

**DECISION**

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

Halperin  
27760

**FILE:** B-213385**DATE:** March 23, 1984**MATTER OF:** Dikran Hazirjian - Pro Rata Reimbursement  
of Real Estate Expenses - Sale of  
Two-Family House**DIGEST:**

1. Where employee sells a two-family house incident to a transfer to a new duty station, otherwise allowable real estate expenses which are based on a flat fee, without regard to purchase price, should, if reasonable, be reimbursed in full.
2. Where employee sells a two-family house incident to a transfer to a new duty station, and both sections are identical in area but only the employee had use of the land, otherwise allowable real estate expenses which are based upon the sale price of the house may be reimbursed to the employee on a pro rata basis calculated in accordance with a formula based on allocation of the total land value to the employee's residence area.

This decision is in response to a request from an authorized certifying officer of the Department of Treasury. It concerns the allowance of certain real estate expenses which were incurred by Mr. Dikran Hazirjian, an employee of the Internal Revenue Service, in connection with the sale of a two-family home in Dumont, New Jersey, due to his transfer to Richmond, Virginia. Mr. Hazirjian's expenses may be paid as discussed below.

Mr. Hazirjian claims \$5,565.49, which represents 68.11 percent of the \$8,171.50 in expenses incident to the sale of his two-family home. He arrived at the 68.11 percent figure by subtracting from 100 percent, 31.89 percent, which is one-half of the percentage figure of the improvements value of \$43,500, divided by the assessed property value of \$68,200. The 68.11 percent figure represents the assessed

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value of all the land associated with the house plus one-half of the improvements value. Mr. Hazirjian included the entire value of the land when calculating the 68.11 percent figure, because, as the record shows, " \* \* \* the only use that the tenants had of the land was for access to the property." The \$5,565.49 figure represents 68.11 percent of the following expenses incurred:

Brokerage fees	\$7,590.00
Legal fees	425.00
Recording fees	30.00
State revenue stamps	126.50
Total	\$8,171.50

Title 5 of the United States Code, section 5724a(4), allows reimbursement to transferred employees of certain real estate expenses incident to the sale of a residence at the old duty station. The Federal Travel Regulation, FPMR 101-7 (September 1981), paragraph 2-6.1f, provides in relevant part:

"Payment of expenses by employee - pro rata entitlement."

\* \* \* If the residence is a duplex or another type of multiple occupancy dwelling which is occupied only partially by the employee, or whenever the employee shares responsibility for a leased property (such as a shared apartment arrangement), expenses shall be reimbursed on a pro rata basis. \* \* \*

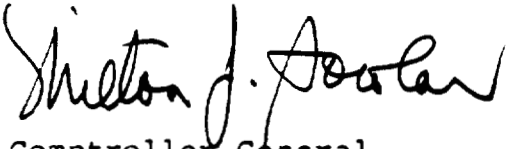
While the regulation does not specify how to prorate the real estate expenses under circumstances as those presented here, we have analyzed this matter in prior decisions. First, as to those necessary expenses that reflect that a flat fee was charged without regard to the purchase price, the otherwise allowable real estate costs should not be prorated, but should be paid in full, assuming the fee is reasonable in amount and in line with other charges for similar services in the locality. 55 Comp. Gen. 747 (1976); 54 Comp. Gen. 597 (1975). On the other hand, fees, such as brokerage fees, which are based upon the sale price, should be prorated in accordance with a ratio formula of employee residence area site value to sale price of the property. For example, if an employee and family occupies one-half of a duplex owned by the employee, and both halves

of the duplex are of equal value, then the employee should be reimbursed for one-half of the pro rata expenses which are otherwise allowable due to the sale of the duplex, incident to a transfer. 55 Comp. Gen. 747, previously cited; B-166402, May 7, 1969. As noted before, allowable flat fee expenses may be paid in full.

A statement in the record from Mr. Hazirjian indicates that the section of his house which was used as a rental unit is virtually identical in area (and presumably value) to the residence space of Mr. Hazirjian. However, since the record shows that only the employee had use of the land, it is reasonable to assume that the land value should be associated with the employee's residence value in calculating the pro rata figure. As previously stated, the 31.89 percent represents the value of the property not occupied by Mr. Hazirjian and his family, and the 68.11 percent figure represents the value of all the land combined with the value of Mr. Hazirjian's residence area. Thus, Mr. Hazirjian should be reimbursed for 68.11 percent of the pro rata allowable expenses incident to the sale of the house, for example, the brokerage fees. Mr. Hazirjian should also be reimbursed for the full expense of charges which were made on a flat fee basis.

There is no indication in the record whether the attorney's fees, recording fees and cost of state revenue stamps are linked to the sale price of the house or whether they are charged on a flat fee basis. Thus, the Treasury Department should make such a determination and make payment on a pro rata basis or in full in accordance with the guidelines outlined above. We note that parts of the attorney's fees may be based on a percentage of the sale price, while other parts may be on a flat fee basis. See 54 Comp. Gen. 597, 599, previously cited.

The voucher is returned for processing consistent with this decision.

*for*   
Comptroller General  
of the United States