

DECISION



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

FILE: B-217095

DATE: November 29, 1985

MATTER OF: George D. Sack - Relocation Expenses -
Maximum Weight of Household Goods Shipment

DIGEST:

An employee is limited to the maximum weight for shipment of household goods provided in the regulations in effect on the date of his transfer, November 14, 1982, rather than the maximum weight allowed at the time of his household goods shipment, on December 21, 1983. The regulations implementing the increases authorized by section 118 of Public Law 98-151, November 14, 1983, restrict these increases to employees reporting to their new duty station on or after November 14, 1983. Contrary statements made by congressional sponsors after enactment are not sufficient to show that the implementing regulations are improper. See Jack G. Petrie, B-216542, June 11, 1985.

This decision results from a request by Mr. Peter M. Conroy, Jr., National Field Representative of The National Treasury Employees Union, for our opinion concerning the entitlement of Mr. George D. Sack to reimbursement for the expenses of moving his household goods to his new duty station. Mr. Conroy's request was made under the regulations found at 4 C.F.R. Part 22 which set forth procedures for our decisions on appropriated fund expenditures which are of mutual concern to agencies and labor organizations. Mr. Sack's employing agency, the Internal Revenue Service (IRS), has not submitted comments on this matter.

Mr. Sack was promoted and transferred from his position as a GS-11 Revenue Officer in Brooklyn, New York, to a GS-12 Revenue Officer in Burlington, Vermont, effective November 14, 1982. He moved his family and his household

goods to Burlington on December 21, 1983. The IRS restricted Mr. Sack's reimbursement to the regulatory weight limits in effect at the time of his transfer rather than the higher limits in effect at the time he moved his family and household goods. It did so on the basis of General Services Administration (GSA) regulations which provided that the increased benefits authorized by amendments made to Title 5, United States Code, Chapter 57, by section 118 of the Joint Resolution of November 14, 1983, Public Law 98-151, 97 Stat. 977-979, were available only to employees whose effective date of transfer was on or after November 14, 1983. Mr. Conroy contends that these regulations do not conform with the congressional intent regarding the effective date of the increases authorized under section 118 of the Joint Resolution, as evidenced by a January 26, 1984, letter from two of the congressional sponsors of section 118 to the GSA Administrator.

Section 118 amended a number of the statutory authorities for reimbursement of employee relocation expenses but it appears that the specific entitlement involved in Mr. Sack's situation is the maximum weight limitation for shipment of household goods. Section 118 amended 5 U.S.C. 5724(a) to increase the maximum weight limitation from 11,000 pounds to 18,000 pounds. Mr. Sack apparently shipped more than 11,000 pounds of household goods and was found to be indebted for the shipment of excess weight in the amount of \$1,930.86.

Neither section 118 nor any other provision of the Joint Resolution specified the date of a transaction or event involving relocation as the effective date of the increases provided by that Resolution. Instead, subsection 118(c) of the Joint Resolution merely stated that the amendments would be effective on the date of the enactment. The General Services Administration promulgates the Federal Travel Regulations (FPMR 101-7, September 1981, incorp. by ref., 41 C.F.R. § 101-7.003 (FTR)), which implement the provisions of Chapter 57, Title 5, United States Code. On March 13, 1984, GSA issued regulations amending Chapter 2 of the FTRs in accordance with the changes made by section 118 of the Joint Resolution. (GSA Bulletin FPMR A-40, Supp. 10, published at 49 Fed Reg. 13920, April 9, 1984). Under the heading "EFFECTIVE DATE", GSA stated that:

"The revised provisions of Chapter 2 are effective for employees and certain new appointees whose effective date of transfer or appointment is on or after November 15, 1983. For purposes of these regulations, the effective date of transfer or appointment is the date the employee or new appointee reports for duty at the new or first official station."

Under the heading "SUPPLEMENTARY INFORMATION", GSA also stated that:

"The relocation allowances contained in the FTR were changed substantially effective October 1, 1982, and again with the changed pages transmitted by this supplement. Because of these changes and the extended eligibility period for certain allowances (potential 3 years) payment of relocation allowance claims may require application of different allowance levels for different employees. Agencies are reminded that provisions of the regulations in effect on the employee's or appointee's effective date of transfer or appointment must be used for payment purposes."

Prior to the issuance of Supplement 10, on January 26, 1984, Senator John Warner and Representative Frank R. Wolf sent a letter to the Administrator of GSA with which they enclosed an outline "to explain the history of our initiative and to show our discussions with the House and Senate leadership concerning the congressional intent of this initiative." In that outline they stated as follows:

"The legislation is clear that the provisions of Sec. 118 of P. L. 98-151 become effective on the date of enactment--in this case, November 14, 1983. We would like to clarify that this is an entire change of policy and a departure from past practices. At the point in time when this legislation was enacted, anyone undergoing a move or continuing to incur costs associated with a government-directed move (whether tax-related, unsold home at the old station, or other) would be subject to the new

reimbursement rates for costs incurred on or after November 14. We believe the statute is clear on this point."

In a recent case, Jack G. Petrie, B-216542, June 11, 1985, we considered the claim of an employee who contended, as does Mr. Conroy, that in light of the above statement the FTR reporting date requirement does not comply with congressional intent to make the increases under section 118 of the Joint Resolution effective November 14, 1983.

In finding that GSA's regulation is not arbitrary or contrary to the statutory purpose we stated in Petrie as follows:

"* * * The statement [of the two congressional sponsors] does not refer to any formal legislative history showing congressional intent. In fact, the letter points out that there were no committee hearings or reports on the legislation. Ordinarily those are the key portions of the legislative history for interpreting a statute. Significantly, the sponsors' statement concerning the effective date was made over 10 weeks after the enactment of the Joint Resolution. Sponsors' remarks in the formal legislative history and debate prior to enactment may be important interpretive aids because the legislative body considered them before passing the measure. On the other hand, postpassage remarks by sponsors carry less weight and do not serve to change the legislative intent. See Epstein v. Resor, 296 F. Supp. 214, 216 (N.D. Cal. 1969), aff'd, 421 F.2d 930 (9th Cir.), cert. denied, 398 U.S. 965 (1970); Ambook Enterprises v. Time Inc., 612 F.2d 604, 610 (2d Cir. 1979); 2A SUTHERLAND STATUTES AND STATUTORY CONSTRUCTION, § 48.15 (4th ed. 1973).

"In the present case, Congress granted the General Services Administration the authority to designate the transaction or event that must occur on or after the effective date of section 118 in order to qualify an employee for the relocation increases. Although the sponsors requested the General Services Administration to choose a different

event, it selected the employee's entrance on duty at the new official station. This appears to have been a practical solution to establishing the effective date and is generally consistent with previous changes made in the regulations governing these entitlements."

In light of the above, we must deny Mr. Conroy's request that we direct reimbursement of Mr. Sack's claim for shipment of 18,000 pounds of household goods.

Milton J. Fowler
for Comptroller General
of the United States