



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

*Subject Card*

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H-191193

MAR 2 1978

The Honorable Birch Bayh  
United States Senate

Dear Senator Bayh:

This is in response to your letter transmitting three questions from a Mr. who apparently suffered certain losses during the evacuation of Saigon. He asks (in rough paraphrase):

- (1) Was the evacuation of Saigon ordered by the President?
- (2) If so, are employees of the United States Government entitled to be reimbursed or otherwise indemnified, for personal losses suffered in the course of the evacuation?
- (3) If not specifically compensated for their losses, how were United States employees entitled to treat such losses? "Tax write-off?"

The evacuation of Saigon, South Vietnam, was ordered by the President. Enclosed is a copy of President Ford's statement of April 29, 1975, in which he acknowledges ordering the evacuation.

Personal property losses incident to service suffered by employees of the United States may be reimbursed under the Military Personnel and Civilian Employees Claims Act of 1964, as amended, 31 U.S.C. §§ 240-243 (1970 & Supp. V 1975), if the conditions of the Act and regulations thereunder are met. To be reimbursed, an employee or military member must submit a claim to the head of his department or agency (or the designee of the department or agency head).

A claim may be allowed, if substantiated, only if it was not caused wholly or partly by the negligence or wrongful act of the claimant, his agent or his employee, 31 U.S.C. § 241(c)(3) and only for property the possession of which is determined to be reasonable, useful, or proper under the circumstances (31 U.S.C. § 241(a)(1)). Note the time limitations in 31 U.S.C. §§ 241(c)(1) and (d) concerning the 2-year period for the submission of claims. We are aware of no special provisions for the compensation of employees' or members' personal losses from the Saigon evacuation.

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As indicated, the settlement of a claim under the 1964 Act is for consideration by the head of the agency (or his designee) and, under 31 U.S.C. § 242, any settlement by the agency is final and conclusive. Therefore, the General Accounting Office has no jurisdiction to review or render a decision on the merits of a claim for damages to, or loss of, personal property of Federal employees. 47 Comp. Gen. 316 (1967); B-185008, October 29, 1975; B-180994, June 12, 1974; B-180161, January 8, 1974.

Whether uncompensated losses may be treated as a tax write-off, as Mr. suggests is a question which can only be answered by the Internal Revenue Service. We note for your consideration that section 165 of the Internal Revenue Code is a general provision permitting deductions for certain losses arising from casualty or theft. It is possible that Mr. loss may be covered by that provision.

We trust that this will serve the purpose of your inquiry.

Sincerely yours,

[Signature]

[Deputy] Comptroller General of the United States

Enclosures

PROPERTY  
Private  
Damage, loss, etc.  
Personal property  
Claims Act of 1964  
GENERAL ACCOUNTING OFFICE  
Jurisdiction  
Claims  
Personal property damage or loss  
ADMINISTRATIVE DETERMINATIONS  
Conclusiveness  
Claims  
Damage or loss to personal property