

DECISION

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

247**FILE:** B-206624**DATE:** August 16, 1982**MATTER OF:**

DIGEST: In the absence of agency regulations to the contrary, employee's selection and transfer under agency's merit promotion program is regarded as a transfer in the interest of the Government. Thus, the employee is entitled to the payment of claimed relocation expenses insofar as otherwise proper.

This decision is prompted by a letter received from the Chief, Accounting Section, Western Region, Internal Revenue Service (Service), in response to our Claims Group's requests of October 23, 1980, and July 2, 1981, that the Service reconsider allowing payment of the claim of _____ for relocation expenses. The Claims Group advised the Service that where an agency issues a vacancy announcement under its merit promotion program such action is a recruitment action and, thus, selection and transfer under such a program is to be regarded as in the interest of the Government for the purpose of allowing relocation expenses. For the reasons set forth below, it is held that _____ transfer was in the interest of the Government and accordingly he is entitled to the reimbursement of relocation expenses.

The record shows that _____ formerly a grade GS-11 Internal Revenue Agent with the Oakland Office, San Francisco District of the Internal Revenue Service, was transferred in September 1979 to the Eureka Office as a grade GS-12 Internal Revenue Agent incident to his selection under Vacancy Announcement No. 79-238 issued under the Service's merit promotion program. At the time of his selection _____ was advised by the selecting official that relocation expenses would not be authorized. _____ apparently agreed orally to this condition and advised that he would not submit a claim for reimbursement of relocation expenses. The agency states that _____ was first advised that relocation expenses would not be authorized prior to his applying for the announced vacancy. The record indicates that the vacancy announcement under which _____ was selected did not contain any statement concerning the authorization of relocation expenses. The agency has informally advised that it does not have any regulations concerning the authorization of relocation expenses in connection with merit promotion transfers and there is nothing in the record to show that the Service has a

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B-206624

policy which would require it to regard merit promotions as being for the benefit or convenience of the employee. A memorandum dated May 29, 1980, from the Director of the Examination Division, San Francisco District, indicates that _____ was denied authorization of reimbursement for relocation expenses on the basis that any voluntary application for reassignment is for the convenience and/or benefit of the employee.

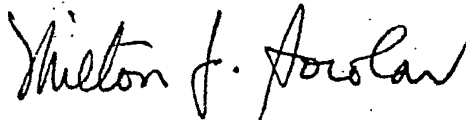
An employee's entitlement to relocation expenses under 5 U.S.C. §§ 5724 and 5724a is conditioned upon a determination that the transfer is in the interest of the Government and not primarily for the convenience or benefit of the employee. See paragraph 2-1.3 of the Federal Travel Regulations (FPMR 101-7) (May 1973). See also Matter of _____, 56 Comp. Gen. 709 (1977) and Matter of _____, B-190487, February 23, 1979.

When an agency issues a vacancy announcement under its merit promotion program such action is a recruitment action and when an employee transfers pursuant to such action the transfer is normally regarded as being in the interest of the Government in the absence of agency regulations to the contrary. Matter of _____, B-203429, January 27, 1982; Matter of _____, 59 Comp. Gen. 699 (1980); and Reconsideration of _____, B-198761, December 23, 1981, 61 Comp. Gen. ____.

The Service has cited several differences between situation and that in _____ in support of its position that _____ should not be determinative of _____ entitlement to reimbursement of relocation expenses. For example, the Service states that in _____ the agency solicited interested candidates for a position whereas _____ initiated several conversations with agency officials indicating his interest in moving to Eureka. In addition, the agency points out that _____ verbally agreed at the time of his selection that he would not submit a claim for relocation expenses. We do not find the Service's arguments persuasive. In the absence of language which would restrict its application, the rule set forth in _____ and Reconsideration of _____ was intended to apply to all selections and transfers under an agency's merit promotion program. We see no reason why such rule should not be applied in this instance since it is undisputed that _____ was transferred incident to his selection under a vacancy announcement issued pursuant to the agency's merit promotion program.

B-206624

As set forth above, we have been advised that the Service does not have any regulations which would restrict or limit reimbursement of relocation expenses where the employee has been selected and transferred under its merit promotion program and there is no indication of any agency policy which would require the Service to regard a merit promotion transfer as being for the convenience or benefit of the employee. Accordingly, transfer to Eureka pursuant to his selection under the Service's merit promotion program should be considered as being in the interest of the Government. He is, therefore, entitled to the payment of the relocation expenses claimed, insofar as otherwise proper.

for 
Comptroller General
of the United States

OFFICERS AND EMPLOYEES

Transfers

Government v. employee interest

Merit promotion transfer

Relocation expenses reimbursement

Absence of agency regulations