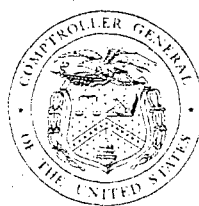


PLM-II

DECISION



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

9476

FILE: B-192583

DATE: March 14, 1979

MATTER OF: Reverend Richard A. Houlahan - Real Estate Expenses - Title Requirements

CLAIM for

AGC00056

DIGEST: Transferred Bureau of Prisons employee (chaplain) may not be reimbursed real estate expenses claimed on sale and purchase of residences incident to change of station since title to both residences was held by his religious order, which bore the expenses, and not by the employee (chaplain) or a member of his immediate family. Title requirements of 5 U.S.C. 5724a(a)(4) (1976) and Federal Travel Regulations must be met in order to qualify for reimbursement.

AGC00037

Kevin D. Rooney, Assistant Attorney General for Administration, Department of Justice, requests a decision concerning a claim for reimbursement of real estate expenses claimed by the Reverend Richard A. Houlahan, an employee of the Bureau of Prisons, incident to his change of duty station.

By Travel Authorization No. 1113, dated April 25, 1977, Father Houlahan was transferred from Dallas, Texas, to Washington, D.C., incident to his position as Administrator of Chaplaincy Services, Bureau of Prisons. He had occupied a residence in Carrollton, Texas, and upon his transfer, this residence was sold and another residence was purchased in Alexandria, Virginia.

Father Houlahan's claim for reimbursement of real estate expenses in the amount of \$2,115.62, covering the sale and purchase of residences incident to his transfer, was administratively disallowed by the certifying officer based on residence title requirements contained in the Federal Travel Regulations (FTR), paragraph 2-6.1c, which will be hereinafter discussed.

1 claimant

It is stated, by way of explanation, that Father Houlahan, being a member of the Order of Mary Immaculate, has taken a vow of poverty, consequently the titles to both the old and new residences involved are in the name of the Church; Missionary Oblates of Mary Immaculate (Missionary Society of Oblate Fathers). In this regard, Father Houlahan, incident to his vow of poverty, can own no property in his own name, in fact, even his remuneration as a Government employee is considered the property of the Society.

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The record submitted here shows actual titles to the residences involved being in the Missionary Society of Oblate Fathers, and also contains a receipt acknowledging payment from the Society for settlement on the new residence in Alexandria, Virginia. In addition Father Houlahan's religious superior furnished a statement to the effect that the property is the Society's residence in Virginia and is used by members of the Society, not exclusively by Father Houlahan.

The statutory authority for reimbursing an employee for real estate expenses incurred incident to a transfer is 5 U.S.C. 5724a(a)(4) (1976), which includes certain requirements relating to the title to the property involved. These requirements are carried over into the Federal Travel Regulations (FPMR 101-7) para. 2-6.1c (May 1973) (FTR), which states that real estate expenses may be reimbursed provided that:

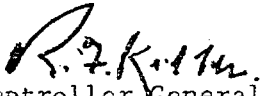
"The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family. For an employee to be eligible for reimbursement of the costs of selling a dwelling or terminating a lease at the old official station, the employee's interest in the property must have been acquired prior to the date the employee was first definitely informed of his transfer to the new official station." (Emphasis added.)

In connection with the foregoing, paragraph 2-1.4d of the FTR (FPMR Temp. Reg. A-11, Supp. 4) in defining "immediate family", does not include any church or religious order, and defines "immediate family" only in terms of a spouse, children (including step-children), dependent parents, and dependent brothers and sisters, for purposes of the controlling regulations.

While we appreciate the special relationship of Father Houlahan to his church, there is no dispute in the record submitted that title to the residences involved was not in Father Houlahan or

B-192583

a member of his immediate family, within the contemplation of the Federal Travel Regulations. Moreover, the record indicates the Missionary Society of Oblate Fathers bore the real estate expenses involved. In this respect, the purpose of the law and regulation is to reimburse the transferred employee for real estate expenses incurred by him or a member of his immediate family, but not to reimburse a third party who may have borne the expenses. Accordingly, and since the conditions precedent relating to the title to the property involved have not been met, Father Houlahan is not entitled to reimbursement of the real estate expenses claimed, and the voucher submitted may not be certified for payment. /


Deputy Comptroller General
of the United States