

**DECISION**

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

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**FILE:** B-216121**DATE:** February 19, 1985**MATTER OF:** Stevan C. Little, Sr.**DIGEST:**

An employee who upon transfer sold his residence at his former duty station claims reimbursement for the loan discount or mortgage placement fee, also known as seller's points, which he paid as a part of the cost of selling his former residence. The claim may not be paid even though under Regulation Z, which implements the Federal Truth in Lending Act, seller's points are no longer included among finance charges, because reimbursement for points or mortgage discounts as a miscellaneous expense of a real estate transaction is specifically prohibited by the Federal Travel Regulations and Volume 2 of the Joint Travel Regulations.

This action is in response to a request for an advance decision as to whether an employee who sold his residence at his old duty station in connection with a transfer is entitled to reimbursement of a loan discount or mortgage placement fee, also known as seller's points, which he paid as a part of the cost of selling his residence.<sup>1/</sup> As is specifically provided in current regulations, the employee is not entitled to reimbursement for a mortgage placement fee, loan discount, or seller's points.

**BACKGROUND**

Mr. Stevan C. Little, Sr., an employee of the Defense Criminal Investigative Service, Defense Logistics Agency, was transferred from Philadelphia, Pennsylvania, to Hartford, Connecticut, under travel orders issued May 10, 1983. In connection with the transfer Mr. Little sold his

<sup>1/</sup> This request for an advance decision was submitted by R. G. Bordley, Chief, Accounting and Finance Division, Office of the Comptroller, Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, Virginia. The request was forwarded by the Per Diem, Travel and Transportation Allowance Committee and assigned Control No. 84-14.

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former residence in Runnemede, New Jersey. In the sales contract Mr. Little agreed to pay a mortgage placement fee not to exceed \$1,230. The settlement statement lists the fee as a loan discount. Such a fee or discount is commonly called seller's points.

We have been asked to determine whether such a cost is reimbursable in light of recent changes to both the travel regulations and the Federal Reserve System's Regulation Z.

#### DISCUSSION

A Federal employee who relocates in connection with a permanent change of station may, under the provisions of 5 U.S.C. § 5724a, be reimbursed for certain real estate expenses incurred in selling his former residence or purchasing a new residence. This statute is implemented by the Federal Travel Regulations, Part 2, Chapter 6, incorp. by ref., 41 C.F.R. 101-7.003 (1983) (FTR). For civilian employees of the Department of Defense these regulations are reflected in Volume 2 of the Joint Travel Regulations (2 JTR) which are substantially identical with the FTR.

Various miscellaneous expenses related to the real estate transactions for which a transferred employee may be reimbursed are listed in FTR para. 2-6.2d(1), as amended by General Services Administration Bulletin FPMR A-40, General Supplement 4 (August 23, 1982), and in 2 JTR para. C14002-1d(1) (Change 208, February 1, 1983), both of which became effective on October 1, 1982. Nonreimbursable miscellaneous items of residence transactions are listed in 2 JTR para. C14002-1d(2), and FTR para. 2-6.2d(2), the latter of which provides in relevant part:

"(2) Nonreimbursable items. Except as otherwise provided in (1) above, the following items of expense are not reimbursable:

\* \* \* \* \*

"(b) Interest on loans, points, and mortgage discounts;

\* \* \* \* \*

"(e) No fee, cost, charge or expense determined to be part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321, and Regulation Z issued in accordance with Pub. L. 90-321 by the

Board of Governors of the Federal Reserve System, unless specifically authorized in (1), above \* \* \*."

Under Regulation Z, 12 C.F.R. 226.4(b)(3), points (loan discount fees) were designated as finance charges and, therefore, have previously been considered nonreimbursable items of real estate transaction expenses under FTR para. 2-6.2d(2)(e) (2 JTR para. C14002-1d(2)5), as well as FTR para. 2-6.2d(b) (2 JTR para. C14002-1d(2)2). Robin J. Zeldin, B-211262, August 12, 1983. However, as Mr. Little points out, Regulation Z was amended, effective April 1, 1981, to exclude seller's points from finance charges. 12 C.F.R. 226.4(c)(5) (1983). He, therefore, asks if the travel regulations have "mischaracterized" a mortgage discount as a finance charge since Regulation Z was revised.

We recently considered the question of whether seller's points are reimbursable under the travel regulations since they are no longer included within the definition of a finance charge under Regulation Z. We found that the fact that seller's points are no longer considered a finance charge and are not excluded from reimbursement under FTR para. 2-6.2d(2)(e) has no bearing on the fact that they may not be considered reimbursable expenses because they are mortgage discounts which are specifically excluded from reimbursement by FTR para. 2-6.2d(2)(b). Thus, they are not reimbursable expenses regardless of the change in Regulation Z. Harvey B. Anderson, B-214277, June 25, 1984.

Accordingly, Mr. Little may not be reimbursed for this cost.

*for*   
Comptroller General  
of the United States