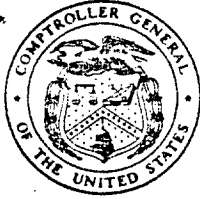


K. K. Patrick

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DECISION

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

FILE: B-201183

DATE: September 3, 1981

MATTER OF: John E. Schrote - Refund of Erroneous
Deductions for Life Insurance -
Statute of Limitations - Interest

DIGEST:

Employee may be refunded Federal Employees' Group Life Insurance premiums erroneously deducted for optional insurance for which he was ineligible. However, no interest is allowable on refund and there may be no repayment for erroneous deductions made more than 6 years before claim was filed with GAO. Such repayment is time barred under 31 U.S.C. 71a.

Deductions were made from the pay of Mr. John Schrote, while he was employed by the Department of Agriculture between July 1, 1973, and August 25, 1976, for premiums believed due on optional life insurance coverage under Federal Employees' Group Life Insurance (FEGLI). The total amount of the deductions was approximately \$87. Mr. Schrote's claim for refund of the deductions was first received in the General Accounting Office on February 21, 1980, by our Claims Group, and he was advised that deductions made from his pay for optional life insurance more than 6 years prior to that date could not be refunded to him. We agree with this conclusion.

Mr. Schrote considers the erroneous deductions to be an "unjustified or unwarranted personnel action." He believes that they are held in trust for him, or are otherwise his assets, so that his claim for deductions is not time barred 6 years after deductions were made.

We have held that erroneous deductions of FEGLI premiums from the pay of an employee who was ineligible for insurance should be refunded. Refund of Life Insurance Premiums, B-198115, October 21, 1980. Consequently, Mr. Schrote is entitled to a repayment. However, he may not be repaid the erroneous deductions made more than 6 years before he filed his claim with the General Accounting Office on February 21, 1980. The Act of October 9, 1940, 54 Stat. 1061, as amended by section 801 of the General Accounting Office Act of 1974, approved January 2, 1975, Public Law 93-604, 31 U.S.C. 71a, prohibits the consideration of any claim not received in the General Accounting Office within 6 years after the date that claim first accrued. See Nancy E. Howell, B-203344, August 3, 1981.

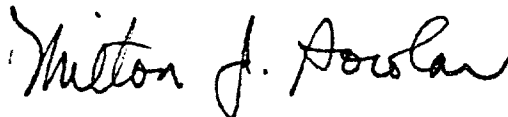
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Regarding Mr. Schrote's arguments that his claim should not be subject to that limitation, we have held that failure of an agency to forward a claim to this Office may not be construed as an unjustified or unwarranted personnel action under 5 U.S.C. 5596, so as to give rise to a new claim which would not be time barred by 31 U.S.C. 71a. See Freddie L. Baker, B-190841, December 27, 1978. Further the premiums deducted from Mr. Schrote's pay were not held in trust for his use and benefit nor were they otherwise his assets held by the United States. The employee deductions and agency contributions are deposited in the Employees' Life Insurance Fund, which is available for purchasing a group insurance policy covering employees and for paying FEGLI operating expenses incurred by the Office of Personnel Management. See 5 U.S.C. 8714 and 8714a. Since the employee deductions when paid into the Fund are not held in trust, the 6-year limitation period applies to claims for erroneous deductions.

Regarding payment of interest on the amounts erroneously withheld, such payment may not be made unless specifically authorized by law or provided for in a valid contract provision. Therefore interest may not be paid on the amount due. See Nancy E. Howell, supra.

If the Department of Agriculture has not paid Mr. Schrote the amount deducted and not barred under the Claims settlement in his case and B-198115, supra, settlement may now issue for that amount.



Acting Comptroller General
of the United States

19312

Herby

DECISION



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

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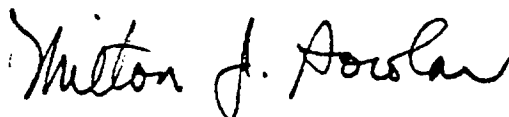
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B-201183

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Acting Comptroller General
of the United States