

DECISION



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

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FILE: B-216204

DATE: February 22, 1985

MATTER OF: Roger Peele - Real Estate Expenses - Title
Requirements

DIGEST:

A transferred employee who was divorced from his wife after reporting for duty at his new duty station but prior to the sale of his residence at his old duty station may be reimbursed for only one-half of the real estate expenses incurred since his wife, with whom he held title to the residence, was not a member of his immediate family at the time of settlement. See Alan Wood, B-216205, decided today.

Mr. G. J. Pellon, an authorized certifying officer with the Internal Revenue Service (IRS) has requested our decision as to whether it was proper to reimburse Mr. Roger Peele for one-half of his claimed house sale expenses rather than for the entire amount. For the reasons set forth below, we hold that Mr. Peele may be reimbursed for only one-half of his claimed expenses.

Mr. Peele, an employee of IRS, was transferred from Rome, Georgia, to Birmingham, Alabama, effective February 9, 1981, but his wife and children remained in Rome because the children were in school. Mr. Peel placed his house on the market in May 1981, and settlement took place on September 9, 1982. Prior to the sale, in March 1982, Mr. Peele was divorced from his wife. The divorce decree provided that the house was to be sold as soon as possible and after payment of mortgage, the equity was to be split equally between Mr. and Mrs. Peele.

The IRS reimbursed Mr. Peele in proportion to his interest in the residence at the time of settlement, basing its decision to do so on paragraph 2-6.1c of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), which provides that as a prerequisite for reimbursement of real estate expenses, title to the residence must be in the name of the employee alone, in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family. Mr. Peele contends that

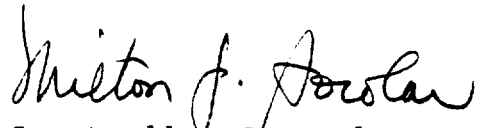
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he should be reimbursed the full amount because his wife was a member of his immediate family at the time he reported for duty at his new permanent duty station.

In a similar case, Alan Wood, B-216105, also decided today, we held that since only those expenses required to be paid by an employee may be reimbursed and since the expenses of a real estate transaction are generally paid at the settlement, that date is the appropriate date to use to determine whether the individual with whom an employee holds title is a member of his immediate family. If the individual with whom the employee holds title is not a member of his immediate family as of the date of settlement, we will presume that he is liable for expenses in proportion to his interest, in the absence of evidence to the contrary.

Therefore, since Mr. Peele was divorced at the time of settlement, he held title with an individual who was not a member of his immediate family and may be reimbursed for expenses only to the extent of his interest in the property, here one-half.



Acting Comptroller General
of the United States