

PLM2

DECISION



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

10,147

FILE: B-192851

DATE: May 11, 1979

MATTER OF: George J. Wehrstedt - Relocation expenses and Real Estate Finance charges

personal names  
Claim for

- DIGEST:
1. Employee who purchased a residence incident to transfer may not be reimbursed for loan origination fee, commitment fee, underwriting fee, new loan tie-in fee, and tax service charges, as such payments are finance charges under Regulation Z and are not reimbursable under Federal Travel Regulations, para. 2-6.2d (May 1973).
  2. Employee may be reimbursed \$5 sub-escrow fee paid in purchase of residence incident to transfer as an expense under Federal Travel Regulations, para. 2-6.2f, since such charge was customary in area.

AGC 00192

This action is in response to a letter dated August 14, 1978, with enclosures, from the Chief, Finance and Accounting, Central Security Service, National Security Agency, Fort George G. Meade, Maryland, requesting a decision as to the propriety of certifying for payment certain items and amounts claimed by Mr. George J. Wehrstedt, representing real estate expenses in connection with the purchase of a residence in March 1978, in Huntington Beach, California, upon transfer of station. The request was assigned PDTATAC Control No. 78-33 and forwarded to this Office by the Per Diem, Travel and Transportation Allowance Committee on September 8, 1978.

The expenses questioned are loan origination fee, \$633; commitment fee, \$311.50; underwriting fee, \$18; new loan tie-in fee, \$35; sub-escrow fee, \$5; and tax service, \$16.50. The finance officer is aware that the loan origination fee and the tax services charges are finance charges and as such are not reimbursable.

Reimbursement of relocation expenses is governed by the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). Para. 2-6.2d of those regulations prohibits reimbursement of any item which is found to be a finance charge under Regulation Z issued by the Board of Governors of the Federal Reserve System in implementation of the Truth in Lending Act. In determining whether or not an item is part of a finance charge, the reviewing officials must examine it in light of Regulation Z (12 C.F.R. § 226.4 (1978)) and our decisions.

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As the finance officer knows we have held that lump-sum loan origination fees are finance charges and may not be reimbursed. B-183972, April 16, 1976; B-189295, August 16, 1977; and B-191040, November 29, 1978. Therefore, we affirm the agency disallowance of the \$633 item for loan origination fee.

The \$311.50 commitment fee amounts to a charge of 1/2 percent of the \$62,300 loan negotiated. The commitment fee is identified as the cost of setting aside the funds for Mr. Wehrstedt's loan at the agreed interest rate. In such circumstances, the commitment fee is a charge that is incident to the extension of credit and must be considered to be part of the finance charge, and as such is not reimbursable. B-191040, supra.

The \$18 underwriting fee claimed by Mr. Wehrstedt was a fee charged by the financing entity to cover a fee charged by their underwriter for reviewing each loan which the entity sends to them. Clearly, the fee paid by the borrower constitutes a charge paid by him incident to and as a condition precedent to his obtaining a loan from the creditor. As such, it is a finance charge incident to the extension of credit and thus not reimbursable. B-183972, supra.

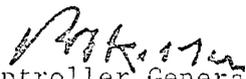
The \$35 new loan tie-in fee paid to the lending agency is in the nature of a service charge and as such is not allowable. B-181037, July 16, 1974.

The \$5 sub-escrow fee was paid by Mr. Wehrstedt to the settlement agent as a part of the charges for the loan closing. Since such charge by this agent was customary in the area, the payment is reimbursable as an incidental expense under para. 2-6.2f, FTR.

The \$16.50 tax service charge is usually made by the lender incident to its prorating the tax obligation of the buyer or seller covering the year in which settlement is made. As noted above the finance officer is aware that this charge is regarded as an expense incident to the extension of credit and while not listed as a finance charge, is actually one, and as such is not reimbursable. 49 Comp. Gen. 483, 486 (1970), B-180981, October 1, 1974.

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Accordingly, only the \$5 sub-escrow fee may be certified for payment.

  
Deputy Comptroller General  
of the United States