

DECISION

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

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FILE: B-214701**DATE:** June 4, 1984**MATTER OF:** Robert D. Charlesworth**DIGEST:**

An employee who has not sold his residence at his old duty station is not entitled to reimbursement for real estate expenses which may be incurred in the sale of that residence in connection with his permanent change of station since the settlement, if it does occur, will not occur within 3 years of the date on which the employee reported to the new duty station, notwithstanding that the employee's inability to sell was due to market conditions. The regulations providing for the 3-year maximum period (initial 2 years plus a 1-year extension) may not be waived or modified by the agency or the Comptroller General.

A Government employee entitled to reimbursement under 5 U.S.C. § 5724a for expenses incurred in connection with residence transactions incident to a change in official duty stations is limited by regulations to a settlement date in the sale of his residence within 3 years of the date on which he reported to his new duty station. In this case we are asked whether an employee, Mr. Robert D. Charlesworth, may be granted an additional 1-year extension of the time limit in excess of the 3-year entitlement because the employee has not been able to sell his residence due to the economic situation where his residence is located.¹ We conclude that the provisions of the regulations governing the time limit may not be waived or modified by us or the agency concerned even though an employee's inability to sell his residence may be due to difficulties on the housing market caused by financial restraints or other factors.

¹ Mr. M. Joseph Donnelly, the Deputy Assistant Regional Commissioner (Financial Management), U.S. Customs Service, Boston, Massachusetts, submitted this request for a decision.

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Mr. Charlesworth, an employee of the United States Customs Service, was transferred from Rouses Point, New York, to Buffalo, New York. He reported at his new duty station on March 21, 1981. Under the regulations then in effect, he was authorized an initial 1-year period to complete his real estate transactions which was extended one additional year to March 20, 1983. Under revised regulations effective August 23, 1982, he was given another 1-year extension to March 20, 1984, for a total of 3 years. On February 3, 1984, he requested that the settlement date be further extended to March 20, 1985, approximately 4 years from the date he reported for duty because due to economic conditions he has still been unable to sell his residence at his old duty station.

The submission indicates that the Customs Service cannot approve the third request for extension because the Customs Policy and Procedures Manual and the Federal Travel Regulations do not authorize an extension beyond 3 years. The agency also states, however, that the request seems reasonable based upon the current economic situation in the Massena Park, New York area where his residence is located.

The reimbursement of Federal employees for certain expenses incurred in connection with the residence transactions incident to a transfer of duty station is governed by 5 U.S.C. § 5724 and regulations issued pursuant thereto by the General Services Administration. At the time Mr. Charlesworth received the second 1-year extension of time, making the total time 3 years he has been allowed for the sale of his residence, the applicable regulations provided, as they do now, for an initial time limitation of 2 years with a possible 1-year extension to a total of 3 years. See Federal Travel Regulations, para. 2-6.1e (Supp. 4, Aug. 23, 1982) incorp. by ref., 41 C.F.R. § 101-7.003 (1983). Paragraphs 2-6.1e(1) and (2) provide in part:

"e. Time limitation.

"(1) Initial period. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 2 years

after the date that the employee reported for duty at the new official station.

"(2) Extension of time limitation.

"(a) Upon an employee's written request, the 2-year time limitation for completion of the sale and purchase or lease termination transactions may be extended by the head of the agency or his/her designee for an additional period of time not to exceed 1 year."

As the above regulation makes clear, the maximum total time period is 3 years, that is an initial 2-year period which may be extended not to exceed an additional 1 year. In the present case Mr. Charlesworth has been allowed the maximum 3-year period which expired in March 1984. While we do not question the contention that he was unable to sell his residence within the 3-year period as a result of conditions that were essentially beyond his control, the provisions of the Federal Travel Regulations, as amended, may not be waived or modified by this Office or the agency concerned even though an employee's inability to sell his residence may be due to difficulties in the housing market caused by financing restraints or other factors. James H. Gordon, 62 Comp. Gen. 264 (1983).

Accordingly, there is no authority to allow Mr. Charlesworth's request for an additional extension of time in which to incur reimbursable real estate transaction expenses.

for *Harry R. Van Cleave*
Comptroller General
of the United States