

DECISION

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

FILE: B-193666**DATE:** August 20, 1979**MATTER OF:** Robert A. Caven - Relocation Expenses
[REQUEST for]

AGC00004
DIGEST: Internal Revenue Service (IRS) employee transferred from San Francisco, California, to Sacramento, California, claims relocation expenses. He may not be paid such expenses since IRS determined that transfer was at claimant's request and primarily for his convenience and the record supports such a conclusion. See 5 U.S.C. §§ 5724 and 5724a, and paragraph 2-1.3 of Federal Travel Regulations.

This action is in response to a request for reconsideration of Settlement Certificate No. Z-2769147, October 12, 1978, by which our Claims Division disallowed Mr. Robert A. Caven's claim for relocation expenses incurred incident to his transfer from San Francisco, California, to Sacramento, California.

Mr. Caven, who was formally a Group Manager for the Internal Revenue Service (IRS) in San Francisco, California, states that on October 10, 1974, he learned that an additional audit group would be established in Sacramento, California. He states that on December 3, 1974, the formation of four new groups was announced at a joint meeting of Branches Five and Six, and one of these four groups would be in Sacramento. Mr. Caven claims that he considered this to be a formal announcement because the location, size, and group designation was stated. Subsequent to this meeting Mr. Caven told his Branch Chief that he had an interest in transferring to Sacramento. On February 10, 1975, Mr. Caven wrote a short letter to Branch Chief Six which provided:

"For personal reasons I am requesting that my official post of duty be changed from San Francisco to Sacramento.

"I fully understand that a money freeze is in force and accordingly I will waive all moving costs now and forever."

Mr. Caven subsequently transferred to Sacramento. He now claims that he cannot waive a right to which he is entitled, that other people were given moving expenses in similar situations and, therefore, he should be reimbursed for his relocation expenses.

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Mr. Caven's transfer was a lateral move to a Group Management position. No vacancy was ever officially announced. It is IRS's position that Mr. Caven was never officially nor informally asked to transfer but rather he requested the transfer for several personal reasons.

There is no general automatic entitlement to reimbursement of travel and relocation expenses upon an employee's change of station. Instead, reimbursement of such expenses under 5 U.S.C. §§ 5724 and 5724a is conditioned upon a determination by the head of the agency concerned or his designee that the transfer is in the interest of the Government and is not primarily for the convenience or benefit of the employee. See para. 2-1.3, Federal Travel Regulations. See also Michael J. DeAngelis, B-192105, May 16, 1979; and Paul J. Walski, B-190487, February 23, 1979.

The record supports IRS's contention that Mr. Caven requested the transfer for personal reasons and that he had not been authorized a transfer at Government expense. The IRS determined that the transfer was for the benefit of the employee and our Office has previously stated that it is within the discretion of the employing agency to determine in any given case whether a transfer is in the interest of the Government or for the convenience or benefit of the employee. Danta P. Fontanella, B-184251, July 30, 1975.

The legality of Mr. Caven's purported waiver of his right for reimbursement due to budget constraints has no bearing on the outcome of this case since the agency made a proper determination that Mr. Caven's transfer was primarily for his benefit and at his request. Contrast David C. Goodyear, 56 Comp. Gen. 709 (1977). Finally, that other employees may have had their relocation expenses paid in other transfers is of no bearing to Mr. Caven's claim since IRS has demonstrated that his transfer was at his request, in his own interest, and therefore the expenses incurred due to the transfer are not compensable under the law or regulations.

Accordingly, we find the IRS's determination that Mr. Caven's transfer was for his own convenience and not in the interest of

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the Government to be fully supported by the record and the Claims Division's settlement of October 12, 1978, is sustained.

Paul Keller
Deputy Comptroller General
of the United States