



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 15, 2021

CBCA 6936-RELO

In the Matter of ANISA J.

Anisa J., Claimant.

Tracey Z. Taylor, Office of Counsel, Humphreys Engineer Support Activity, United States Army Corps of Engineers, Alexandria, VA, appearing for Department of the Army.

ZISCHKAU, Board Judge.

Claimant, Anisa J., disputes the amount of tax repayment demanded by her employer, the United States Army Corps of Engineers (USACE), for taxes paid on her behalf in connection with relocation expenses incurred in 2020. Claimant asserts that (1) the amount charged is excessive in comparison to the amount paid by others in her position, and (2) she relied on the expectation of a lower tax burden when she accepted a position outside the continental United States (OCONUS) in 2016. Claimant neither alleges nor shows any error in the assessment or the calculation of the amount due. We deny the claim.

Background

In January 2020, after accepting a permanent change of station (PCS), claimant relocated from Japan to her new permanent duty station (PDS) in California. Section I of the associated USACE travel authorization granted claimant relocation benefits including, among other things, the cost of the shipment of claimant's household goods (HHG) and a relocation income tax allowance (RITA). Claimant chose to arrange transportation of her HHG through the local transportation office. The transportation office contracted directly with the vendor to transport the HHG, which totaled 8350 pounds, at a cost of \$11,959.90.

On September 3, 2020, the USACE Finance Center (UFC) sent claimant a debt collection letter demanding repayment of \$3546.11 for taxes paid by USACE on claimant's behalf in relation to the relocation costs. The amount is equal to the sum of three taxes assessed on the \$11,959.90: \$2631.18 in federal income tax withholding (FITW), \$741.51 in Federal Insurance Contributions Act (FICA) taxes, and \$173.42 in Medicare taxes. The letter explained claimant's rights to request a UFC hearing to contest the validity or amount of the debt, to file for a waiver under 5 U.S.C. § 5584 (2018), to request a review and validation of the debt by the Debt Collection Office, and to file a claim with this Board pursuant to 31 U.S.C. § 3702. Claimant filed a claim here and submitted the debt collection letter as USACE's final decision regarding the debt.

Discussion

Pursuant to the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat 2054 (TCJA), when a federal civilian employee completes a PCS from one PDS to another, many of the relocation benefits provided by the employing agency, including the cost of shipping HHG, are considered taxable income. *See* 41 CFR 302-17.2 (2020) (FTR 302-17.2). Subsequently, the employing agency is required by statute to reimburse the employee for "substantially all of the additional Federal, state, and local income taxes incurred." *Id.* 302-17.3; 5 U.S.C. § 5724(b). USACE fulfills this requirement through a two-year RITA process. *Michael A. Harris*, CBCA 6223-RELO, 19-1 BCA ¶ 37,294. RITA "applies to Federal, state, and local income taxes incurred by the civilian employee," but "does not reimburse for employment-type taxes, such as those imposed by 26 U.S.C. § 21 (Federal Insurance Contributions Act)" or Medicare taxes. JTR 053611 (Jan. 2020).

Claimant argues that the amount charged is excessive but does not contend that USACE improperly calculated any of the taxes paid on her behalf. Furthermore, there is no evidence of improper calculation. The Board has no authority to waive a properly calculated debt that is compliant with applicable law and travel regulations. *See Heather E. McBride*, CBCA 6373-RELO, 19-1 BCA ¶ 37,346. If claimant's 2020 tax return shows that USACE withheld too much FITW, then she may be entitled to receive a refund on that overpayment. *Joshua W. Hughes*, CBCA 6678-RELO, 20-1 BCA ¶ 37,555; *Holly W.*, CBCA 7030-RELO, (Mar. 12, 2021). Additionally, after claimant files her 2020 tax return, she must file a RITA claim to recoup "the actual tax liability incurred . . . as a result of [her] taxable relocation benefits." FTR 302-17.1.

Claimant further challenges the validity of her tax burden by alleging that it is "unanticipated and unplanned," noting that the tax regulations changed during her time OCONUS. Although the TCJA was not in effect at the time claimant accepted an OCONUS position in 2016, "[n]either the TCJA nor the implementing regulations provide allowance for anyone already OCONUS to be 'grandfathered' or exempted from the applicable taxes

when returning from OCONUS.” *Heather E. McBride*. Accordingly, the Board does not have the authority to waive the applicability of the TCJA. *Id.*

Decision

The claim is denied.

Jonathan D. Zischkau
JONATHAN D. ZISCHKAU
Board Judge