



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 6, 2022

CBCA 7247-RELO

In the Matter of DONALD H.

Donald H., 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.

GOODMAN, Board Judge.

Claimant, Donald H., is a civilian employee of the Department of Defense. He asks this Board to review the agency's determination of tax liability for the costs paid by the agency for the first thirty days of shipment in transit (SIT) of his household goods (HHG) incurred during a permanent change of station (PCS).

Background

Claimant accomplished a PCS pursuant to original travel orders dated September 3, 2020. Claimant asserts, and the agency does not contest, that his HHG were packed in late September 2020 and delivered to his new address by November 17, 2020. The government bill of lading (GBL) notes that SIT began on October 12 and ended on November 17, 2020.

Claimant was issued four debt letters with regard to the tax liability on the costs of shipping the HHG and SIT. Claimant asserts that these charges appear "fraudulent" and urges the Board to investigate their origin. The Board, as a quasi-judicial tribunal, does not perform independent investigations with regard to cases presented to it. *Beth A. Wilson*, CBCA 600-RELO, 07-1 BCA ¶ 33,546.

The agency has explained the basis for the four debt letters in detail. On February 19, 2021, claimant was issued the first debt letter, stating that he owed \$289.76 in tax liability for federal income tax withholding (FITW), Federal Insurance Contributions Act (FICA) taxes, and Medicare on the shipment of his HHG. According to the agency, this amount was calculated based on the GBL, which showed charges of \$892.79, \$2016.74, and \$44.88 for the shipment of HHG on October 19, 2020. The total amount, \$2954.41, was then paid by the Government, and the final amount owed by claimant for his portion of the taxes was \$289.76.

On February 26, 2021, claimant was issued a second debt letter, stating that he owed an additional \$130.42 in tax liability for FITW, FICA, and Medicare taxes on the SIT of his HHG. The associated GBL indicates that claimant's HHG were stored for a total of thirty-seven days, showing separate charges for the initial day of SIT and the subsequent thirty-six days of continuous SIT, from October 12 to November 17, 2020. The total costs of storage amounted to \$1329.73. That amount was paid by the Government, and claimant was subsequently charged for his portion of the taxes owed, \$130.42.

On October 29, 2021, claimant was issued a third and fourth debt letter. The third debt letter stated that claimant had a delinquent debt owed – the original \$289.76 from the first debt letter plus interest, for a total of \$317.30. The fourth debt letter stated that claimant had a delinquent debt owed – the original \$130.42 from the second debt letter plus interest, for a total of \$150.24.

Claimant disputes the debts asserted in the four debt letters. Claimant's arguments focus on the tax liability for the first thirty days of SIT, the subject of the second and fourth debt letters, and he apparently did not understand that the first and third debt letters involve the tax liability for the cost of shipping his HHG. He states that (1) he should not have been taxed on the first thirty days of SIT, as his travel orders stated he would only be responsible for taxes incurred on SIT over thirty days; and (2) his SIT was miscalculated and documentation supplied by the agency improperly shows thirty-seven days of SIT in November and December, which is inaccurate as his HHG were packed on September 23, 2020, and delivered on November 17, 2020.

Discussion

As an initial matter, claimant has provided a partial copy of a document that he asserts is a portion of his original travel orders containing a footer at the bottom of the page that states, "Travel Order No: 0088975L1 Amend 0." This document contains the statement that "[s]torage greater than 30 days is considered taxable income by the IRS. The employee will be responsible for any tax incurred on storage greater than 30 days." This statement is the

basis of claimant's argument that he should not be taxed on the cost of the first thirty days of SIT.

The agency has provided a document which it asserts is a complete copy of the original travel orders with the same footer at the bottom of the page. However, the agency's document contains the statement that "[s]torage is considered taxable by the IRS. The employee will be responsible for any tax incurred on storage." The agency states that it cannot provide an explanation as to the discrepancy between the documents furnished by claimant and the agency. The Board also cannot discern the reason for the discrepancy but need not in order to resolve this case. As explained below, pursuant to the applicable law and regulations, shipment and storage of HHG is taxable, and claimant is not relieved of tax on the first thirty days of SIT. To the extent that claimant maintains that the language of his travel orders relieved him of tax liability for the first thirty days of SIT, even if claimant's version of the travel orders is the correct version, the language he cites was contrary to statute and regulation, and an agency cannot expand employee entitlements that are not authorized by statute or regulation. *Charles Frost*, CBCA 3428-RELO, 13 BCA ¶ 35,375.

The shipment and storage costs that the agency paid on claimant's behalf became taxable with the passage of the Tax Cuts and Jobs Act of 2017 (TCJA), Public Law 115-97, which, effective January 1, 2018, suspended qualified moving expense deductions, along with employer reimbursements and payments of moving expenses, for tax years 2018 through 2025. As a result, various relocation expenses reimbursed to federal employees, including the shipment and storage of HHG, which were previously non-taxable, are taxable. *See Louis J. Boudousquie*, CBCA 6698-RELO, 20-1 BCA ¶ 37,609; *Christy A. Cox*, CBCA 6671-RELO, 20-1 BCA ¶ 37,505.

Claimant asserts, and the agency does not contest, that his HHG were packed in late September 2020 and delivered to his new address by November 17, 2020. The GBL notes that SIT began on October 12, 2020, and ended on November 17, 2020. The agency paid the vendor for these costs directly and used this amount to calculate the taxes owed pursuant to the TCJA. There is no indication that the agency charged claimant for any SIT before September 23, 2020, or after November 17, 2020. As the TCJA was in full effect at the time of claimant's PCS, the cost of shipment and SIT of HHG paid by the agency is taxable, including the first thirty days of SIT. The agency assessed taxes based on the correct number of days of SIT. There is no evidence that the taxes and interest in the four debt letters were calculated incorrectly.

The documentation submitted by the agency does not support claimant's allegation that thirty-seven days of SIT were erroneously charged in November and December. The agency explains that while the vendor submitted invoices in November and December 2020, invoices are not necessarily issued in the same month services are rendered. The information

in the invoices clearly states the dates of shipment and delivery as stated above, and charges for only those dates when services were rendered for shipment, SIT, and delivery in September and November.

Decision

The agency's assessment of the debts at issue were based on proper application of the applicable law and travel regulations. The claim for relief from the debts is denied.

Allan H. Goodman

ALLAN H. GOODMAN

Board Judge