

DECISION

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

18753

FILE: B-192050

DATE: July 13, 1981

MATTER OF: Roy W. English

DIGEST: Employee requests refund of \$346.50 in union dues which were erroneously deducted from his pay, instead of pay of employee with similar name, between 1969 and 1977. Employee may be reimbursed for those deductions the refund of which is not barred by Statute of Limitations. Repayment by union may be waived in whole or part under 5 U.S.C. § 5584, if after reviewing the record the Department of the Air Force determines that waiver is appropriate.

Lieutenant Colonel C.G. Neiman, Chief, Accounting and Finance Branch, Comptroller, Headquarters Warner Robins Air Logistics Center (AFLC), Robins Air Force Base, Georgia, requests an advance decision regarding the voucher of Roy W. English for refund of \$346.50 in union dues which were withheld from his pay between August 31, 1969, and August 20, 1977, and paid to Local 987 of the American Federation of Government Employees.

The facts are as follows. In 1969 Roy English of Fort Valley, Georgia, authorized a voluntary allotment to AFGE Local 987 for the purpose of paying union dues. From that time until his retirement in 1973 no deductions for union dues were made from his pay. Instead, from 1969 until 1977 union dues were collected from the pay of Roy W. English, another employee at Robins Air Force Base. Roy W. English states that he notified the payroll office in 1969 of the erroneous deduction but failed to submit a written request to discontinue the allotment as he was asked to do. No further action was taken by Roy W. English until September 1977 when he again contacted the payroll office.

On April 11, 1978, the certifying officer submitted a request for a decision on the propriety of certifying a voucher to reimburse Roy W. English \$346.50, the amount of union dues deducted from his salary between 1969 to 1977. In his letter, received in the General Accounting

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Office on May 30, 1978, the certifying officer also requested guidance on whether any money should be collected from Local 987 or waived under the provisions of 5 U.S.C. § 5584.

At the outset we note that the Act of October 9, 1940, 51 Stat. 1061, bars all claims not received in the General Accounting Office within 6 years of the date the claim first accrued. Accordingly, that part of Mr. English's claim which accrued prior to May 30, 1972, is barred and will not be considered herein.

Regarding the deductions from Mr. English's pay after May 30, 1972, it is well settled that an employee is entitled to be paid amounts erroneously withheld from his salary even though he may have been partly at fault because he did not report to the agency that leave and earnings statements reflected erroneous deductions. Cf. Refund of Life Insurance Premiums, B-198115 October 21, 1980. Accordingly, a voucher may be certified for payment to Roy W. English in the amount found due (the amount of dues withheld a claim for payment of which is not barred).

Regarding the amounts erroneously transmitted to the union, in Buster Owens, B-195406, May 11, 1981, we permitted waiver under the provisions of 5 U.S.C. 5584 and 4 C.F.R. parts 91-93, of a dues allotment which was erroneously transmitted to a union where the union received the allotment in good faith and without fraud or misrepresentation. It appears that Local 987 initially received the allotment from Mr. English in good faith and without fraud or misrepresentation since it had no reason to suspect that the Government was transmitting amounts withheld from the pay of Roy W. English instead of its member, Roy English. However, the record is unclear as to whether Local 987 was without fault for the whole period, especially in view of the fact that its member, Roy English, retired in 1973. Since the authority to waive debts of less than \$500 is given to the head of the Department concerned, determination of whether waiver is appropriate in this case is for consideration by the Department of the Air Force in view of all the facts.



Acting Comptroller General
of the United States