

DECISION



13448 Richman PL II
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Request for Reimbursement of Certain Costs Under]

FILE: B-194133

DATE: April 16, 1980

MATTER OF: William C. Rochon--Miscellaneous expenses allowance

- DIGEST:**
1. Employee who transferred to new duty station in Mexico may be reimbursed under the miscellaneous expenses allowance, FTR para. 2-3.1 et seq., for residential rental tax stamps required to register his lease in Mexico. The one-time tax on registration of lease documents was a necessary expense of relocating the employee's residence and is not in the nature of those taxes specifically excluded as miscellaneous expenses under FTR para. 2-3.1c(6).
 2. Expense of materials and labor for installing security locks at employee's residence in Mexico because of security problems must be considered a cost of structural alteration of living quarters not reimbursable under FTR para. 2-3.1c(13) as a part of the miscellaneous expenses allowance.
 3. Employee transferred to Mexico who incurred costs for automobile registration, tags, license, and use tax in Texas should not have been reimbursed for those items under the miscellaneous expense allowance, since the costs were not imposed by Mexico upon bringing the automobile into that country. See FTR para. 2-3.1b(6). Mexico does not require U.S. employees stationed there to register or license their vehicles in other than the State of their former residence.

This action is in response to a request by Mr. Edwin J. Fost, Chief, Accounting Section, Drug Enforcement Administration (DEA), Department of Justice, for a determination as to whether certain costs incurred by Mr. William C. Rochon, a DEA employee, may be reimbursed as part of the miscellaneous expenses allowance. Incident to his transfer from Washington, D.C., to Guadalajara, Mexico, in March 1978, Mr. Rochon has submitted a reclaim voucher for items of expense, including the following:

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Residential rental tax stamps (registration of lease required in Mexico)	\$99.25
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Installation of security locks in accordance with U.S. Embassy Personnel Security guidelines	\$63.20
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Mr. Rochon previously was reimbursed for miscellaneous expenses of \$380.19, including the following:

Texas (home of record) driver's license	\$ 10.00
Texas license plates for POV	42.90
Use tax (2 percent)	94.50
Texas State vehicle registration	4.00
	<u>\$151.40</u>

The certifying officer asks whether automobile licensing and registration expenses, as well as the Virginia use tax were properly reimbursed, and requests an advance decision as to whether the two items reclaimed by Mr. Rochon may be paid as part of the miscellaneous expenses allowance. For the reasons that follow, we find that only the cost of residential rental tax stamps may be so reimbursed.

Section 5724a(b) of title 5, United States Code (1976), provides for the reimbursement to an employee of the miscellaneous expenses incurred incident to a transfer. Regulations issued under authority of this section are contained in paragraph 2-3.1, et seq., of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973), with FTR para. 2-3.1b listing types of costs covered and para. 2-3.1c listing types of costs not covered in connection with an employee's discontinuing residence at one location and establishing residence at another location under a permanent change of station.

Residential rental tax stamps (\$99.25). In support of his claim for residential rental tax stamps, Mr. Rochon has submitted a copy of his lease to which tax stamps amounting to 2232 pesos are affixed. He explains that the tax was incurred incident to the requirement imposed by Mexico that he register his lease.


Although FTR para. 2-3.1c(6) indicates that certain taxes, including "higher income, real estate, sales or other taxes as the result of establishing residence in the new locality" are not reimbursable under the miscellaneous expenses allowance, we do not believe this subparagraph was intended to exclude a one-time tax imposed on the recording of lease documents, where that tax is required by the law of the jurisdiction involved. The tax which Mr. Rochon paid appears to be similar to that imposed in the United States by many state and local jurisdictions for recording documents affecting land transactions and charged to the parties as a mortgage or transfer tax or in the form of state revenue stamps. Such expenses are specifically listed as reimbursable real estate expenses incident to an employee's purchase or sale of a residence under FTR para. 2-6.2d. While expenses of entering into a lease--as distinguished from those of terminating an unexpired lease--are not reimbursable under para. 2-6.2d, we have recognized that certain lease related expenses may be reimbursed as miscellaneous expenses. In B-177395, March 27, 1973, we held that a broker's fee customarily charged in the New York City area to locate rental housing could be reimbursed as a miscellaneous expense. To the same effect, see B-169335, May 22, 1970, holding that a fee charged by rental agents for securing housing in foreign countries is a proper miscellaneous expense. Insofar as Mr. Rochon was required to register or record his lease in Mexico, the charge for residential rental tax stamps may be reimbursed under the miscellaneous expenses allowance.

Installation of security locks (\$63.20). In reclaiming the cost of labor and materials for installing security locks at his residence in Guadalajara, Mr. Rochon has submitted a memorandum dated June 12, 1978, suggesting that he install dead bolt locks and indicating that the expense involved may be reimbursed as part of the foreign transfer allowance. This precaution was recommended because of security problems and possible terrorist attacks against members of the U.S. Mission. An administrative announcement from the U.S. Embassy, dated June 16, 1978, is to the same effect. While the foregoing presents cogent reasons for installation of security locks at the employee's residence it does not form a legal basis for reimbursement as a miscellaneous expense under FTR para. 2-3.1 et seq. The cost of having security locks installed must be considered a cost incurred in connection with structural alterations which are not reimbursable as miscellaneous expenses under FTR para. 2-3.1c(13). See B-168582,

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January 19, 1970, disallowing the cost of changing five door locks as an item of miscellaneous expense. We note that employees entitled to a miscellaneous expenses allowance under 5 U.S.C. § 5724a(b), are not eligible for the miscellaneous expenses portion of the foreign transfer allowance. Standardized Regulation (Government Civilians, Foreign Areas) para. 242.5.

Fees paid in Texas and Virginia for privately owned vehicle (POV) (\$151.40). The employee has been reimbursed for Texas driver's licenses, license plates, and vehicle registration and for a use tax paid to the State of Texas which is based on 4 percent of the sales price, less the 2 percent sales tax paid to the State of Virginia. It is not clear what relation these POV costs have to the employee's permanent change of station to Mexico. Under FTR para. 2-3.1b(6) the costs of automobile registration, driver's license, and use taxes imposed when bringing automobiles into certain jurisdictions are reimbursable costs for purposes of the miscellaneous expense allowance. However, such authority is directed to a requirement imposed by the Government jurisdiction at the employee's new duty station--in this case Mexico. We have been advised by the DEA office in Mexico City that there is no requirement that Government employees transferred to Mexico and bringing automobiles into that country register or license their vehicles in Texas or other than in the states of their former residence. Since it appears that the costs of licensing and registration, as well as the use taxes, were incurred as a matter of Mr. Rochon's personal convenience or preference, rather than as a necessary expense of relocating to Mexico, they are not reimbursable as part of the miscellaneous expenses allowance. Therefore, payment for POV costs involved should be collected back from the employee.



For The Comptroller General
of the United States