

DOCUMENT RESUME

02570 - [A1732753]

[Reimbursement of Real Estate Expenses to Employee Incident to a Change of Duty Station]. B-188400. June 10, 1977. 3 pp.

Decision re: Anthony J. Drexelius; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (803).

Organization Concerned: Defense Contract Audit Agency.

Authority: 5 U.S.C. 5724a(a)(4). 54 Comp. Gen. 1006. B-183196 (1976). 2 J.T.R., para. C1400-1. F.T.R. (FPER 101-7), para. 2-6.1a.

Charles L. Ruggles, Chief, Financial Management and Administrative Division, Los Angeles Region, Defense Contract Audit Agency, requested an advance decision concerning the propriety of reimbursement of an employee for real estate expenses incurred in selling his residence incident to a change of duty station. The employee was determined ineligible for reimbursement because: the residence sold was not located at the duty station from which he was transferred; and his transfer was to Europe rather than in the United States. (QM)

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DECISION



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

FILE: B-188400

DATE: June 10, 1977

MATTER OF: Anthony J. Drexelius - Real Estate Expenses

DIGEST:

1. Defense Contract Audit Agency employee who was transferred from Memphis, Tennessee, to Los Angeles, California, is not entitled to reimbursement of expenses incurred in connection with sale of his home in Sudbury, Massachusetts, since such residence was located at a former duty station rather than at Memphis, Tennessee, the duty station from which he was transferred.
2. Defense Contract Audit Agency employee who was transferred from Boston, Massachusetts, to European Branch Office, is not entitled to reimbursement of expenses incurred in connection with sale of his home in Sudbury, Massachusetts, since statute and regulations require that both old and new duty stations be in United States, its territories or possessions, the Commonwealth of Puerto Rico or Canal Zone.

This advance decision is rendered at the request, dated February 7, 1977, of Charles L. Ruggles, Chief, Financial Management and Administrative Division, Los Angeles Region, Defense Contract Audit Agency (DCAA), as to the propriety of certifying for payment the voucher in favor of Mr. Anthony J. Drexelius, an employee of the DCAA, for real estate expenses incurred in selling his residence incident to a change of duty station.

The record indicates that while Mr. Drexelius was assigned to the Boston Region, DCAA, he owned and resided in a home in Sudbury, Massachusetts. In April 1973, the employee was transferred to the European Branch Office of the DCAA. Subsequently, the employee was transferred to the DCAA Institute in Memphis, Tennessee. In February 1976, the employee was transferred to the Los Angeles Region of the DCAA. At that time he elected to sell the home he owned in Sudbury, Massachusetts. The sale agreement is dated May 3, 1976.

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Mr. Drexelius has made a claim in the amount of \$5,000 for real estate expenses he incurred in connection with the sale of his house in Sudbury, Massachusetts. The certifying officer questions whether the voucher may be properly certified for payment in view of the fact that the sale did not satisfy two of the general eligibility requirements in the Joint Travel Regulations. Specifically, the certifying officer asks whether reimbursement is precluded because paragraph C8350-1, Volume 2, Joint Travel Regulations (change 125, March 1, 1976), the regulation in effect at the time of the last transfer and at the time of the sale (renumbered as paragraph C1400-1 in the current JTR), provides, in pertinent part, that:

"An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station * * * provided that:

* * * * *

"3. the dwelling at the old duty station was the employee's actual residence at the time he was first definitely informed by appropriate authority that he was to be transferred to a new duty station;

* * * * *

"6. the residence or dwelling is the residence * * * from which the employee regularly commutes to and from work * * *"

The last transfer in the series of transfers involving Mr. Drexelius was from Memphis, Tennessee, to Los Angeles, California. Inasmuch as the claimed expenses were incurred in connection with a real estate transaction in Sudbury, Massachusetts, there is no basis upon which to justify reimbursement as being incident to the transfer to Los Angeles. Matter of Chester A. Cisowski, B-183196, February 2, 1976.

Moreover, the expenses of the real estate transaction may not properly be reimbursed as being incident to the first transfer

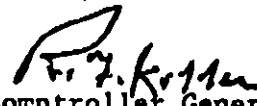
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involving Mr. Draxelius (that is, the transfer from Boston, Massachusetts, to the European Branch Office) since 5 U.S.C. § 5724a(a)(4) and paragraph 2-6.1a of the Federal Travel Regulations require that both the old and new duty stations be located in the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone. See, for example, 34 Comp. Gen. 1006 (1975).

Although the number and frequency of the transfers may have made it inconvenient and difficult for the employee to earlier sell his home in Sudbury, Massachusetts, and although the certifying officer urges that the unusual circumstances of the case merit consideration of the case as an exception to the general rule, we must point out that the above-cited regulations were issued pursuant to 5 U.S.C. § 5724a(a)(4) (1970) and, accordingly, have the force and effect of law. Our Office has no authority to waive, extend, or modify regulations issued thereunder. Cisowski.

In view of the above discussion, the voucher on behalf of Anthony J. Draxelius, in the amount of \$5,000, may not be certified for payment.

Deputy


Comptroller General
of the United States