



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 8, 2020

CBCA 6706-RELO

In the Matter of JASON N. FISCHELL

Jason N. Fischell, Vicksburg, MS, 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.

DRUMMOND, Board Judge.

Jason N. Fischell, a civilian employee of the United States Army Corps of Engineers (agency), disputes a debt assessed by the Government in connection with his permanent change of station within the continental United States, with a report date in July 2019. Although he filed this action in response to a notice of debt collection, the Board resolves the underlying relocation dispute. *See Michael A. Metje*, CBCA 6699-RELO (Apr. 29, 2020) (noting that the Board does not conduct debt hearings for the Corps).

Shipment and storage of claimant's household goods (HHG) cost \$3139.93, which the agency paid to the vendor directly. Due to the timing of the shipment and storage, when the agency calculated the taxes owed on claimant's travel entitlement, the costs were split across two months (September and October). The agency calculated the taxes owed on claimant's travel entitlement to be \$930.99 (\$252.95 and \$678.04 respectively) and requested reimbursement. The total amount reflects his portion of the federal income tax withholding (FITW) and the FICA and Medicare taxes on his travel entitlement, which the agency is now obligated to recoup under the Tax Cuts and Jobs Act of 2017, Public Law 115-97 (TCJA) and Federal Travel Regulation (FTR).

The TCJA, effective January 1, 2018, for tax years 2018 through 2025, suspended qualified moving expense deductions along with the exclusion of employer reimbursements

and payments of moving expenses. Now travelers must pay taxes on relocation expense reimbursements, such as shipment of HHG, storage-in-transit, non-temporary storage charges, lodging expenses while en route, and mileage for using a privately-owned vehicle to travel to a new duty station. *See* GSA Bulletin FTR 18-05.

Claimant has pointed to no error in the assessment or calculation of the amount to be reimbursed. Claimant's assertion that he detrimentally relied upon the advice or information provided to him by the agency, which did not specify that he would be accountable for the taxes for his move, does not alter claimant's tax liability. "The Government is not bound by the erroneous advice of its officials, even when the employee has relied on this advice to his detriment." *Daryl J. Steffan*, CBCA 3821-TRAV, 14-1 BCA ¶ 35,734 (quoting *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634). "Federal agencies do not have the authority to waive the applicability of the TCJA." *Heather E. McBride*, CBCA 6373-RELO, 19-1 BCA ¶ 37,346. Here, there is no question that the TCJA was in effect at the time of claimant's PCS move.

To the extent that claimant argues that he was improperly charged for the actual costs of his move, he is mistaken. The entirety of the charges assessed were taxes on his travel entitlement. The actual costs of the move were covered by the agency. His portion of the FITW and the FICA and Medicare taxes associated with his travel entitlement should have been deducted from his reimbursements. *See* 84 Fed. Reg. 64,783 (Nov. 25, 2019) ("Your agency must deduct withholding for FICA (Medicare and Social Security), as the WTA [Withholding Tax Allowance] does not cover such expenses." (to be codified at 41 CFR 302-17.24 note)); 41 CFR 302-7.9, -17.22(d) (2019).

The Board denies the claim. Claimant must reimburse the Government \$930.99.

Jerome M. Drummond
JEROME M. DRUMMOND
Board Judge