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M. Volpe
C. P. ...

DECISION



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

FILE: B-130484 DATE: February 14, 1978

**MATTER OF: Howard B.G. Kittredge - Sales Tax on
Purchase of Mobile Home**

DIGEST: Employee was transferred from Massachusetts to Colorado. He seeks reimbursement of sales taxes paid on purchase of mobile home at new duty station. The Colorado sales tax, as construed by Colorado courts, is an excise or sales tax on the transaction and not a tax on the property, and the burden of payment is on the consumer. Under Colorado law it appears city and transportation district taxes are treated the same as the state sales tax. Therefore, such taxes are transfer taxes which are reimbursable under the Federal Travel Regulations, para. 2-6.2d.

This action is in response to the request of Benton E. Phelps, Jr., an authorized certifying officer of the National Aeronautics and Space Administration (NASA), for an advance decision concerning the claim of Howard B.G. Kittredge, a NASA employee, for reimbursement of a sales tax paid on the purchase of a mobile home pursuant to a change of official duty station.

Mr. Kittredge was transferred from Cambridge, Massachusetts, to Boulder, Colorado, effective March 7, 1977. Incident to this transfer he purchased a mobile home in Colorado for use as his residence. The certifying officer questions whether Mr. Kittredge may be reimbursed for Colorado State and local sales taxes in the amount of \$874.50 paid in connection with the purchase of the mobile home. The taxes paid consist of \$477, state sales tax, \$318 city sales tax, and \$79.50 sales tax levied in cities/towns serviced by RTD (Rural Transportation Department) Bus Service. The state tax receipt indicates the latter charge.

Under the applicable regulations governing travel and relocation expenses, the Federal Travel Regulations (FTR) (PPMR 101-7) (May 1973), "mortgage and transfer taxes" incurred in the sale or purchase of a residence, including a mobile home, may be reimbursed. FTR para. 2-6.2d. The question presented is whether the sales tax paid by Mr. Kittredge is a "transfer tax" as contemplated under the regulations.

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Our Office has held that in determining whether a state tax is to be viewed as a transfer tax and thus reimbursable, we will look to the local interpretation of the tax law in question, rather than viewing the tax from the perspective of its impact on the employee. Arthur G. Cudworth, Jr., 54 Comp. Gen. 93 (1974); and Clyde W. Myers, B-187056, November 24, 1976. Under those decisions the employees are reimbursed sales taxes when the burden of paying them falls on the purchaser and the taxes are not business privilege taxes measured by sales.

The pertinent provisions of the Colorado Revised Statutes 1973, sections 39-26-104, 39-26-106, and 39-26-113, provide that a tax shall be levied upon all sales and purchases of tangible personal property and that payment of the sales tax is a prerequisite to issuance of certificate of title for a vehicle such as a mobile home. The interpretation given to these sections by the Colorado courts is that the tax is levied upon the sales transaction and not upon the property transferred and that the burden of paying the tax falls upon the purchaser or consumer. State Department of Revenue v. Modern Trailer Sales, Inc., 486 P. 2d 1064 (Sup. Ct. Colo., 1971); J.A. Tobin Construction Co. v. H.C. Weed, 407 P. 2d 350 (Sup. Ct. Colo., 1965).

In view of the above, the Colorado tax in the present case is not a property tax but rather is an excise or sales taxes for revenue purposes, and its payment is a necessary incident to the purchase of a mobile home as well as a prerequisite to the exercise of rights of ownership in the property. See Myers, supra. Thus, the state tax paid by Mr. Kittredge in purchasing a mobile home at his new duty station is similar to a transfer or mortgage tax which may be reimbursed under FTR para. 2-6.2d. See Myers, supra; B-178485, October 23, 1973; B-178453, June 14, 1973; and B-170954, November 19, 1970.

Payment of a city sales tax is also required before registration of a motor or other vehicle requiring registration may be made or certificate of title for such vehicle may be issued. Colorado Revised Statutes, 1973, section 39-26-113. The RTD Bus Service sales tax appears to an additional special sales tax which a transportation district may levy and which is collected by the state Department of Revenue. Colorado Revised Statutes, 1973, section 32-9-120. In the absence of any

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state court case to the contrary, we believe they should be treated the same as the basic state sales tax.

Accordingly, the voucher may be certified for payment if otherwise proper.

R. F. Kistner
Deputy Comptroller General
of the United States