

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

February 26, 2003

GSBCA 15924-RELO

In the Matter of RONALD DAWSON

Ronald Dawson, Portsmouth, VA, Claimant.

Bobbie Rogers, Travel Section, Defense Finance and Accounting Service, Fort Sill, OK, appearing for Department of Defense.

PARKER, Board Judge.

Ronald Dawson, an employee of the Department of Defense (DoD), was transferred from one permanent duty station to another in 2001. He alleges that the agency made three mistakes in calculating the proper reimbursement for the additional taxes he incurred as a result of the transfer. First, Mr. Dawson claims that the withholding tax allowance (WTA) paid to him in 2001 should have been calculated based on a tax rate of 30.5%, rather than the 28% rate used by the agency. Second, Mr. Dawson maintains that the relocation income tax (RIT) allowance paid to him in 2002 should have been based on a tax rate of 30.5%, which he alleges was the marginal rate for an individual with his income, rather than the 27% rate used by the agency. Finally, Mr. Dawson alleges that DoD failed to include all of his taxable moving-related reimbursements in calculating his income for purposes of the RIT allowance.

Discussion

Mr. Dawson's reimbursements were correct. Statute and regulation require agencies to pay various relocation benefits and allowances to employees who are transferred in the interest of the Government from one permanent duty station to another. See 5 U.S.C. ch. 57, subch. II (2000); 41 CFR ch. 302 (2001). These payments are, for the most part, considered taxable income to the recipients. We have previously discussed in some detail the provisions of law, 5 U.S.C. § 5724b and 41 CFR pt. 302-11, which require agencies to pay these employees additional money to effectively compensate them for the taxes they incur consequent to their receipt of these benefits and allowances. Robert J. Dusek, GSBCA 14325-RELO, 98-1 BCA ¶ 29,440 (1997).

The regulation establishes a two-step process for accomplishing this goal. In the year in which the agency pays the employee relocation benefits and allowances, it also pays a withholding tax allowance, which is intended to cover the increase in the employee's federal

income tax withholding liability that results from receipt of the benefits and allowances. 41 CFR 302-11.5(e), (n), -11.7(a). The WTA is calculated at a flat rate based on a marginal tax rate of 28%, regardless of the employee's tax bracket. Id. 302-11.7(c). In the following year, the agency calculates a relocation income tax allowance, which makes further adjustments in payment, to reimburse the employee for any added tax liability that was not reimbursed by payment of the WTA, or to cause the employee to repay any excessive amount of WTA, based on the employee's actual tax situation for the year in which the relocation benefits and allowances were received. Id. 302-11.5(f)(2), (m), -7(e), -9(b).

As to Mr. Dawson's first point, the regulations clearly provide for a year one, or WTA, payment based on a marginal tax rate of 28%. He was paid correctly based on this rate.

For the following year, Mr. Dawson's RIT allowance was based on a marginal tax rate of 27%, rather than the 30.5% rate that Mr. Dawson alleges corresponds to his gross income. This, too, was correct. The marginal tax rate table, which is published as part of the Federal Travel Regulation, establishes the gross earned income levels at which various tax rates apply for purposes of calculating the RIT allowance. 41 CFR 302-11 app. A. The table necessarily does not match the Federal income tax tables because the amounts listed in the marginal tax rate table are gross earned income amounts, not taxable income amounts. Federal income taxes are paid based on taxable income, which takes into account such things as deductions, exemptions, and credits. The tax rates in the marginal tax rate table, which result from extensive research by the Department of the Treasury, are based on average amounts of taxable income at various gross earned income levels. Michael R. Planitz, GSBCA 15073-RELO, 00-1 BCA ¶ 30,751. In other words, although the table that DoD used to calculate the RIT allowance used Mr. Dawson's gross income as a starting point, the marginal tax rates derived from the table were based on Mr. Dawson's estimated taxable income, not his gross income.

Mr. Dawson's last complaint, that the agency failed to include all of his covered taxable reimbursements in calculating his income, is factually incorrect. Mr. Dawson's voucher shows that DoD included the total of \$2985.83 in two parts: \$2149.80 for taxable

reimbursements, and \$836.03 for the WTA previously paid. The voucher was thus correct and the claim is denied.

ROBERT W. PARKER
Board Judge