



The Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Michael S. Kochmanski - Real Estate Expenses -
Mortgage Insurance Premium
File: B-227503
Date: August 20, 1987

DIGEST

A transferred employee claims reimbursement for a mortgage insurance premium required by the lender and 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). In addition, mortgage insurance to protect the lender against default is a finance charge which may not be reimbursed under the FTR.

DECISION

Michael S. Kochmanski requests reconsideration of our Claims Group's disallowance of the expense he incurred for a mortgage insurance premium in connection with the purchase of a residence at his new duty station. In sustaining the adjudication of our Claims Group 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 (FTR). This type of insurance must be distinguished from mortgage title insurance which protects the lender against defective title and, if required by the lender, may be reimbursed.

BACKGROUND

On September 19, 1985, the Internal Revenue Service disallowed Mr. Kochmanski's claim for mortgage insurance premium in the amount \$1,472.80 as an item of relocation expenses incurred in buying a residence in Woodbury, Minnesota, in connection with his change of official duty station. Mr. Kochmanski asked that his reclaim of relocation expenses be forwarded to the General Accounting Office for a decision on the reimbursement of the mortgage insurance premium of \$1,472.80. This reclaim was disallowed by our Claims Group in Settlement Certificate No. Z-2864001, February 5, 1987, on the basis that para. 2-6.2d(2) of

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the Federal Travel Regulations, incorp. by ref., 41 C.F.R. § 101-7.003 (1985) (FTR), does not permit reimbursement of mortgage insurance or insurance against loss or damage of property.

In requesting reconsideration of our Claims Group's adjudication, Mr. Kochmanski contends that the authorities it cited disallow reimbursement for owners title insurance or other insurance which protects the owner from loss or damage to the property. Mr. Kochmanski states that the mortgage insurance premium that he seeks reimbursement for does not cover the owner for anything, but is required by the seller whenever the buyer makes a downpayment of less than 20 percent of the home purchase price. As a result, in Mr. Kochmanski's view, the mortgage insurance premium insures the seller against default by the buyer and is therefore allowable as a reimbursement under para. 2-6.2d(1)(h) of the FTR, which allows reimbursement for a mortgage title policy paid by the buyer for the protection of, and required by, the lender.

ANALYSIS AND CONCLUSION

A Federal employee who relocates in connection with a permanent change in station may, under the provisions of 5 U.S.C. § 5724a (1982), be reimbursed for certain real estate expenses incurred in selling his former residence or purchasing a new residence. This statute is implemented by Chapter 2, Part 6, of the FTR, which provides in para. 2-6.2d, as follows:

"d. Miscellaneous expenses.

"(1) Reimbursable items. The expenses listed below are reimbursable in connection with the sale and/or purchase of a residence, provided they are customarily paid by the seller of a residence in the locality of the old official station or by the purchaser of a residence at the new official station to the extent they do not exceed amounts customarily paid in the locality of the residence.

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"(h) Mortgage title insurance policy, paid for by the employee, on a residence purchased by the employee for the protection of, and required by, the lender;

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

"(a) Owner's title insurance policy, 'record title' insurance policy, mortgage insurance or insurance against loss or damage of property, and optional insurance paid by the employee in connection with the purchase of a residence for the protection of the employee;

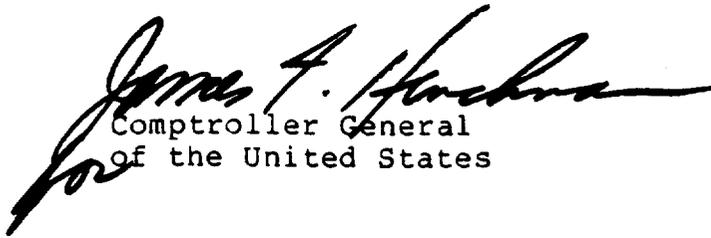
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"(e) No fee, cost, charge, or expense determined to be part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321, and Regulation Z issued in accordance with Pub. L. 90-321 by the Board of Governors of the Federal Reserve System,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

Under FTR para. 2-6.2d(1)(h) the cost of a mortgage title insurance policy paid for by the employee may be reimbursed if required by the lender. Daniel T. Mates, B-217822, June 20, 1985. This type of insurance protects the lender against possible defects in the purchaser's title to the property.

The mortgage insurance premium, as distinguished from mortgage title insurance, insures the lender against possible default on the mortgage by the purchaser. Mortgage insurance is not reimbursable under the FTR or Comptroller General decisions. Reimbursement of its costs is specially precluded by FTR para. 2-6.2d(2)(a). Moreover, its reimbursement is prohibited by FTR para. 2-6.2d(2)(e) 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); Daniel T. Mates, B-217822, supra. See also Richard G. Mack, B-220287, March 11, 1986.

Accordingly, we sustain our Claims Group's disallowance and hold that Mr. Kochmanski's voucher covering the claim for Mortgage Insurance Premium may not be certified for payment.


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