

## Timing of Real Estate Transactions (JTR, par. 054501-B)

The following are examples drawn from Comptroller General (Comp. Gen.) and General Services Board of Contract Appeals (GSBCA) decisions describing circumstances when reimbursement for real estate allowances were and were not allowed.

**Example 1:** A civilian employee transferred from Alaska to a foreign permanent duty station (PDS), Singapore, in the Government's interest. After Agency officials notified the civilian employee that return would not be to Alaska and that return rights would be to a prior position in Savannah, Georgia, the civilian employee sold the Alaska residence. Upon the completion of the Singapore tour of duty, the civilian employee was transferred back to a prior position that had been relocated to Charleston, South Carolina. Upon transfer to Charleston—an official station other than the one from which the civilian employee was transferred to the foreign PDS—the civilian employee became eligible for the allowable expenses incurred in the residence sale in Alaska since it was sold after the civilian employee had been officially notified that the return would not be to Alaska but to a different duty station in the continental United States (CONUS) or non-foreign area outside the continental United States (OCONUS) ([72 Comp. Gen. 130 \(1993\)](#)).

**Example 2:** A civilian employee assigned at Fort Shafter, Hawaii, was notified that he would be transferred to Fort McPherson, Georgia. In anticipation of the transfer, he signed a listing agreement to sell the residence in Hawaii. However, before the sale, he accepted a position in Seoul, South Korea, and reported for duty at that duty station. The residence in Hawaii was sold while he was in South Korea and he requested reimbursement for real estate expenses. The request was denied based on statutory and regulatory provisions that provide that both the old and new duty station must be located within the United States (including non-foreign locations outside the continental United States) or other named locations for such expenses to be reimbursable. The civilian employee stated that reimbursement was authorized because the position has mandatory mobility, and governing regulations prohibit a civilian employee from staying overseas for more than 5 years. Since he would have completed 5 years overseas after the assignment in South Korea, it would have been impossible for him to return to Hawaii. He was later transferred from South Korea to Huntsville, Alabama. The record contains a memorandum indicating that the civilian employee was advised that the assignment in South Korea would be followed by an assignment to Headquarters, which at that time was Alexandria, or in the alternative, Huntsville if the function was transferred there. The Comp. Gen. believed that this constituted official notice to the civilian employee that he would not be returning to the old duty station in Hawaii. The civilian employee sold the residence in Hawaii after receiving the official notice. The Comp. Gen. authorized real estate allowances for the civilian employee's residence sale in Hawaii since the criteria enunciated in [72 Comp. Gen. 130 \(1993\)](#) was satisfied. The criteria enunciated in that decision are: (1) official notice prior to an overseas assignment that the civilian employee would not be returning to that duty station; (2) residence sale after such official notice; (3) an agency regulation that provides that a civilian employee is not to be returned to the old duty station; and (4) the civilian employee's return to another official duty station ([B-255822, May 17, 1994](#)).

**Example 3:** A civilian employee who transferred to Brasilia, Brazil, from Grand Junction, Colorado, and returned to the former duty station upon overseas assignment completion is not authorized reimbursement of expenses incurred in the Grand Junction residence sale since return was to the same duty station in the CONUS ([B-242558, June 19, 1991](#)).

**Example 4:** In early July 1993, a civilian employee saw reports in the local media indicating that the base at which employed was on the Base Realignment and Closure Commission (BRAC) list of bases proposed to be closed. Anticipating a transfer to another location, he sold a house in Newark, California, on July 29, 1993. The BRAC list, however, did not become final until Congress approved it in September 1993. A civilian employee who works at a base scheduled to be closed is permitted to register in the Priority Placement Program (PPP), a program that helps a soon-to-be displaced civilian employee find a new position within DoD. The civilian employee's base was not scheduled to be closed until September 1996, and each civilian employee who worked at that base did not receive permission to enroll in the PPP

until October 1994. The civilian employee concerned participated in the PPP in October and was eventually transferred to Jacksonville, Florida. The civilian employee's claim for reimbursement of the expenses incurred in connection with the home sale was denied because the sale predated both final approval of the BRAC list and his registration in the PPP ([GSBCA 13699-Relo, March 21, 1997](#)).

**Example 5:** A DoD civilian employee listed a residence for sale in anticipation that the base at which he worked would be closed and went to settlement on the residence before registering with the agency's job placement program. The agency questioned whether the civilian employee may be reimbursed real estate expenses for the residence sale based on an agency regulation allowing reimbursement of real estate expenses for a civilian employee who is registered in the placement program. Reimbursement was authorized. Neither the regulation nor the decision, [B-249451, January 7, 1993](#), which is cited in the regulation, requires a civilian employee to be registered in the placement program to receive reimbursement for real estate expenses. Rather, a civilian employee may be reimbursed real estate expenses incurred after an agency has demonstrated a clear administrative intent to transfer the civilian employee and he or she is transferred and signs an employment agreement. Although registration in the agency placement program is evidence of intent to transfer, an agency may look to all the facts of a particular case to determine whether this intent existed. In this case, the civilian employee was acting on information that the base was about to be closed and that an offer to assist him in finding another job would be forthcoming ([B-261836, November 13, 1995](#)).

**Example 6:** The civilian employee in this case incorrectly assumed that a BRAC listing constituted official notification that he would be transferred back from a permanent duty station (PDS) in South Korea to a different PDS in the United States other than one in the vicinity of Pueblo, Colorado, from which he was transferred to South Korea. As a result, the civilian employee believed the residence could be sold prior to him being officially notified of a transfer from South Korea back to the United States. In 1988, the civilian employee's agency in Pueblo was placed on the BRAC list. On December 10, 1991, he was transferred to Camp Humphries in South Korea. In August 1992, he sold the house in Pueblo and incurred real estate transaction expenses. In June 1998, he was transferred to McAlester, Oklahoma. The civilian employee's agency denied his claim for real estate expenses for the residence sale in Pueblo because the residence was sold in 1992, well before official notification of the transfer from South Korea to McAlester. Under the JTR, a civilian employee is not authorized reimbursement for any expenses of a transaction that occurs prior to official notification that the civilian employee's return would be to a PDS other than the one from which the civilian employee transferred to the foreign post of duty ([GSBCA 14889-Relo, April 7, 1999](#)). The Comp. Gen. noted in this decision that the PDS includes the residence or other quarters from which the civilian employee regularly commutes to and from work. A base closure would not result in transfer to a PDS other than the one transferred from before the foreign tour of duty, if there were another PDS to which a civilian employee could be assigned within the commuting distance of the civilian employee's last domestic residence.