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Q.C. Nick

Per. Law II
J. Mosher

DECISION



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

8966

FILE: B-192898 DATE: January 25, 1979

MATTER OF: ^{Add} Alfred Duane Neill - [Real estate expenses
for residence not at official duty station]

DIGEST: Employee claims reimbursement for real estate expenses incurred incident to sale of residence in Lubbock, Texas, incident to transfer from Fort Worth, Texas, to Amarillo, Texas. Employee commuted daily from duty station in Fort Worth and traveled to residence in Lubbock, 290 miles distant, only on weekends. Employee is not entitled to reimbursement since Federal Travel Regulations require that residence be the one from which employee commutes regularly to and from work. Only exception to this requirement is when employee is assigned to remote area and Fort Worth is not a remote area.

AGC00004

Ms. Elizabeth A. Allen, Chief, Accounting Section, Internal Revenue Service, Southwest Region, Dallas, Texas, requests an advance decision on the propriety of paying real estate expenses in the amount of \$3,708 incurred by Mr. Alfred Duane Neill, incident to a permanent change of duty station.

Mr. Neill was appointed to the position of Attorney (Estate Tax) with the Internal Revenue Service (IRS) with his first duty station in Fort Worth, Texas, effective September 12, 1977. No moving expenses were authorized from Lubbock, Texas, the employee's residence at time of appointment to his first post of duty. After reporting for duty in Fort Worth he maintained his home in Lubbock, Texas, in which members of his family resided. Mr. Neill commuted each week to Lubbock. On May 24, 1978, Mr. Neill was authorized a change of station from Fort Worth, to Amarillo, Texas. Moving expenses and expenses for the sale and purchase of a residence were authorized. On a voucher dated August 14, 1978, Mr. Neill requests reimbursement for expenses incurred on August 7, 1978, for the sale of his residence located in Lubbock. Doubt exists as to the validity of the claim since the residence he sold was not located at his old official station and was not his actual residence at the time he was notified of his transfer to Amarillo.

Section 5724a(a)(4) of title 5, United States Code (1976), authorizes the reimbursement of expenses of the purchase of a

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residence located at the new official station, or the sale of a residence at the old duty station, when incurred incident to a transfer. At the time our decision 47 Comp. Gen. 109 (1967) was written, the applicable regulations did not define "official station." We stated in that decision that we generally could not authorize reimbursement for the costs involved in the sale of a residence not actually located at the employee's old duty station or at a place to which the employee commuted on a daily basis, but that an exception could be made where the employee was not able to obtain a residence in a location which would permit commuting on a daily basis.

Subsequent to our decision, "official duty station" was defined in the regulations and the exception stated in 47 Comp. Gen. 109 was incorporated therein. Federal Travel Regulations para. 2-1.4i (1973) provides in part as follows:

"* * * With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official."

The language of this regulations is clear and unambiguous. It authorizes reimbursement for the expenses of residence transactions incident to a transfer involving a residence "from which the employee regularly commutes to and from work" and limits the exception to this requirement to those cases in which an employee is assigned to a remote area where family housing is unavailable. See also Matter of Tony D. Limbaugh, B-188644, April 28, 1977; and Matter of Nathaniel A. Wilson, B-161606, June 3, 1976.

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Since there is no indication that Fort Worth, a city of 360,000 (1970 census), could be considered a remote area payment of the claim may not be made.

R. F. Keller

Deputy Comptroller General
of the United States