

DECISION

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

28660

FILE: B-214152**DATE:** June 28, 1984**MATTER OF:** Cullen P. Keough**DIGEST:**

To reduce his indebtedness for travel funds that his agency had advanced him, the employee submitted a claim for expenses he had incurred 11 years previously to ship his household goods incident to a permanent change of station. Even though his claim was barred by 31 U.S.C. § 3702(b)(1) and his agency's salary deductions under 5 U.S.C. § 5723(f) to collect the advance of funds were not barred, the employee's debt for the advance may be reduced to the extent of the allowable transportation expenses since the advance and allowable expenses involved the same transaction so that the employee had the defense of recoupment, which is never time-barred.

Mr. Cullen P. Keough, a Department of Labor employee, may have offset from his indebtedness for travel funds advanced to him the allowable expenses he incurred to ship his household goods incident to the permanent change of station on account of which the funds had been advanced.¹

Mr. Keough transferred from Chicago, Illinois, to Kansas City, Missouri, in July 1972. He received an advance of funds in the amount of \$1,537 in connection with his transfer and paid \$1,710 to the shipper. Under the applicable law and regulations the Government would not reimburse him for the cost of additional insurance or for the cost of moving household goods exceeding 11,000 pounds. Therefore, he was entitled to reimbursement of only \$1,170.32 from his employing office, or \$357.68 less than it had advanced to him. At the time of his transfer, he did not submit to the employing office a voucher showing his payment of authorized transportation expenses. Ordinarily the amount of the advance would have been reduced by the authorized transportation expenses he paid, but his failure to submit a voucher

¹ The Assistant Secretary for Administration and Management, Department of Labor, requested this advance decision.

029298

left the entire advance recorded as his debt to the Government. The employing office did not detect the outstanding advance until some years later, but beginning in April 1983 it began deducting from his salary to recover the amount of the advance. Not until April 29, 1983, did Mr. Keough submit a claim for his payment of the household goods shipment in order to eliminate or reduce the amount of the recorded debt.

The request for decision asks whether the Government has the right to recover by salary deductions the entire advance of funds because Mr. Keough's claim for allowable expenses to offset the advance is barred by the statute of limitations. On the other hand, there is no time-bar to the agency's collection of the advance by salary deductions under 5 U.S.C. §§ 5705 and 5724(f).²

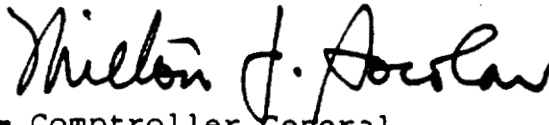
If Mr. Keough were required to have a valid claim for expenses to offset the travel advance, no offset would now be available to him. His expense claim, since it is of the type cognizable by the General Accounting Office, should have been presented within 6 years. 31 U.S.C. § 3702(b)(1); 58 Comp. Gen. 738 (1979). Mr. Keough's claim accrued in July 1972 when he incurred the transportation expenses, and he delayed almost 11 years before presenting it.

The law is clear, however, that under 5 U.S.C. §§ 5705 and 5724(f) the employee is not required to assert a claim against the United States in order to eliminate or reduce his indebtedness for an advance of funds. The advance is in effect a loan obligation of the employee that is discharged to the extent of the allowable expenses incurred. When the advance and the expenses involve the same transaction the employee by incurring the expenses for which the advance was made has the defense of recoupment against collection of the advance despite the time-bar under 31 U.S.C. § 3701(b)(1). See Thomas R. Hopkins, B-195738, April 1, 1980.

² Administrative setoff pursuant to 31 U.S.C. § 3716(c)(1) is now limited to 10 years after the Government's right to collect the debt accrues, but the 10-year limitation is not applicable when another statute explicitly provides for collection by offset, 31 U.S.C. § 3716(c)(2).

B-214152

Mr. Keough has submitted reliable documentation showing that he incurred allowable expenses for the transportation of household goods. The advance for this purpose was repaid to the extent of the allowable expenses. Accordingly, further salary deductions from Mr. Keough should not be made and he should be paid the amount which was collected from him for refund of the travel advance to the extent that the collections exceeded the travel advance remaining after deduction of the allowable expenses for transportation of his household effects.



Acting Comptroller General
of the United States