

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548****FILE:** B-221686**DATE:** May 8, 1986**MATTER OF:** Carl Trueblood**DIGEST:**

Transferred employee may not be reimbursed a transaction privilege tax imposed by Arizona on constructors of new houses even though the tax was passed on to the employee when he purchased a newly constructed residence at his new duty station. Although the tax qualifies as a "transfer tax" within the meaning of Federal Travel Regulations, paragraph 2-6.2d, it was a charge imposed incident to the construction of a new residence, and therefore may not be reimbursed in view of the specific prohibition contained in paragraph 2-6.2d.

The question in this case is whether a transferred employee may be reimbursed for a transaction privilege tax imposed by Arizona on builders of new houses which was passed on to him when he purchased a residence at his new duty station.<sup>1/</sup> We conclude that he may not be reimbursed since the tax was a charge incident to the construction of a new residence.

Incident to his transfer to Arizona, Mr. Carl Trueblood, an employee of the Department of the Interior, purchased a newly constructed residence. Together with his claim for real estate purchase expenses, Mr. Trueblood submitted a sales tax receipt executed by the seller's agent indicating that the purchase price of the new home included state and city sales taxes totaling \$3,032.61 imposed in compliance with § 42-1310.02 (now § 42-1308) of the Arizona Revised Statutes. The taxes here in issue are in fact transaction privilege taxes imposed upon prime contractors engaged in the construction of new houses in Arizona. These taxes, although paid to Arizona by the

---

<sup>1/</sup> This action is in response to a request for a decision received from Mr. Edward M. Hallenbeck, Acting Regional Director, Lower Colorado Regional Office, Bureau of Reclamation, U.S. Department of the Interior.

035372

B-221686

contractors, are collected from the purchasers in the price of the new home. City of Mesa v. Home Builders Assn. of Central Arizona, Inc., 111 Ariz. 29, 523 P.2d 57 (1974).

Paragraph 2-6.2d of the Federal Travel Regulations (FTR) (Supp. 4, Aug. 23, 1982), incorp. by ref. 41 C.F.R. § 101-7.003 (1983), specifies that expenses that result from construction of a residence are not reimbursable, except to the extent they are comparable to expenses that are reimbursable in connection with the purchase of an existing residence. See FTR, para. 2-6.2d(1)(j) and para. 2-6.2d(2)(f). The transaction privilege taxes included in the purchase price of Mr. Trueblood's house are assessed only on newly constructed houses. They are nearly identical to the privilege tax that was passed on to the purchaser considered in 54 Comp. Gen. 93 (1974). Although that decision was overruled on other grounds by 63 Comp. Gen. 474, supra, reimbursement of the New Mexico tax involved in 54 Comp. Gen. 93 was specifically disallowed on the basis that it was a charge incident to the construction of a new residence. See also Mr. Clyde Treat, B-181795, November 11, 1974; James L. Starshak, B-178943, September 17, 1974.

Therefore, although the Acting Regional Director believes that it is unfair to penalize the purchaser of a new home, we conclude that the transaction privilege taxes in this case are expenses resulting from construction which may not be allowed under the applicable regulations. Accordingly, the taxes claimed by Mr. Trueblood may not be reimbursed.

*you* Milton J. Jaster  
Comptroller General  
of the United States