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**DECISION**



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

10,525

FILE: B-193201

DATE: June 19, 1979

MATTER OF: Robert J. Mihalovic - Reimbursement of Real Estate Commission  
*[Request for]*

DIGEST: Transferred employee may be reimbursed for broker's commission paid to realty firm which in turn paid employee's wife substantial part of commission as employee of firm. Applicable statute and regulations provide that employee may be reimbursed for expenses incident to sale of residence which are required to be paid in connection with transfers between duty stations. Wife, who was licensed real estate agent, was employed by firm and actually performed services for realtor in selling residence. Therefore, employee incurred legally enforceable debt.

<sup>25</sup> This action is in response to a request from Captain C. R. Blauw, USAF, Accounting and Finance Officer, for an advance decision regarding the claim of Mr. Robert J. Mihalovic for reimbursement of a broker's commission he paid to a realty firm which in turn paid his wife for services she rendered in connection with the sale of his residence at his former permanent duty station.

Mr. Mihalovic was transferred from Richards - Gebaur AFB, Missouri to Scott AFB, Illinois in December 1977. In August 1978 Mr. Mihalovic's wife, who is a licensed real estate agent, sold their former residence in Kansas, which they owned in joint tenancy. Mr. Mihalovic paid a 7 percent broker's fee in the amount of \$5,089 to his wife's employer, D. L. Mayor, Realtors, who then paid Mrs. Mihalovic a sales commission of \$4,800. Mr. Mihalovic filed a voucher seeking reimbursement of the full \$5,089 brokerage fee.

Paragraph C14002, Volume 2 of the Joint Travel Regulations (JTR), which governs reimbursement of brokers' commissions provides in pertinent part:

"A broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable but not in excess of rates generally charged for such services by the broker or by brokers in the locality of the old duty station. \* \* \*"

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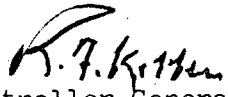
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The above regulation is in accord with the Federal Travel Regulations (FPMR 101-7), chapter 2 part 6 (May 1973), which implement 5 U.S.C. §5724a(a)(4) (1976). That statute authorizes reimbursement of the expenses of the sale of a residence which employees are required to pay in connection with transfers between duty stations. In accordance with the above statute and regulations we have held that reimbursement of a broker's commission may be made where the employee has incurred a legally enforceable debt which he paid to a relative. See Matter of W. Jerry Goudelocke; B-189375, October 12, 1977, and cases cited therein.

The Disclosure/Settlement Statement dated August 22, 1978, from the American Savings Association of Kansas, the mortgagor of the buyer of the Mihalovic's home, shows a broker's commission of \$5,089 paid to D. L. Mayor Realtors from the seller's funds. Mr. Mihalovic contends, and the Air Force does not dispute, that the full fee was paid to D. L. Mayor Realtors which later paid Mrs. Mihalovic a portion of that fee as a sales commission. In this connection Mr. Mihalovic states that income tax must be paid on the commission. Furthermore, there is no allegation that Mrs. Mihalovic did not actually provide real estate services. We do not believe that, in itself, the fact that the spouse of the employee received a portion of the broker's fee precludes reimbursement. See generally, B-189375, supra, where payment was allowed for a broker's fee paid to the mother of the employee. In view of the above it appears Mr. Mihalovic incurred a legally enforceable debt and has otherwise met the conditions for entitlement to reimbursement.

Accordingly, the voucher may be certified for payment if 7 percent is the rate generally charged for broker's commissions in Kansas and it is otherwise correct.

Deputy

  
Comptroller General  
of the United States