

DECISION

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

FILE: B-184478

DATE: MAY 13 1976

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MATTER OF:

James A. Woods - Reimbursement for Real
Estate Expenses

DIGEST:

Relocated employee sold residence at old duty station which he owned jointly with his brother. Joint Travel Regulations require that title to residence be held in name of employee alone, or jointly with one or more dependents, or in name of one or more dependents. Under the regulations, an employee's brother is not a dependent or a member of the immediate family. Reimbursement of real estate costs is therefore limited to the extent of employee's interest in residence, in this case 50 percent.

This action is in response to the request for an advance decision from a Finance and Accounting Officer at Headquarters U.S. Army Field Artillery Center and Fort Sill, Fort Sill, Oklahoma, forwarded here by the Per Diem and Transportation Allowance Committee PDTATAC Control No. 75-20, July 2, 1975, regarding the real estate expenses incurred by Mr. James A. Woods, a civilian employee of the Department of the Army.

The record indicates that by a travel authorization dated June 12, 1974, Mr. Woods was authorized reimbursement for real estate expenses in accordance with the provisions of the Joint Travel Regulations (JTR) pursuant to a change of official duty station from Homewood, Illinois, to North Little Rock, Arkansas. The administrative report states that title to the residence sold at the old duty station was listed in the names of the employee and his brother, Martin E. Woods.

The employee states that the reason his brother's name appeared on the title to the property and on the mortgage was to assist the employee in obtaining financing. The employee says that his real estate agent advised him that it would be easier to obtain a mortgage loan as a single person if he had a cosigner. Further, the employee states that his brother had no financial interest in the property, and there appears in the record a notarized statement to that effect from the employee's brother. The record also indicates that the employee alone signed the purchase agreement for the house in 1972, made the downpayment and all subsequent mortgage payments, and paid all expenses in selling the residence

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pursuant to his change of station. Finally, there is no indication that the employee's brother ever lived at this residence or shared in the money realized from the sale of the residence. The house was occupied by the employee and his dependent mother.

Section 5724a of title 5, United States Code, provides in pertinent part that employees who are transferred may be reimbursed:

"(a)(4) Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. * * * This paragraph applies regardless of whether title to the residence or the unexpired lease is in the name of the employee alone, in the joint names of the employee and a member of his immediate family, or in the name of a member of his immediate family alone."

Paragraph C8350 of Volume 2 of the JTR provides, in pertinent part:

"1. GENERAL. An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station * * * provided that:

* * * * *

"2. the title to the residence or dwelling at the old or new duty station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more dependents, or solely in the name of one or more dependents * * *."

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"5. the expenses for which reimbursement is claimed were paid by the employee * * *."

Under the regulations, however, an employee's brother is not a dependent or a member of the immediate family. See Paragraph C1100, Volume 2, JTR; Paragraph 2-1.4d, Federal Travel Regulations (FPMR 101-7) (May 1973); 47 Comp. Gen. 121 (1967).

Thus, even though the record before us shows that the employee paid all of the expenses in the purchase and sale of the residence, the employee may be reimbursed his expenses only to the extent of his interest in the residence, in this case 50 percent. B-167962, November 7, 1969; see also B-180767, May 16, 1974 and B-177091, December 12, 1972.

Accordingly, action on the voucher should be taken in accordance with the above.

R.F. KELLER
Deputy Comptroller General
of the United States