



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 12, 2017

CBCA 5855-RELO

In the Matter of ROGER D. ST. LOUIS

Roger D. St. Louis, Pyeongtaek, Korea, Claimant.

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

SHERIDAN, Board Judge.

Claimant, Roger D. St. Louis, seeks the Board's review of an Army Corps of Engineers (USACE) determination that he owes the agency \$514.47 in taxes for fifty-four days of household goods (HHG) storage-in-transit (SIT). The agency correctly applied the provisions of the Federal Travel Regulation (FTR), and as such, claimant is required to pay the agency for taxable temporary storage.

Background

Claimant, a senior construction representative with USACE, received orders for an early return of a dependent and coordinated transportation of HHG from Pyeongtaek, Korea, to Middletown, Ohio. The operations manager for the HHG carrier sent an email to Mr. St. Louis on January 18, 2017, notifying him that his HHG arrived in Ohio and was available for delivery. In the email, the HHG carrier indicated that the storage service provider usually provided free storage for ninety days. The HHG remained in SIT for a total of eighty-four days before delivery on April 10, 2017.

The agency wrote claimant on August 16, 2017, requesting payment of \$514.47 for taxes associated with fifty-four days of HHG SIT. Mr. St. Louis contends that he is not

required to “pay any taxes or other cost for transportation of HHG from OCONUS [outside the continental United States] to CONUS under 90 days.” As such, Mr. St. Louis asserts that the agency’s determination is improper and disputes the charge.

Discussion

Relocation benefits paid by the Government to its employees are generally considered taxable income to the recipients. *Charles W. Bell*, CBCA 1980-RELO, 10-2 BCA ¶ 34,484. As with any taxable income, the recipient must pay income taxes on the amount or value of the benefit received. 41 CFR 302-17.2 (2016). There are, however, differing tax treatments for each entitlement or benefit. Allowance for temporary storage or SIT of HHG is nontaxable for up to thirty days. CFR 302-17.8. SIT of HHG that goes beyond thirty days, as is the case here, is considered taxable income. *Id.* Moreover, in a memorandum for commanders and directors with the USACE, the director of resource management writes, “USACE travelers must pay taxes on the cost of storing [HHG] for periods in excess of 30 days.” The memorandum further states that the USACE Finance Center will “bill the traveler for their share of FITW [federal income tax withholding], FICA [Federal Insurance Contributions Act], and Medicare as applicable.”¹

It appears that Mr. St. Louis may have misunderstood his obligations after receiving the email from the HHG carrier indicating that the storage service provider usually provided free storage for 90 days. However, any representations made by the HHG carrier are not binding on the USACE. “It is well-established that the Government may not authorize the payment of money if not in accordance with statute and regulation.” *William T. Orders*, GSBCA 16095-RELO, 03-2 BCA ¶ 32,389, at 160,290 (citing *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990); *Federal Crop Insurance Corp. v. Merrill*, 332 U.S. 380 (1947)); see *Charles T. Oliver*, GSBCA 16346-RELO, 04-1 BCA ¶ 32,614, at 161,405 (“absent a specific provision in statute or regulation granting an exception under certain circumstances, neither an agency nor this Board has the authority to waive, modify, or depart from the Government’s official travel regulations for the benefit of any federal employee who is subject to them”). Accordingly, any misinformation the claimant may have received from an agency employee or some other individual outside the agency, such as the HHG carrier, that conflicts with the regulation cannot bind the agency. See *Milton Brown*, CBCA 4998-RELO, 16-1 BCA ¶ 36,205, at 176,663-64 (even if employee relies to his detriment on the assurances, the law prohibits the agency from honoring commitments made outside the representative’s authority).

¹Any permanent change of station travel orders issued after January 1, 2014, include such language.

Claimant's HHG remained in storage for eighty-four days. Thirty of those days are nontaxable and Mr. St. Louis is not responsible for paying income tax on the value of those days. The value of fifty-four days, however, is considered a taxable benefit and Mr. St. Louis must pay the income tax. While the SIT itself is not an expense borne by the individual in this case, the tax on HHG SIT in excess of thirty days is.

Decision

For the foregoing reasons, the claim is denied.

PATRICIA J. SHERIDAN
Board Judge