



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 14, 2014

CBCA 3378-RELO

In the Matter of TAMAR L. SELMI-YOUNG

Tamar L. Selmi-Young, Arlington, TN, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

STERN, Board Judge.

The United States Army Corps of Engineers (Corps) issued permanent change of station travel orders for the transfer of claimant from Aviano, Italy, to a new position at the finance center in Millington, Tennessee. Claimant was reimbursed for a portion of her expenses incurred in the move. The Corps also paid a withholding tax allowance (WTA) of \$7435.84 to reimburse claimant for additional federal income taxes she incurred as a result of the relocation benefits she received. Thereafter, the Corps determined that it had overpaid the WTA in the amount of \$3478.92. The Corps has now issued claimant a demand for reimbursement to the Corps of the excess payment. Claimant argues that she should not have to repay this amount since she did not receive this payment. Claimant submits that the payment was made to the Internal Revenue Service (IRS) and not to her. In addition, claimant states that she cannot afford to pay this amount to the Corps. The Corps has furnished evidence that it paid the additional taxes to the IRS on claimant's behalf. The Federal Travel Regulation (FTR) applies to claimant, as a civilian employee of the Department of Defense.

We have held,

The procedures for calculating the RIT allowance are set forth

in the FTR and are based on certain assumptions jointly developed by the General Services Administration and the IRS. 41 CFR 302-17.8(b)(1). The FTR establishes a two-step process for determining an employee's RIT [relocation income tax] allowance. In the year in which the agency pays the employee relocation benefits (referred to as Year 1), it also pays to the employee a WTA, which is intended to be a rough approximation of the employee's increased income tax liability that results from receipt of the relocation benefits and the WTA. *Id.* 302-17.5(e), (n), -17.7(a). In the following year (referred to as Year 2), the agency calculates a RIT allowance which is more appropriately crafted to the employee's tax situation. This second step, determination of the RIT allowance itself, either reimburses the employee for any added tax liability that was not reimbursed by payment of the WTA or causes the employee to repay any excessive amount of WTA. *Id.* 302-17.5(f)(2), (m), -17.8; *see generally James V. Cammilocci*, CBCA 1709-RELO, 10-1 BCA ¶ 34,320 (2009); *Eddie D. West*, CBCA 790-RELO, 07-2 BCA ¶ 33,662; *Paula M. Stead*, GSBCA 16506-RELO, 05-1 BCA ¶ 32,874; *Philippe J. Minard*, GSBCA 15632-RELO, 01-2 BCA ¶ 31,631; *William A. Lewis*, GSBCA 14367-RELO, 98-1 BCA ¶ 29,532. Thus, where the calculation of the RIT allowance shows that the agency overpaid the WTA, the employee must repay the excess WTA to the agency. *Kenneth G. Kanik*, GSBCA 16034-RELO, 04-1 BCA ¶ 32,428 (2009).

Charles W. Bell, CBCA 1980-RELO, 10-2 BCA ¶ 34,484.

The Corps has demonstrated that it made an excess payment to the IRS on claimant's behalf. There is no evidence that there was any miscalculation by the Corps regarding the amount due from claimant as a result of the overpayment of her taxes. While we sympathize with the hardship that may be created by the repayment of the money, this does not lessen claimant's obligation to return the overpayment to the Government.

Decision

We affirm the agency's determination regarding the amount overpaid.

JAMES L. STERN
Board Judge