



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Roseann R. Bindner

File: B-272278

Date: December 2, 1996

DIGEST

An employee received overpayments of compensation over a period of years and was granted partial waiver of the debt under 5 U.S.C. § 5584 (1994). Her appeal of the denial of waiver of the balance of her debt is denied. In addition, since money had been withheld and taxes paid on those overpayments, the employee seeks waiver of the amount of money she paid in taxes because she was unable to recover it from the taxing authorities for the year in which the debt was repaid. The application of the tax laws to an individual's income is a matter solely within the jurisdiction of the taxing authority, and an individual's income tax liability on the overpayments does not permit partial waiver of a debt not otherwise appropriate for waiver. Fort Polk Employees, B-261699, Oct. 25, 1996, and decisions cited.

DECISION

This decision responds to correspondence from Ms. Roseann R. Bindner, who is seeking reconsideration of Settlement Certificate Z-2942821, Apr. 18, 1996, which denied waiver of a part of her debt due the United States. We conclude that the settlement was correct, and it is sustained.

Between February 23, 1986, and January 2, 1993, Ms. Bindner was involved in a series of within-grade pay increases, promotions, as well as a reduction in grade with pay retention rights. A number of errors occurred in both the timing of the various pay adjustments and in the calculation of those adjustments. As a result, the agency determined that she had been overpaid a total of \$722.40, and denied her request for waiver. On appeal to this Office, we waived collection of \$29.96 that had been overpaid to her in January and February 1987 because she was not aware of the erroneous payments during that period. However, we denied waiver of \$692.44 for the period of February 2, 1992, through January 3, 1993, because she was aware that she was receiving erroneous payments at that time. We find no errors of law or fact in our settlement action.

Ms. Bindner also states that she refunded the full amount of the debt in 1994, and then discovered that, for tax reimbursement purposes, the only way she could report that repayment was to list it as a miscellaneous deduction on Schedule A of her Federal income tax return. However, because the amount she repaid did not exceed 2 percent of her adjusted gross income that year and she had no other miscellaneous deductions, she could not recover the amount she paid in taxes on that overpayment. The IRS also told her that she could not file an amended 1992 return showing the repayment. As a result, she now seeks relief for the additional taxes she had to pay on the amount she repaid.

We have held that application of the tax laws to an individual's income is a matter solely within the jurisdiction of the taxing authority and that the amount withheld or required to be paid as taxes on an overpayment of compensation is based on the individual's situation in any given year. Therefore, considering the many possible tax liability variables that may apply in individual cases, we do not believe that the individual income tax consequences permit partial waiver of a debt that does not otherwise meet the requirements for waiver.¹

Accordingly, waiver of repayment of the amount paid as income taxes on the overpayment required to be repaid by Ms. Bindner is denied.

Robert P. Murphy
General Counsel

¹Fort Polk Employees, B-261699, Oct. 25, 1996, and decisions cited.