



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Frank P. Motola

File: B-254626

Date: February 17, 1994

DIGEST

An employee on temporary duty exchanged a week he owned at his home timeshare resort for a week at a timeshare resort at his temporary duty location. For the purpose of establishing lodging cost, he claimed the annual maintenance fee he was required to pay at his home resort and the additional exchange fee he had to pay to arrange the timeshare trade. The agency disallowed all expenses claimed. On appeal, the exchange fee paid by the employee to acquire use of the timeshare lodgings at the temporary duty point may be used to establish his daily lodging rate for per diem purposes, but not the annual maintenance fee he paid to his home resort.

DECISION

This decision is in response to request from an Authorized Certifying Officer, U.S. Department of Transportation.¹ The question asked is whether expenses incurred by an employee in connection with use of quarters at a timeshare resort qualify as reimbursable lodging costs for per diem purposes incident to performing temporary duty. We conclude that a part of those expenses may be reimbursed for the following reasons.

The record shows that Mr. Frank P. Motola performed temporary duty in Williamsburg, Virginia, for 4 days beginning on or about March 23, 1992. During the period of his assignment, he lodged in a timeshare condominium in Williamsburg which he had exchanged for a timeshare unit he owned at his home resort in Pennsylvania.

Mr. Motola claimed lodging costs for the 6 days he occupied the Williamsburg condominium of \$402.60. Of that amount, \$313.60 represented the annual maintenance fee he paid as an association fee, other administrative fees, and his share of

¹Ms. Evelyn A. Brown, Chief, Accounting Services Division.

property taxes to his home resort for 1992, and \$89 represented the administrative fee he paid to exchange 1 week at his home resort in Pennsylvania for an equal period at the timeshare resort in Williamsburg. Since Mr. Motola occupied the Williamsburg condominium for 6 days, but was only on official business for 4 of those days, he sought reimbursement for \$268.40 as the lodging portion of his per diem (\$402.60, divided by 6 days, multiplied by 4 days).

The agency disallowed the lodging portion of Mr. Motola's travel claim on the basis that timeshare lodging was noncommercial and there were no regulations which permitted reimbursement for the expenses claimed. Mr. Motola argues that he chose to use 1 week of his annual timeshare allowance in lieu of a personal vacation at his Pennsylvania resort, or elsewhere in the country. Although he would have incurred the \$313.60 annual fee in any case, he did not have to use his timeshare period to accommodate his official business in Williamsburg at the sacrifice of personal use. Therefore, he contends that the fee represented a cost associated with the exchange which should be added to the exchange fee expense (\$89) incurred to acquire use of the Williamsburg resort quarters, for the purpose of establishing his daily lodging rate.

We understand that a timeshare holder's interest is a use interest which grants the holder the exclusive right to use a specific apartment, condominium or villa at his home resort, for a certain period (often 1 week), at the same time each year. In addition to the payment for this right of use, each timeshare holder is required to pay an annual fee to his or her home resort to cover annual maintenance of those facilities, other administrative expenses, and a pro rata share of the property taxes. This annual fee assessment is an incident of the timeshare holder's right to use the home resort facilities and is assessed even though the holder may never actually use those facilities.²

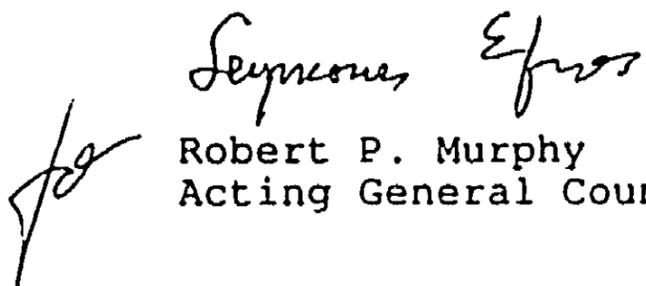
From the standpoint of the controlling business entity, a timeshare resort is a commercial enterprise and lodgings at these resorts are often available to the general public. Under the FTR, conventional lodging as that term is used in 41 C.F.R. § 301-7.9(c)(1) (1993) is not limited to hotels and motels, but may include other commercial facilities. While timeshare units are not specifically referred in the FTR, it is our view that such lodging facilities may be

²This payment is made by a timeshare holder only to his home resort. He has no such obligation to any other timeshare resort he may use in exchange.

considered conventional lodging for reimbursement purposes under 41 C.F.R. § 301-7.9(c).

Additionally, many timeshare resorts affiliate with other timeshare resorts for the purpose of permitting timeshare holders in one resort to exchange their timeshare period for a comparable period at one of the other resorts. A separate fee is charged the exchanging timeshare holder to cover the administrative costs of arranging the timeshare trade. Thus, this fee represents a specific cost associated with the acquisition of lodging by a timeshare holder away from his home resort.

In the present situation, Mr. Motola's only cost specifically related to acquiring use of the Williamsburg resort lodging for 6 days was the \$89 exchange fee. The additional \$313.60 claimed represented the annual amount he was required to pay to his home resort in Pennsylvania, and was not an expense for the lodging obtained in Williamsburg. Therefore, Mr. Motola may be reimbursed the lodgings portion of per diem for 4 days based on the daily rate of one-sixth of \$89.


Robert P. Murphy
Acting General Counsel