



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Ivan Allen Correll - Real Estate Expenses -  
Refinancing of Old Residence  
**File:** B-223898  
**Date:** May 19, 1987

## DIGEST

Ordinarily reimbursable real estate selling expenses would include those for refinancing the employee's residence at the old duty station to expedite the sale by permitting the buyer to assume the new mortgage. But the total real estate selling expenses, including a loan origination fee for refinancing, may not exceed 10 percent of the sales price (\$9,250), the statutory maximum. Thus, the employee may not, in order to avoid the statutory maximum amount, be reimbursed the loan origination fee incurred in refinancing the old residence as a cost of purchasing a home at the new duty station. However, the fee may be allowed as an expense of the sale to the extent total sales expenses do not exceed \$9,250.

## DECISION

In this case we decide that Mr. Ivan Allen Correll, an employee of the Department of Housing and Urban Development (HUD), may not be reimbursed more than the maximum allowable amount of \$9,250 for his real estate selling expenses, including the expenses he incurred for refinancing his home at his old duty station to expedite its sale.<sup>1/</sup> Further, the loan origination fee incurred in refinancing the old residence may not be considered as a cost of purchasing a home at his new duty station in order to avoid the maximum allowable selling expenses.

Mr. Correll transferred from Seattle, Washington, to Washington, D.C., on September 17, 1985. He refinanced his Seattle home with a new mortgage to enable the buyer

<sup>1/</sup> The Deputy Director, Office of Finance and Accounting, U.S. Department of Housing and Urban Development, requested our decision.

to assume the mortgage loan and thereby expedite the sale at a gross purchase price of \$92,500. He claimed closing costs for the sale in the amount of \$9,183.37.

Mr. Correll also incurred a loan origination fee of \$811.50 in refinancing the Seattle home, but he did not claim that amount as a real estate selling expense. Instead he has claimed it as an expense of purchasing a residence in the vicinity of Washington, D.C. He considers his financing of the sale and purchase of the residences at the old and new duty stations as a "total financial package" within the meaning of that term as used in Marshall L. Dantzler, 64 Comp. Gen. 568 (1985). Similar to the fact situations discussed in that decision, he evidently needed to refinance the Seattle residence to facilitate its sale and to obtain sufficient funds for the purchase of the Washington, D.C., home. For that reason he seeks to allocate the \$811.50 loan origination fee as a cost attributable to the purchase of the Washington, D.C. home.

We have held that reimbursable real estate expenses to transfer a security interest in the home being refinanced at the old duty station may include a loan origination fee as a reimbursable cost of the sale of the home. The refinancing enables the employee to sell his home with the buyer assuming the new mortgage. We recognize that, as a practical matter, the funds obtained from the sale are usually necessary to enable the employee to purchase a home at the new duty station. Because the costs incurred in refinancing are for the purpose of facilitating the sale and purchase of the residences at the old and new duty stations, the real estate transactions have been referred to as a total financial package. Marshall L. Dantzler, 64 Comp. Gen. at 569-570; James R. Allerton, B-206618, March 8, 1983. Consequently, we would ordinarily have no objection to payment of a loan origination fee for the refinancing of the Seattle home, provided it is reasonable and within the customary amount charged in the local area. The same rule would apply to other fees such as an escrow fee.<sup>2/</sup> However, for the first time, we are faced with the issue of allowing such expenses when the total expenses involved in the sale of the old residence exceed the statutory maximum amount.

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<sup>2/</sup> Mr. Correll originally requested reimbursement for an escrow fee; however, it has been deleted from his reclaim voucher.

Under the governing statute, reimbursable real estate selling expenses may not exceed the lesser of 10 percent of the sales price or \$15,000.<sup>3/</sup> 5 U.S.C. § 5724a(a)(4)(B)(i) (Supp. I 1983). In this case the sales price of the Seattle home was \$92,500, and the maximum real estate selling expenses allowable is 10 percent of that price, or \$9,250. The loan origination fee of \$811.50 for refinancing, together with the other real estate selling expenses of \$9,183.37, totalled \$9,994.87. Accordingly, Mr. Correll seeks to allocate the fee to the purchase of his new residence.

We recognize that refinancing to facilitate an expeditious sale of the residence at the old duty station is often necessary to enable the employee to finance the purchase of the residence at the new duty station. At the same time, we are constrained by the separate maximum amounts allowable for a residence sale and purchase, respectively.

In Arthur J. Kerns, Jr., 60 Comp. Gen. 650 (1981), an employee who could not sell his home at the old duty station placed a second trust on it as security interest for the lender of funds needed to purchase a home at the new duty station. Although we allowed real estate expenses to transfer the security interest to the lender under the total financial package concept, there is no doubt that these expenses were for the purchase.

We followed up our landmark Kerns decision in James R. Allerton, B-206618, March 8, 1983. In Allerton, the employee refinanced his old residence in order to facilitate its sale and to obtain a downpayment for the purchase of a new residence. We allowed the costs of refinancing based on Kerns. We also allowed refinancing costs under similar circumstances in Charles A. Onions, B-210152, June 28, 1983. We said that the refinancing transaction was part of the total financial package and essential to the purchase of the new home. See also Marshall L. Dantzler, 64 Comp. Gen. 568 (1985), where we allowed refinancing costs necessary to obtain an assumable mortgage to facilitate the sale of the old home.

None of these cases, however, involved the issue of whether refinancing costs could be attributed to the purchase of the new residence where the employee would otherwise exceed the

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<sup>3/</sup> This amount is subject to an annual increase based on the Consumer Price Index. 5 U.S.C. § 5724a(a)(4)(B)(iii) (Supp. I 1983).

maximum amount allowable for selling the old residence. Since we are faced with an express statutory maximum, we believe the cost allocation principles of the total financial package concept must give way to the statutory command. Hence, the loan origination fee incurred in refinancing the Seattle residence may not be allocated to the purchase of Mr. Correll's residence at his new duty station in order to avoid the statutory limitation on sales expenses.

Accordingly, real estate expenses for the sale of the Seattle home may not exceed \$9,250, including the cost of refinancing that property. Further, Mr. Correll's claim for the \$811.50 loan origination fee incurred in refinancing the Seattle home as an expense of purchasing the Washington, D.C., home is denied. However, the fee may be allowed as an expense of the sale to the extent total sales expenses do not exceed \$9,250.



**Acting** Comptroller General  
of the United States