



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 22, 2016

CBCA 5018-RELO

In the Matter of MICHAEL J. RIEGLE

Michael J. Riegler, Hyde Park, NY, Claimant.

Timothy Bailey, Supervisory Financial Operations Specialist, Accounting Operations Center, National Park Service, Herndon, VA, appearing for Department of the Interior.

DANIELS, Board Judge (Chairman).

In 2014, Michael J. Riegler, an employee of the National Park Service, relocated for the benefit of the Government from Florida to New York. The agency reimbursed him for various expenses he incurred in moving, and it also paid him a withholding tax allowance (WTA). Virtually all of the reimbursable amounts were subject to federal and state income tax, as was the WTA. In 2015, the agency paid Mr. Riegler an additional amount of money, which it labeled as "NET TO TRAVELER." This amount was also taxable. Mr. Riegler believes that because the amount paid in 2015 was identified as "NET," it must have been designed to be net to him after taxes, and to make it so, the agency should pay him an additional sum to cover his income taxes on this amount.

Discussion

Relocation benefits for employees who are transferred by their agencies from one permanent duty station to another are generally considered taxable income to their recipients. To cover "substantially all" of the increased tax liability resulting from receipt of the benefits, Congress has authorized agencies to pay an additional sum to transferred employees. 5 U.S.C. § 5724b(a) (2012). This additional sum is called a relocation income tax (RIT) allowance. 41 CFR 302-17.1 (2013).

The procedures for calculating the RIT allowance are established in the Federal Travel Regulation (FTR) by the Administrator of General Services, in consultation with the Secretary of the Treasury. As we have previously explained:

The regulation establishes a two-step process for determining an employee's RIT allowance. In the year in which the agency pays the employee relocation benefits ("Year 1"), it also pays a withholding tax allowance (WTA), which is intended to be a rough approximation of the employee's increased income tax liability that results from receipt of the benefits and the WTA. 41 CFR 302-17.5(e), (n), -17.7(a). The WTA is calculated at a flat rate based on a marginal tax rate of 28%, regardless of the employee's actual tax bracket. *Id.* 302-17.7(c). For the following year ("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.

James V. Camillocci, CBCA 1709-RELO, 10-1 BCA ¶ 34,320 (2009).

The FTR prescribes formulae for the calculation of both the WTA and the RIT allowance. The formulae may appear complex, and Mr. Riegle's agency acknowledges a "lack of communication and clarity of information provided surrounding the [RIT allowance] calculation process." The agency surely confused matters by referring to the RIT allowance in this case as "NET TO TRAVELER." The amount it paid Mr. Riegle in 2015 was his total RIT allowance, less the WTA it had paid him in 2014 – or, in other words, the RIT allowance net of the previous payment. The amount was not intended to be – nor could it have been, pursuant to the FTR – net of income tax payments. Instead, it reflected a calculation that showed, in effect, that the 2014 WTA had been insufficient to cover the employee's tax obligations stemming from his relocation benefit reimbursements, and that an additional sum was necessary to cover substantially all of those obligations.

Decision

We have examined the calculations made by the agency for Mr. Riegler's WTA and RIT allowance and find them to be correct. Accordingly, we conclude that Mr. Riegler is not entitled to the money he seeks.

STEPHEN M. DANIELS
Board Judge