

**DECISION**



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

**FILE:** B-205267

**DATE:** June 15, 1982

**MATTER OF:** James A. Gutzwiller - Real Estate Expenses -  
Loan Origination Fee - No Itemization

**DIGEST:** The Internal Revenue Service (IRS) asks our Office to reconsider our decisions denying transferred Federal employees reimbursement for certain services provided as part of a loan origination fee where there is no itemization of the portion of the charge allocable to each of the services for which reimbursement is being sought. Our position is mandated by paragraph 2-6.2d of the Federal Travel Regulations, which precludes reimbursement for any expenses defined as a finance charge. In the absence of itemization of the loan origination fee, estimated expenses may not be paid.

The issue in this decision is whether an employee may be reimbursed for part of a loan origination fee based upon estimates of the reimbursable expenses included in the fixed-percentage fee. We hold that where the reimbursable expenses are not itemized to show their exclusion from the nonreimbursable finance charges, these estimated expenses may not be paid.

Ms. V. G. Leist, an authorized certifying officer of the Internal Revenue Service (IRS), Cincinnati, Ohio, requests our decision concerning the claim of Mr. James A. Gutzwiller for reimbursement for certain expenses included as part of a finance charge and incurred incident to the purchase of a residence at his new duty station.

Mr. Gutzwiller, an IRS employee, was transferred from Kalamazoo, Michigan, to Cincinnati, Ohio. He purchased a residence in Cincinnati and incurred a finance charge of \$1,956, representing 3 percent of the loan amount. Mr. Gutzwiller sought to be reimbursed \$473 for the following services provided by the lending institution as a part of that finance charge: an abstract and title search; a survey; document preparation; an appraisal; and a credit

report. This figure of \$473 was arrived at by using estimates of customary local charges for each of these services as supplied by the Cincinnati office of the Department of Housing and Urban Development (HUD). The IRS disallowed the claim, recognizing that our decisions prohibit reimbursement for any services provided as a part of a finance charge where there is no itemization of the portion of the charge allocable to each of the services for which reimbursement is being sought.

In Mr. Gutzwiller's situation, the financial institution has reportedly refused to provide him with such an itemization. The IRS investigated and found that the financial institution would not provide this itemization, was not legally required to do so, and was following a trend among financial institutions in not doing so. Because of this trend and because of the availability of expense estimates from HUD for local customary real estate-related services, the IRS asks our Office to reconsider its position denying transferred Federal employees reimbursement for certain services provided as part of a finance charge where there is no itemization of the portion of the charge allocable to each of the services for which reimbursement is being sought.

We conclude that Mr. Gutzwiller's claim for \$473 was properly disallowed. Our position is mandated by the requirements of the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), paragraph 2-6.2d.

The authority to reimburse a Government employee for expenses incurred in connection with the purchase of a residence upon an official transfer of station is found in section 5724a of title 5 of the United States Code and regulations promulgated by the General Services Administration (GSA) in Chapter 2, Part 6, of the FTR.

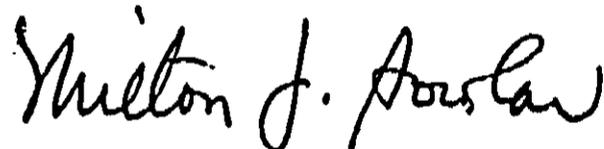
Paragraph 2-6.2d of the FTR prohibits the reimbursement of any fee, cost, charge, or expense which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Pub. L. No. 90-321, 15 U.S.C. § 1601, et seq. (1976), as amended, and Regulation Z, codified at 12 C.F.R. § 226.4 (1981). Regulation Z explicitly categorizes loan origination fees as finance charges incident to or as a condition of the extension of credit. We consider a fee

which varies in total amount in direct proportion to the amount borrowed, rather than the service provided, to be in the nature of a charge for the hire of money--a loan fee. As such, it is a finance charge and cannot be reimbursed. Anthony J. Vrana, B-189639, March 24, 1978.

Our decisions have held that fees such as those claimed by Mr. Gutzwiller may be reimbursed as part of a loan origination fee only if the charges (1) are expressly excluded from the finance charge by Regulation Z, (2) are reasonable in amount, and (3) are itemized to show the portion of the loan origination fee allocable to each item. Ronald S. Taylor, 60 Comp. Gen. 531 (1981); Robert E. Whitney, 58 Comp. Gen. 786 (1979); and Vrana, supra. Because the FTR prohibits reimbursement of a finance charge and requires that a determination be made of the reasonableness of each charge, we have held that estimates are not acceptable and an itemization must be provided. Vrana, supra. In the absence of such an itemization of the loan origination fee, we find no basis to allow Mr. Gutzwiller's claim.

We recognize that the requirements of the FTR may result in increased costs for Federal employees who are transferred, but our position on loan origination fees is mandated by the FTR which is promulgated by GSA. We note that GSA proposed modifying the FTR to permit the reimbursement of loan origination fees. See 46 Fed. Reg. 17791 (1981). However, we know of no final action which has been taken on that proposed amendment to the FTR.

Accordingly, we find no basis to allow Mr. Gutzwiller's claim.



Acting Comptroller General  
of the United States