

**DECISION**

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

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JUN 8 1976

FILE: B-182127

DATE:

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MATTER OF: Ronald N. Lacey - Reimbursement of forfeited  
real estate deposit

DIGEST: Employee claimed that he forfeited deposit on residential lot incident to transfer. Although employee's brother later purchased lot, employee may be reimbursed amount of deposit as part of miscellaneous expenses allowance since owner, not employee, deeded lot to brother and employee received no money for transfer of his interest.

This case concerns a request for a decision by Cathryn C. Powledge, an authorized certifying officer of the Internal Revenue Service, as to whether she may certify for payment a voucher for \$500 in favor of Ronald N. Lacey, an employee of the Service. The item represents an earnest money deposit on a parcel of land claimed to have been lost as a result of Mr. Lacey's transfer of official station. The case was previously submitted to this Office and recovery disallowed absent documentation showing the bona fide nature of a transaction whereby the petitioner's brother paid the balance of the purchase price of property involved. Documentation concerning the questioned transaction is included in the resubmission.

Mr. Lacey purchased a lot on which he intended to build a residence. He deposited \$500 of the purchase price on December 19, 1973. The remainder of the \$5,000 purchase price was due March 19, 1974. The sales contract provided that the \$500 deposit would be forfeited, at the seller's option, upon Mr. Lacey's failure to comply with the terms of the contract. Mr. Lacey was notified of his transfer from Beaufort, South Carolina, to Columbia, South Carolina, on March 7, 1974. At that time Mr. Lacey could not find a purchaser for the property. However, his brother, Mr. V. M. Lacey, Jr., eventually paid the \$4,500 remaining due on the sales contract to the seller and received title to the property. Mr. Lacey claims his \$500 deposit was forfeited and seeks reimbursement.

We have held that a real estate deposit forfeited incident to a transaction that did not qualify as a compensable expense under the "Settlement of an unexpired lease" provision in the Federal Travel Regulations (FPMR 101-7) para. 2-6.2h (May 1973) could be reimbursed as a miscellaneous expense under para. 2-3.1b when the cause of the forfeiture was the transfer of the employee.

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However, in decision B-182127, March 7, 1975, we held that Mr. Lacey's claim for the forfeited deposit could not be allowed until there was documentation indicating that the transaction whereby Mr. Lacey's brother paid the remaining amount for the property in question was a bona fide transaction. Specifically documentation was required indicating whether any money flowed from Mr. V. H. Lacey, Jr., to Mr. H. Lacey incident to the transaction. Also, documentation was required indicating in whose name the property was recorded.

The documentation forwarded with the present submission consists of a copy of a signed statement by Mr. V. H. Lacey, Jr., concerning the transfer of Mr. H. Lacey's interest in the parcel of land to him and a copy of a recorded deed of the property to Vernon M. Lacey, Jr. The statement signed by Mr. V. H. Lacey, Jr. specifically indicates that the property in question was sold to him for \$4,500 by the First Bankfort Corporation and that it was understood that the \$500 paid by Mr. H. Lacey incident to his prior purchase contract was also to be applied toward the purchase price, thus making the total to be received by the corporation to be \$5,000 as specified in the contract between Mr. H. Lacey and the corporation. Mr. V. H. Lacey's statement also declared that there was no conveyance of additional monies between him and Ronald H. Lacey or any other party involved in the real estate transaction.

The additional evidence submitted indicates that Mr. H. Lacey received no money for the transfer of his interest in the land to his brother and that he forfeited his earnest money deposit under his purchase agreement. Accordingly, the forfeited \$500 earnest money deposit may be included in the miscellaneous expenses allowance and the voucher may be certified for payment, if otherwise proper.

R. F. KELLER

Deputy

Comptroller General  
of the United States