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[Request for Relief From Liability for Army Officer]

Number: B-221720

Date: 1986-05-08

B-221720, MAY 8, 1986, OFFICE OF GENERAL COUNSEL

STATUTES OF LIMITATION - ACCOUNTABLE OFFICERS - IRREGULARITIES IN ACCOUNT DIGEST: 1. IT IS NOT NECESSARY FOR OUR OFFICE TO GRANT RELIEF IN A CASE WHERE THE 3-YEAR STATUTE OF LIMITATION PERIOD HAS EXPIRED. UNDER THESE CIRCUMSTANCES, THE ACCOUNT IN QUESTION MUST BE CONSIDERED SETTLED AND THE ACCOUNTABLE OFFICER INVOLVED CANNOT BE HELD LIABLE FOR ANY ERRONEOUS PAYMENT. 31 U.S.C. SEC. 3526(C). ACCOUNTABLE OFFICERS - ACCOUNTS - IRREGULARITIES, ETC. - REPORTING TO GAO - TIME LIMITATION 2. AGENCIES ARE REQUIRED TO REPORT FINANCIAL IRREGULARITIES TO GAO WITHIN 2 YEARS AFTER THE DATE THE ACCOUNTS ARE MADE AVAILABLE TO GAO FOR AUDIT (THAT IS, THE DATE THE AGENCY HAS SUBSTANTIALLY COMPLETE ACCOUNTS). 7 GAO POLICY AND PROCEDURES MANUAL FOR THE GUIDANCE OF FEDERAL AGENCIES SEC. 28.14. THIS TIMEFRAME PROVIDES THE AGENCIES TIME TO TRY TO RESOLVE THE IRREGULARITIES ON THEIR OWN, AS WELL AS, OUR OFFICE AN ADEQUATE OPPORTUNITY TO DETERMINE WHETHER RELIEF SHOULD BE GRANTED OR DENIED PRIOR TO THE EXPIRATION OF THE 3-YEAR STATUTE OF LIMITATION PERIOD.

MR. ROBERT MURPHY:

COMPTROLLER

DEFENSE LOGISTICS AGENCY

THIS RESPONDS TO YOUR REQUEST OF JANUARY 17, 1986, THAT WE RELIEVE MAJOR J. D. HEARD, UNITED STATES ARMY, FORMER ACCOUNTING AND FINANCE OFFICER, DEFENSE CONTRACT ADMINISTRATION SERVICES REGION, ATLANTA, GEORGIA, UNDER 31 U.S.C. SEC. 3527(C) FOR AN IMPROPER PAYMENT OF $596.63 CHECK ISSUED TO MR. JOHN J. ADAMICK. AS EXPLAINED BELOW, SINCE THE 3-YEAR STATUTE OF LIMITATION PERIOD HAS EXPIRED IN THIS CASE, THE ACCOUNT IN QUESTION MUST BE CONSIDERED TO BE SETTLED AND THE ACCOUNTABLE OFFICER INVOLVED CANNOT BE HELD LIABLE FOR ANY ERRONEOUS PAYMENT.

ALTHOUGH YOUR SUBMISSION PROVIDED VERY LITTLE INFORMATION, IT APPEARS THAT THE LOSS INVOLVES A DOUBLE PAYMENT SITUATION WHERE THE PAYEE APPARENTLY NEGOTIATED BOTH AN ORIGINAL AND SUBSTITUTE CHECK. THE LOSS HAS BEEN REFLECTED IN YOUR ACCOUNTS SINCE FEBRUARY 1979.

UNDER 31 U.S.C. SEC. 3526(C), OUR OFFICE IS AUTHORIZED TO SETTLE ACCOUNTS OF ACCOUNTABLE OFFICERS, AND HENCE TO GRANT OR DENY RELIEF, "WITHIN 3 YEARS AFTER THE DATE THE COMPTROLLER GENERAL RECEIVES THE ACCOUNT" EXCEPT WHERE THE LOSS IS DUE TO FRAUD OR CRIMINALITY BY THE ACCOUNTABLE OFFICER (OR DURING WAR TIME). AS A RESULT OF CHANGES IN AUDIT METHODS, ACCOUNTS ARE NOW RETAINED BY THE VARIOUS AGENCIES WHERE THEY ARE SUBJECT TO AUDIT AND SETTLEMENT BY OUR OFFICE. TO REFLECT THIS PROCEDURAL CHANGE, OUR OFFICE NOW CONSIDERS "THE DATE OF RECEIPT BY

THE AGENCY OF SUBSTANTIALLY COMPLETE ACCOUNTS, OR WHERE ACCOUNTS ARE RETAINED AT THE SITE, THE END OF THE PERIOD COVERED BY THE ACCOUNT, AS THE POINT FROM WHICH THE 3-YEAR PERIOD" PROVIDED FOR IN 31 U.S.C. SEC. 3526(C) BEGINS TO RUN. B-205587, JUNE 1, 1982. OUR OFFICE HAS CONSISTENTLY HELD THAT ONCE THE 3-YEAR STATUTORY PERIOD HAS EXPIRED, THE ACCOUNT IN QUESTION IS CONSIDERED SETTLED AND THERE IS NO NEED FOR OUR OFFICE TO CONSIDER WHETHER OR NOT TO GRANT RELIEF.

IN THIS CASE, ALTHOUGH THE EXACT DATE WHEN YOUR AGENCY HAD KNOWLEDGE THAT THE LOSS HAD OCCURED IS NOT PROVIDED, IT IS CLEAR THAT AT LEAST BY FEBRUARY 1979 THE LOSS HAD BEEN ACKNOWLEDGED. SINCE THERE IS NO EVIDENCE OF FRAUD OR CRIMINALITY ON THE PART OF THE ACCOUNTABLE OFFICER INVOLVED, THE 3-YEAR PERIOD WITHIN WHICH OUR OFFICE IS REQUIRED TO SETTLE THIS ACCOUNT COULD HAVE EXPIRED NO LATER THAN FEBRUARY 1982. THIS WAS ALMOST 4 YEARS PRIOR TO THE DATE ON WHICH OUR OFFICE RECEIVED YOUR RELIEF REQUEST. THEREFORE, THE ACCOUNT MUST BE REGARDED AS SETTLED. ACCORDINGLY, SINCE THE ACCOUNTABLE OFFICER CAN NO LONGER BE FINANCIALLY LIABLE FOR THE OVERPAYMENT, THERE IS NO NEED FOR OUR OFFICE TO CONSIDER WHETHER OR NOT TO GRANT RELIEF.

TO AVOID THIS KIND OF PROBLEM IN THE FUTURE, WE NOTE THAT THE GAO POLICY AND PROCEDURES MANUAL FOR THE GUIDANCE OF FEDERAL AGENCIES REQUIRES AGENCIES TO REPORT IRREGULARITIES TO GAO WITHIN 2 YEARS AFTER THE DATE THE ACCOUNTS ARE MADE AVAILABLE TO GAO FOR AUDIT (THAT IS, THE DATE OF THE AGENCY HAS SUBSTANTIALLY COMPLETE ACCOUNTS). 7 GAO POLICY AND PROCEDURES MANUAL SEC. 28.14. THIS TIMEFRAME PROVIDES AGENCIES TIME TO TRY TO RESOLVE THOSE IRREGULARITIES NOT INVOLVING FRAUD PRIOR TO REPORTING THEM TO GAO. HOWEVER, IF THAT IS NOT POSSIBLE, BY REPORTING FINANCIAL IRREGULARITIES WITHIN 2 YEARS, OUR OFFICE HAS TIME BOTH TO AVOID THE EXPIRATION OF THE 3-YEAR LIMITATION PERIOD AND AN ADEQUATE OPPORTUNITY TO DETERMINE WHETHER RELIEF SHOULD BE GRANTED OR DENIED.

FINALLY, YOUR RELIEF REQUEST DID NOT PROVIDE ADEQUATE SUPPORTING DOCUMENTATION. IN THE FUTURE, WHEN SUBMITTING A RELIEF REQUEST IN A DOUBLE PAYMENT CASE, THE FOLLOWING INFORMATION AND DOCUMENTATION SHOULD BE INCLUDED WITH YOUR REQUEST:

1. COPIES OF BOTH THE ORIGINAL AND SUBSTITUTE CHECKS.

2. THE DATES AND CIRCUMSTANCES UNDER WHICH THE CHECKS WERE ISSUED.

3. THE NAME, RANK, AND POSITION OF THE PERSON WHO ISSUED THE CHECKS.

4. THE LETTER OR FORM FROM THE PAYEE INDICATING NON-RECEIPT OF THE ORIGINAL CHECK.

5. A COPY OF THE STOP PAYMENT REQUEST TO TREASURY.

6. COPY OF THE DEBIT VOUCHER FROM TREASURY.

7. COPY OF THE JOURNAL VOUCHER ESTABLISHING THE LOSS IN THE FINANCE OFFICER'S ACCOUNT.

8. RESIGNATION DATE OF PAYEE EMPLOYEE.

9. ANY INVESTIGATIVE REPORTS IF APPLICABLE.

10. COPIES OF COLLECTION LETTERS AND RESPONSES FROM PAYEE.

11. DOCUMENTATION OF COLLECTION EFFORTS.

12. REFERRAL DATE TO YOUR DESIGNATED COLLECTION REPRESENTATIVE.

13. ANY OTHER SUPPORTING INFORMATION.