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## DECISION



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

FILE: B-197281

DATE: March 4, 1980

MATTER OF: Lieutenant Colonel John Baker, USAF

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DIGEST: Member of the uniformed services was assigned to an overseas post to which shipment of household goods was limited. However, for a 6-month period the weight limitation on return shipment of household goods was removed and during that period the member purchased a quantity of furniture. At the time the member transferred back to the United States the return shipment weight limitation had been reimposed. The member is subject to the weight limitation since his purchase of household goods gave no right under regulations to ship those goods after the limit was reimposed.

The issue presented in this case upon an appeal of a settlement by our Claims Division is whether a member of a uniformed service serving overseas may be reimbursed for shipment of household goods in an amount greater than the weight limitation at the time of shipment when the household goods were purchased at a time when the weight limitation had been removed. We conclude that purchase of household goods during a time when weight limitations are removed gives no right under the travel regulations to ship goods in excess of the weight limitation in effect at the time of shipment.

Lieutenant Colonel John Baker was stationed in Germany from April 1970 to April of 1975. At the time of his assignment overseas the Joint Travel Regulations (1 JTR) imposed a weight limitation for movement of household goods overseas at Government expense. The special limitation for shipments by employees assigned to overseas stations was not changed. However, effective July 1, 1972, the similar limitation previously applicable to shipments from overseas stations was removed. See paragraph M8003-2, 1 JTR (change 233, July 1, 1972). Colonel Baker, apparently

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in reliance on the regulation change, purchased furniture and other household goods while in Germany. However, the previously imposed weight limitation was reimposed effective January 1, 1973 (1 JTR, M8003-2, change 240, February 1, 1973). Consequently, upon his return to the United States in April 1975, over 2 years after the weight limitation had been reimposed, Colonel Baker found that his household goods were in excess of the weight he was authorized to ship at Government expense and he was billed \$1,271.87 for the excess weight.

Section 406 of title 37, United States Code (1970), authorizes in connection with a change of temporary or permanent station, the transportation and storage of baggage and household effects of military personnel within such weight allowances as prescribed by the Secretaries concerned. Paragraph M8003-1, 1 JTR, promulgated pursuant to that authority provides a table of weight allowances on a graduated weight scale for temporary and permanent change of stations, according to grade or rank of military personnel having the specified service requirements. Paragraph M8003-2 of the regulations contains a further restriction with regard to members transferred to overseas stations where furnishings for quarters are provided by the Government. In such cases the weight limitation is reduced to 2,000 pounds net weight or 25 percent net weight of the maximum allowance otherwise prescribed, whichever is greater. Change 233 to the JTR amended that section effective July 1, 1972, by adding the following:

"\* \* \* The provisions of this subparagraph will not apply to shipments made to other unrestricted overseas areas or return shipments made to the United States on permanent change-of-station orders with an effective date on or after 1 July 1972, under which conditions the household goods shipment weight allowance will be the maximum permanent change-of-station weight allowance prescribed in subpar. 1, less the

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weight of household goods in nontemporary storage. \* \* \*

That change removed the limitation otherwise imposed by the paragraph on the weight of household goods which could be returned from overseas at Government expense. However, pursuant to paragraph M8003-2, effective January 1, 1973 (change 240 of the JTR) the authority provided in change 233 which permitted shipment of a member's full household goods weight allowance (less weight of goods in nontemporary storage) from overseas areas having the administrative weight restriction was rescinded. Hence, the authority to ship household goods at Government expense at the member's maximum weight allowance (less the weight of goods in nontemporary storage) from an overseas area as described in M8003-2, remained in effect only for the period July 1, 1972, to December 31, 1972.

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This change in policy by the Department of Defense apparently stemmed from the insistence of the Committee on Appropriations, House of Representatives, as indicated on pages 76 and 77 of House Report No. 92-1389 dated September 11, 1972, to accompany H.R. 16593 which became the Department of Defense Appropriation Act, 1973. It is reported in pertinent part on pages 76 and 77 as follows:

"On July 1, 1972, despite a request by the Committee to refrain, the DOD implemented new policies with respect to the shipment of household goods. Prior to July 1, a member was limited to 2,000 pounds or 25 percent of the prescribed Permanent Change of Station (PCS) allowance on household goods shipped from overseas areas where government furnishings are provided in quarters. In most cases (E-7 and above) the limitation was more than 2,000 pounds, i.e., 2,500 for a first

Lieutenant, 3,375 for a Colonel. Under the new policy the military member can return to the United States the full household goods limitation less the amount of household goods he may have in nontemporary storage in the United States. Thus, the member can return to the United States, even if he did not take anything out of the country from 7,000 pounds (for an E-4) to 24,000 pounds (for a General). The average would probably be about 10,000 pounds. The DOD has estimated the cost of this policy change to be \$12,000,000 in fiscal year 1973.

"The effect of this increased household goods allowance is, of course, an immediate cost increase in PCS charges and provides military personnel with a good reason to buy foreign made furniture and other possessions for shipment to the United States. This policy will further upset our poor trade balance and most certainly cost the United States heavily in balance of payments transactions. \* \* \*

\* \* \* \* \*

"In order to preclude an injustice with respect to individual service members, the Committee has included funds in this bill to finance this change in policy through December 31, 1972, at which time the DOD is directed to return to the previous policies with respect to the shipment of foreign automobiles and household goods."

In any case, as reflected in the amended regulations, authority to ship the greater weight of household effects terminated on January 1, 1973. Although, in view of the broad authority given by statute to the Secretaries concerned, these regulations could have contained a savings provision, no such provision was adopted.

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Further, we do not find a basis for holding that Colonel Baker became entitled to the higher weight allowance by virtue of his being overseas in an area covered by the regulation in question at the time the temporary increase was in effect. Even his action in purchasing furniture while the higher weight limit for return of household goods was in effect would not provide a basis for authorizing him the higher weight allowance at the time of his later transfer. B-183783, April 2, 1976; 52 Comp. Gen. 552 (1973).

The weight limitations for shipment of household goods reimposed as of January 1, 1973, were as a result of authorized action by the officials concerned and were taken at the insistence of a Committee of the Congress. It is unfortunate that the claimant as well as others may have been adversely affected by the regulatory action; however, there is no legal basis for payment of his claim.

Accordingly, the decision of the Claims Division disallowing Colonel Baker's claim is sustained.

*Milton J. Aorstar*

For the Comptroller General  
of the United States