a bill to the unit commander. To substantiate the loss, the driver should submit police reports, traffic citations, witness statements, the rental contract and estimate of damages, and any other document to help substantiate the loss or damage occurred while on official duty. Again, if the loss or damage occurred outside the scope of employment or was caused by wanton or willful negligence, the Government may deny the claim and the driver will be personally liable for loss or damage.

### **Personal Use**

If you rent a vehicle through a German vehicle rental company (i.e. Sixt, Europcar, Alamo etc...), make sure you inspect the vehicle thoroughly for any preexisting damages. If you find any damage, which is not documented on your rental agreement at the time of your "in-check report," make sure to report the damage immediately by walking back into the rental office and ensuring it is documented on the agreement. Additionally, it is highly recommended to take several date-stamped pictures of the vehicle immediately before taking possession of the vehicle.

When renting a vehicle, you should pay for full coverage without a deductible. Contact your credit card company to determine whether or not it provides this coverage. If not, ensure you buy insurance from the rental company at the very latest, when picking up the vehicle. It might appear expensive to you at that very moment, but it may pay off later. Full coverage insurance usually increases the overall rental price by approximately 10%, depending on the company.

When you return the rental car, ensure that a company representative conducts the turn-in inspection while you are present. It is highly recommended you and the representative check on the condition of the vehicle before you leave. Immediately after the inspection, the rental car company should provide a final condition report of the vehicle to you with the note that your security deposit/hold on the credit card will be released. If the representative does not do so, request this documentation before departing. If you return the vehicle after hours, ensure you take good, date-stamped pictures of every angle of the car, in good lighting. This way, should the rental vehicle company claim damages, you will be able to provide proof of the proper condition of the vehicle based on the pictures taken at the time of turn in.

REVIEWED BY: Mr. Austen Swaim, Chief - Client Services and Ms. Eva Gehring, German Attorney-Advisor, 13 August 2018, references: DA Pam 27-162, U.S. Government Rental Car Agreement Number 4 DoD FMR 7000.14-R, Volume 9, The Joint Travel Regulations.