

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-187136

DATE: <sup>61574</sup> SEP 30 1976

MATTER OF: Richard L. Young - Relocation Expenses -  
Withholding of Income Tax

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DIGEST: Court of Claims in Allstate Insurance Co. v. United States, 530 F.2d 378 (1976), held that reimbursement of moving expenses was not compensation for services. That decision does not affect withholding of income tax from relocation expense payments for 1970 and following years, because case dealt with tax years 1965-1969, and statute was amended for tax years beginning after December 31, 1969. Section 82 was added to Internal Revenue Code by 1969 amendment and includes reimbursement of moving expenses within gross income as compensation for services.

This matter arises from a request for an advance decision dated August 3, 1976, from Ms. Orris C. Huet, an authorized certifying officer of the United States Department of Agriculture, regarding a claim from Mr. Richard L. Young for repayment of income taxes withheld from reimbursed relocation expenses in 1975.

Mr. Young contends that the decision in Allstate Insurance Co. v. United States, 530 F.2d 378 (Ct. Cl. 1976), precludes the withholding of Federal income taxes from reimbursement of "moving expenses" paid to Federal employees. Allstate sued in the Court of Claims to recover money it had withheld, for the years 1965 to 1969, from reimbursement of transferred employees' indirect moving costs. The Court held that reimbursement of moving expenses was not compensation for services within the meaning of 26 U.S.C. § 3401 (1964).

There were extensive changes in the tax treatment of moving expenses included in the Tax Reform Act of 1969, Public Law 91-172, 83 Stat. 487, 577-580, December 30, 1969. Among other things, section 82 was added to the Internal Revenue Code (26 U.S.C. § 82 (1970)). That section provides that:

"There shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly,

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by an individual as a payment for or reimbursement of expenses of moving from one residence to another residence which is attributable to employment or self-employment."

This section applies to taxable years beginning after December 31, 1969.

In light of section 82, which specifically defines reimbursement of moving expenses as compensation for services, we do not believe that Allstate Insurance Co. v. United States, supra, has any applicability to 1970 and following tax years. It is based upon a statute that has been amended, specifically dealing with the point covered by the Court.

Accordingly, Mr. Young's voucher is returned and may not be certified for payment.

R.F. KELLER

Deputy

Comptroller General  
of the United States