

**DECISION**



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

**FILE:** B-220287

**DATE:** March 11, 1986

**MATTER OF:** Richard G. Mack - Real Estate Expenses -  
Mortgage Insurance Premium

**DIGEST:**

A transferred civilian employee of the Air Force claims reimbursement for a mortgage insurance premium he paid at settlement on purchase of a residence at his new duty station. Reimbursement for mortgage insurance, as distinguished from mortgage title insurance, is specifically precluded by the Federal Travel Regulations (FTR) and Joint Travel Regulations (JTR). In addition, mortgage insurance to protect the lender against default is a finance charge which may not be reimbursed under the FTR and JTR.

This responds to a request for an advance decision on the issue of whether a transferred employee may be reimbursed for a mortgage insurance premium required by a lender in connection with the purchase of a residence.<sup>1/</sup> We conclude that the charge for mortgage insurance to protect the lender against a default by the borrower is not reimbursable under the Federal Travel Regulations.

BACKGROUND

Richard G. Mack, a civilian employee of the Department of the Air Force, was transferred from Hill Air Force Base,

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<sup>1/</sup> This request for an advance decision originated with Doug Webster, Chief, Program Management Section, Personnel Division, Hill Air Force Base, Utah. The request was forwarded through channels to the Per Diem, Travel, and Transportation Committee, Department of Defense, where it was approved and assigned control number 85-31.

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Utah, to Ellsworth Air Force Base, South Dakota, in November 1983. He purchased a residence at his new duty station and at settlement was required to pay a mortgage insurance premium in the amount of \$1,775.12 to protect the lender against a possible default on the mortgage.

Mr. Mack requested reimbursement for this amount from the Personnel Division at Hill Air Force Base. Air Force officials there denied reimbursement, but requested guidance on the issue from their Comptroller. The request was forwarded through appropriate channels to our Office.

The Air Force request states that there is a need for guidance concerning payment of a relatively new type of mortgage insurance premium being charged home buyers. It has caused problems for several months at Hill Air Force Base, and possibly elsewhere as well, which will continue to recur. Air Force officials were advised by local banks and the local office of the Department of Housing and Urban Development that a mortgage insurance premium is for insurance protecting the lender from the obligor's (home buyer's) default. This insurance cannot be waived and is a prerequisite to obtaining an FHA or conventional loan. Apparently the entire premium is collected at settlement.

The Air Force has reviewed our earlier decisions disallowing similar charges and is aware of the regulation prohibiting payment of finance charges. It notes, however, that credit reports and loan origination fees are also finance charges and are now reimbursable items. It also points out that the Joint Travel Regulations since 1983 have allowed mortgage title insurance premiums required by the lender and paid for by the buyer, as well as owner's title insurance if it is a prerequisite to financing or is inseparable from the lender's policy.

Since mortgage insurance, like loan origination fees and credit reports, is a required charge by and for the protection of the lender, the Air Force believes it should also be reimbursable. Since it anticipates that these claims will steadily increase, the Air Force requests our decision.

Opinion

A Federal employee who relocates in connection with a permanent change in station may, under the provisions of 5 U.S.C. § 5724a (1982 and Supp. I, 1983), 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, Chapter 2, Part 6, incorp. by ref., 41 C.F.R. § 101-7.003 (1985) (FTR). For civilian employees of the Department of Defense, these regulations are also reflected in Volume 2 of the Joint Travel Regulations (2 JTR) which must be consistent with the provisions of 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, 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 FTR para. 2-6.2(d)(2), and 2 JTR para. C14002-1d(2), the latter of which provides, in pertinent part:

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

"1. \* \* \* mortgage insurance \* \* \*;

\* \* \* \* \*

"5. no fee, cost, charge or expense determined to be part of the finance charge under the Truth in Lending Act, Title I, P.L. 90-321, and Regulation Z issued in accordance with P.L. 90-321 by the Board of Governors of the Federal Reserve System, unless specifically authorized in subpar. (1) above; \* \* \*"

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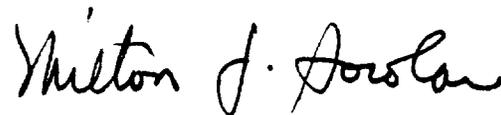
We recently considered a similar case concerning an employee of the Department of the Interior. Daniel T. Mates, B-217822, June 20, 1985. There we relied on the applicable provisions of the FTR, which contain language identical to the JTR provisions quoted above. We stated that the applicable regulations specifically precluded reimbursement for mortgage insurance, as distinguished from mortgage title insurance.

Similarly, we must conclude that 2 JTR para. C14002-1d(2)(1), expressly precludes reimbursement for the cost of mortgage insurance. In addition, as we have previously stated, reimbursement is also prohibited by 2 JTR para. C14002-1d(2)(5), since it is a finance charge. Regulation Z lists as an example of a finance charge, "premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss." 12 C.F.R. § 226.4(b)(5) (1985).

The Comptroller General decisions which the Air Force recognized as prior authority disallowing this type of claim were not affected by the 1983 changes to the Joint Travel Regulations. The prior regulations also specifically prohibited reimbursement for mortgage insurance. See, for example, FTR para. 2-6.2d (Supp. 1, September 28, 1981). There was no change made in 1983 in this regard.

Any change to allow mortgage insurance premiums to be reimbursed would have to be accomplished by an amendment to the Federal Travel Regulations which now clearly prohibit reimbursement. We are providing a copy of this decision and the incoming request to the General Services Administration for its consideration of this subject.

Accordingly, we hold that Mr. Mack's voucher may not be certified for payment.



Acting Comptroller General  
of the United States