



PER DIEM, TRAVEL AND TRANSPORTATION ALLOWANCE COMMITTEE

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PDTATAC/dlw

29 August 2013

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: UTD/CTD for MAP 111-13(I)/CAP 111-13(I) -- Remove
References to DOMA (1 USC §7)

1. **SYNOPSIS:** The Supreme Court struck down section 3 of the Defense of Marriage Act (DOMA) (1 USC §7) which stated that marriage was between one man and one woman in case docket No. 12-307, decided on 26 June 2013. Based on the Supreme Court decision, all references to 1 USC §7 are being removed from the JFTR/JTR.
2. The attached revision is forwarded for information purposes only. No coordination or comments are required.
3. This revision was initiated by Supreme Court ruling on DOMA.
4. These changes are scheduled to appear in JFTR change 322, and JTR change 57, dated 1 October 2013.
5. Revisions in this information item are *effective 29 August 2013*.

//Approved//

VELDA A. POTTER

Policy and Regulations Branch

Attachment:

Rev 1

Uniformed E-Mail Distribution:

MAP Members T&T Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO PPC

Civilian E-Mail Distribution:

CAP Members T&T Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO CBCA Judges

JTR REVISIONS

C5600-A4:

A HHT:

4. May be authorized only for an employee and/or spouse. Employee/spouse may perform separate HHTs to the new PDS at GOV'T expense NTE the cost that would have been incurred on one round trip when the employee's travel order is issued IAW Agency/Service regulations. See par. C5606.

****NOTE: A domestic partner is not a spouse and cannot be authorized a HHT.***

C5650-A:

A. Purpose. The RIT allowance purpose is to reimburse an eligible transferred employee for substantially all of the additional Federal, State, and local *income taxes* incurred by the employee (or by an employee and spouse if a joint tax return is filed) as a result of reimbursement, or payment, of certain travel and transportation expenses and relocation allowances that are not excludible from gross income for Federal income tax purposes.

****NOTE: A domestic partner is not a spouse and the employee cannot be reimbursed for additional Federal, State, and local income taxes incurred by the employee's domestic partner if a joint tax return is filed.***

JFTR/JTR REVISIONS

APP A:

DEPENDENT/IMMEDIATE FAMILY (*Civilian Employee Only*). Any of the following named members of an employee's household at the time the employee reports for duty at a new PDS or performs authorized/approved OCONUS tour RAT or separation travel:

NOTE 5: Whether or not an individual is considered to be an employee's spouse for the purpose of allowances authorized in these regulations when a "common law marriage" is involved is addressed in several GSBCA and Comptroller General decisions. Some quotes from those decisions are as follows:

GSBCA quotes "Issues of marital status are determined by state law and the relationship of spouse exists if common law marriage is recognized by the law of the state in which the parties entered into such a marriage"; and,

"Issues of marital status are determined by state law, James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#). Some states recognize common law marriage -- "[a] marriage that takes legal effect, without license or ceremony, when a couple live together as husband and wife, intend to be married, and hold themselves out to others as a married couple." Black's Law Dictionary 986 (7th ed. 1999)"; and,

As we recognized in James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#) the burden of proof is on the claimant to establish the common law marriage. State law determines issues of marital status, and the relationship of spouse exists if common law marriage is recognized under the law of the state in which the parties entered into such a marriage. The following Comptroller General decisions address specific circumstances: [B-260688, 23 October 1995](#); [B-247541, 19 June 1992](#); [B-212900, 15 November 1983](#); [B-191316, 27 September 1978](#); [B-191316, 6 April 1978](#); [B-186179, 30 June 1976](#).

The validity of a common law marriage is determined by the law of the place in which it was contracted, and if valid there, it will be valid elsewhere, in the absence of contravention of positive law, or consideration of policy to the contrary. [B-186179, 30 June 1976](#); [B-191316, 27 September 1978](#).

The burden of proof is on the claimant to establish the common law marriage. [GSBCA 15207-RELO, 19 May 2000](#); [GSBCA 14122 RELO, 16 March 1998](#).

**Once the employee has submitted evidence in support of the common law marriage, it should be submitted to the appropriate agency legal counsel for assistance in determining whether or not the putative spouse qualifies as a spouse under the specific state and/or Federal law PDTATAC does not adjudicate these cases.*

HOUSE-HUNTING TRIP (HHT) (*Civilian Employee Only*). Round trip travel between the old and new PDSs to seek a permanent residence.

****NOTE:*** A domestic partner is not a spouse and cannot be authorized a HHT.