Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 20, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–13872 Filed 6–3–11; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–11, 302–2, 302–3, and 302–17

[FTR Case 2009–307; Docket 2009–0013; Sequence 1]

RIN 3090–AI95

Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes)

AGENCY: Office of Governmentwide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the Federal Travel Regulation (FTR) by incorporating recommendations of the Governmentwide Relocation Advisory Board (GRAB) concerning calculation of reimbursements for taxes on relocation expenses. In addition, this proposed rule alters the process for calculating reimbursements for taxes on extended temporary duty (TDY) benefits to correct errors and to align that process with the proposed changes to the relocation income tax process.

DATES: Interested parties should submit comments in writing on or before August 5, 2011 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FTR case 2009–307 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting "FTR Case 2009–307" under the heading "Comment or Submission." Select the link "Send a Comment or Submission" that corresponds with FTR Case 2009–307. Follow the instructions provided to complete the "Public Comment and Submission Form." Please include your name, company name (if any), and "FTR Case 2009–307" on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Room 783E, ATTN: Hada Flowers, Washington, DC 20417.

Instructions: Please submit comments only and cite FTR case 2009–307 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: The General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ed Davis, Office of Governmentwide Policy (MT), General Services Administration, at (202) 208–7638 or e-mail at *ed.davis@gsa.gov.* Please cite FTR case 2009–307.

SUPPLEMENTARY INFORMATION:

A. Request for Input on the Final Effective Date

GSA recognizes that implementing the final rule that will result from this proposed rule will be challenging and time-consuming, both for Federal agencies and software providers. To help set a final effective date that allows adequate time to implement the final rule, GSA requests comments from affected parties on how much time they will need to change their systems and processes to implement the eventual final rule.

B. Background

The GSA Office of Governmentwide Policy seeks to incorporate best practices from Federal agencies and the private sector into the policies that GSA issues. To this end, GSA created the GRAB, consisting of Government and private industry relocation experts, to examine Government relocation policy. The GRAB was chartered under the Federal Advisory Committee Act on July 9, 2004, and it submitted its "Findings and Recommendations" on September 15, 2005. The GRAB "Findings and Recommendations" and corresponding documents may be accessed at GSA's Web site at *http://www.gsa.gov/grab.* The GRAB made a number of recommendations with regard to taxes, and GSA has developed this proposed rule in response to those recommendations.

GSA has worked with the Executive Relocation Steering Committee (ERSC), an interagency group chartered by GSA, to analyze the GRAB recommendations regarding taxes. The first product of the analysis by the ERSC was a set of four principles:

- "Substantially all"—Federal agencies are required by 5 U.S.C. 5724b to reimburse "substantially all" of the additional income taxes incurred by employees as a result of relocation and to reimburse "all" of the taxes imposed on any reimbursement for taxes.
- Fair and equitable—In personnel matters, the Government seeks to treat all employees fairly and equitably. A key piece of this is transparency. Everyone must be able to see and understand how the benefits are being computed. Another key piece is seeking

to treat all civilian transferees equally, regardless of grade level.

• Relative simplicity—The tax process is necessarily complex because relocation has so many parts. However, it is important to keep this process as simple as possible, so that agencies can and will perform all of the calculations accurately, so that employees can verify the calculations, and so that employees will be more likely to believe that they are being treated fairly and equitably.

• Minimizing cost—It is, of course, very important to balance the three objectives above against the overall cost of reimbursing employees for the taxes that they incur. It is important, therefore, to seek to limit reimbursement to "substantially all" of each transferee's tax liability, to the extent that this can be done without making the process overly complex.

C. Major Changes in This Proposed Rule

This proposed rule completely replaces FTR part 302–17. It also removes FTR part 301–11, subpart E, and it replaces FTR part 301–11, Subpart F, which regulates taxes involved in extended TDY benefits.

The major changes in this proposed rule are:

Taxes on extended TDY benefits—The existing FTR part 301–11, subpart E, addresses only tax years 1993 and 1994 and is therefore obsolete. FTR part 301–11, subpart F, includes several substantial errors and does not agree with either the existing FTR part 302–17 or this proposed rule. This proposed rule deletes part 301–11, subpart E, and it replaces part 301–11, subpart F in its entirety. This proposed rule also eliminates the lump sum process for reimbursing taxes on extended TDY benefits. This process is seldom used and, therefore, creates more confusion than benefit.

Question and answer format—This proposed rule puts part 302–17 into question and answer format to conform to the remainder of the FTR. GSA notes that the GRAB recommended that GSA move in the other direction, taking all of the FTR back to its old format. GSA has considered and rejected this GRAB recommendation. GSA continues to believe that the question and answer format is easier to read and understand for the large majority of users.

Eliminating use of two tables for Federal tax rates—GSA examined the tax tables for the past seven years and determined that the difference in tax rates from year to year is not large enough to justify formulas complex enough to account for year-to-year changes in Federal tax rates.

Standardizing usage of the terms "withholding tax allowance" (WTA) and "relocation income tax allowance" (RITA)—The existing part 302–17 is not entirely clear in its use of these two terms. The proposed rule seeks to clarify these terms and, to this end, it changes the title of part 302–17 to "Taxes on Relocation Expenses."

Fraudulent claims—The existing part 302–17 includes a paragraph, at § 302–17.10(c), about fraudulent claims made against the United States, especially in the context of the "Statement of Income and Tax Filing Status." The statutes on fraudulent claims remain in effect and unchanged. However, these statutes apply to the entire relocation process, not just reimbursement for taxes on relocation expenses, and GSA therefore has added a new section to FTR part 302–2 to address fraudulent claims made at any point during the relocation reimbursement process. This new section directly mirrors section 301–52.12 covering fraudulent claims with regards to TDY benefits.

New definitions—The proposed rule includes definitions for 13 terms in a glossary that is specific to part 302–17. Many of these terms are defined in the text of the existing part 302–17; the proposed rule gathers these 13 definitions into one place for easy reference in the new section 302–17.1.

Limitations and Federal income tax treatments—The proposed rule provides a table in section 302–17.8 that summarizes allowances, limitations, and tax treatment for each relocation reimbursement, allowance or direct payment to a vendor provided by the FTR.

Correcting the taxability of household goods transportation expenses—The existing section 302–17.3(b) states that the expenses for transportation of household goods (HHG) are taxable. This was true when the existing FTR 302–17 was published. However, in 1993 the IRC section on fringe benefits was amended to exclude from income certain moving expenses that are reimbursed and otherwise would be deductible. At the same time the IRC was amended to make fewer moving expenses deductible. One result was that the HHG shipment remained as a deductible expense.

Correcting the withholding rate for supplemental wages—The withholding rate of 28 percent for supplemental wages used in the current FTR 301–11, subpart F and 302–17.7 is incorrect. The correct rate is 25 percent, and this is the rate used in this proposed rule, at § 302–17.24. This rate is scheduled to revert to 28 percent on January 1, 2011, absent legislative action. If and when this rate changes, GSA will correct the new part 302–17 to reflect the change.

Allowing a one-year RITA process—The GRAB's "Findings and Recommendations" clearly says that a one-year RITA process is the standard in the private sector because it is quicker and simpler. The GRAB strongly recommended that the Federal government adopt a one-year process. In addition to its complexity, the existing two-year process for calculating taxes on relocation expenses creates a burden for many lower-grade transferees, because they are more likely to be required, in the second year, to repay an over-reimbursement in the first year. On the other hand, discussions with Federal agencies have made it clear that moving to a one-year process will be challenging at best, and many are reluctant to move in that direction. In addition, as some have noted, the two-year process does result in a somewhat more accurate reflection of the actual tax impact on the employee. Therefore, this proposed rule offers the one-year RITA process to agencies as an option, alongside the existing two-year process. It also includes, at new section 302–17.103, a short discussion of the benefits and drawbacks of the one-year and two-year processes. See also new sections 302–17.32, 302–17.33, and subparts F and G.

Making the WTA optional—A number of Federal agencies have made the WTA optional to the employee. Nothing in tax law or existing regulations prohibits this practice, and in some cases declining the WTA may be advantageous to the employee. This proposed rule explicitly gives the agencies permission to make the WTA optional and provides guidance and explanation for both the agency and the employee.

Moving from earned income to taxable income—As the ERSC reviewed the GRAB's recommendations, it recognized that using taxable income (instead of using earned income like the existing part 302–17), would provide a simpler process and would bring the taxes reimbursement calculation closer to the target of "substantially all." Moving to taxable income resolves several of the issues that the GRAB raised, including issues with capital gains and self-employment income. See new sections 302–17.40, 302–17.50, and 302–17.63 for information on how taxable income is used.

Eliminating the Government-unique tax tables—Moving to taxable income will also make it unnecessary for GSA to publish special tax tables each year. Transferees and agencies will be able to use the tables published by the Internal Revenue Service (IRS) and state and local tax authorities.

Failure to file the "*Statement of Income and Tax Filing Status*" *in a timely manner*—The existing § 302–17.7(e)(2) makes the entire WTA an excess payment if the employee fails to file the statement or the RITA claim in a timely manner. Because the WTA is an advance payment on the employee's reimbursable income tax expenses, agencies are entitled to recover it if an employee fails to properly document their income taxes. Therefore, this proposed rule continues these requirements on the employee and the agency, except in the case of an employee who declines the WTA. In this case, if the employee fails to file the "Statement of Income and Tax Filing Status" and/or the RITA claim in a timely manner, this proposed rule allows the agency to close the file without paying the RITA. See new sections 302–17.53, 302–17.65, and 302–17.102.

Recalculation of RITA—The existing part 302–17 makes no provision for the employee to request recalculation. Most private sector companies do allow employees to request recalculation, at least in some circumstances, though the percentage of private sector employees who do request recalculation is small. The proposed rule makes it possible for Federal employees to request recalculation, provided they filed and/or amend their "Statement of Income and Tax Filing Status" in a timely manner. See the new section 302–17.33.

Agency responsibilities—The existing part 302–17 mentions some agency responsibilities in the context of other provisions. The proposed rule, in conformity with the rest of the FTR, lists the agency responsibilities together in the new subpart H.

Information about state and local tax laws—GSA informally circulated a draft version of this proposed rule to various Federal agencies asking for input. Several agencies objected to what they thought were new or additional burdens stemming from requirements to know and utilize state and local tax laws. However, current section 302–17.10(b)(2) already places this requirement on agencies, stating "* * * is incumbent upon the appropriate agency officials to become familiar with the state and local tax laws that affect their transferring employees." In short, this proposed rule is not imposing any new requirements on agencies regarding knowledge of state and local tax law. At the same time, this rule carries forward from the current 302–17 the requirement that the employee find and provide the applicable state and local marginal tax rates.

D. Changes to the Current FTR

This proposed rule—

- Deletes part 301–11, subpart E.
- Replaces part 301–11, subpart F in its entirety.
- Adds new § 302–2.7.
- Replaces one sentence in § 302–3.502(b).
- Replaces part 302–17 in its entirety.

E. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

F. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for notice and comment as per the exemption specified in 5 U.S.C. 553(a)(2); therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* does not apply. However, this proposed rule is being published to provide transparency in the promulgation of Federal policies.

G. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the Federal Travel Regulation do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

H. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301–11, 302–2, 302–3, and 302–17

Government employees, Travel and transportation expenses, Income taxes.

Dated: March 14, 2011.

Kathleen Turco,

Associate Administrator.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5739, GSA proposes to amend 41 CFR parts 301–11, 302–2, 302–3, and 302–17 as set forth below:

PART 301–11—PER DIEM EXPENSES

1. The authority for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

Subpart E—[Removed and Reserved]

2. Remove and reserve subpart E.

3. Revise subpart F to read as follows:

Subpart F—Taxes on Extended TDY Benefits

Sec.

Subpart F—Taxes on Extended TDY Benefits

§ 301–11.601 What is a taxable extended TDY assignment?

A taxable extended TDY assignment is a TDY assignment that continues for so long that, under the IRC the employee is no longer considered "temporarily away from home." The IRC, at 26 U.S.C. 162(a), states: "* * * the taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year." You are no longer "temporarily away from home" as of the date that you and/or your agency recognize that your assignment will exceed one year. That is, as soon as you recognize that your assignment will exceed one year, you must notify your agency of that fact, and they must change your status immediately. Similarly, as soon as your agency recognizes that your assignment will exceed one year, your agency must notify you of that fact and change your status. The effective date of this status change is the date on which it was recognized that you are no longer "temporarily away from home" as defined in the IRC.

(a) If you believe that your temporary duty assignment may exceed one year, you should carefully study IRS Publication 463, "Travel, Entertainment, Gift, and Car Expenses," to determine whether you are or will be considered "temporarily away from home" under this provision. If you are not or will not be considered "temporarily away from home" under this provision, then you are on taxable extended TDY.

(b) The IRC makes an exception for certain Federal personnel involved in investigation or prosecution of a Federal crime. Specifically, 26 U.S.C. 162(a), continues: "The [above quotation from 26 U.S.C. 162(a)] shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime."

§ 301–11.602 What factors should my agency consider in determining whether to authorize extended TDY?

Your agency should consider the factors discussed in § 302–3.502 of this Subtitle in determining whether to authorize extended TDY.

§ 301–11.603 What are the tax consequences of extended TDY?

(a) If you are on a taxable extended TDY assignment, then all allowances and reimbursements for travel expenses, plus all travel expenses that the Government pays directly on your behalf in connection with your TDY assignment, are taxable income to you. This includes all allowances, reimbursements, and direct payments to vendors from the day that you or your agency recognized that your extended TDY assignment is expected to exceed one year, as explained in § 301–11.601.

(b) Your agency will reimburse you for substantially all of the income taxes that you incur as a result of your taxable extended TDY assignment. This reimbursement consists of two parts:

(1) The Withholding Tax Allowance (WTA). See part 302–17, subpart B of this Subtitle for information on the WTA; and

(2) The "Extended TDY Tax Reimbursement Allowance" (ETTRA) (in previous editions of the FTR this was known as the "Income Tax Reimbursement Allowance").

(c) The WTA and ETTRA for taxable extended TDY assignments cover only the TDY benefits described in FTR Chapter 301, Subchapter B. On an extended TDY assignment, you are not eligible for the other benefits that you would have received if your agency had permanently relocated you.

§ 301–11.604 What are the procedures for calculation and reimbursement of my WTA and ETTRA for taxable extended TDY?

(a) If your agency knows from the beginning of your TDY assignment that your assignment qualifies as taxable extended TDY, then your agency will withhold an amount as a WTA and pay that as withholding tax to the IRS until your extended TDY assignment ends. The WTA itself is taxable income to you, so your agency increases, or "grosses-up," the amount of the WTA, using a formula to reimburse you for the additional taxes on the WTA.

(b) If your agency realizes during a TDY assignment that you will incur taxes (because, for example, the TDY assignment has lasted, or is going to last, longer than originally intended), then your agency will compute the WTA for all taxable benefits received since the date it was recognized that you are no longer "temporarily away from home" (See § 302–11.601 for more information on the meaning of "temporarily away from home"). Your agency will pay that amount to the IRS, and then will begin paying WTA to the IRS until your extended TDY assignment ends.

(c) For your ETTRA, your agency will use the same one-year or two-year process that it has chosen to use for the relocation income tax allowance (RITA).

(d) See part 302–17 of this subtitle for additional information on the WTA and RITA processes.

Note to § 301–11.604: If your agency chooses to offer you the choice, the WTA is optional to you. See §§ 302–17.61 through 302–17.69.

§ 301–11.605 When should I file my "Statement of Income and Tax Filing Status" for my taxable extended TDY assignment?

You should file your "Statement of Income and Tax Filing Status" for your taxable extended TDY assignment at the beginning of your extended TDY assignment or, as soon as you or your agency realizes that your TDY assignment will incur taxes. You should provide the same information as the sample "Statements of Income and Tax Filing Status" shown in part 302–17, subpart F (one-year process) or subpart G (two-year process) of this Subtitle.

PART 302–2—EMPLOYEE ELIGIBILITY REQUIREMENTS

4. The authority for part 302–2 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

§§ 302–2.7—302–2.22 [redesignated as §§ 302–2.8—302–2.23]

5. Redesignate §§ 302–2.7—302–2.22 as §§ 302–2.8—302–2.23, respectively, and add new § 302–2.7 to read as follows:

§ 302–2.7 What happens if I attempt to defraud the Government?

If you attempt to defraud the Government:

(a) You forfeit reimbursement pursuant to 28 U.S.C. 2514; and

(b) You may be subject under 18 U.S.C. 287 and 1001 to one, or both, of the following:

(1) A fine of not more than $10,000, and/or

(2) Imprisonment for not more than 5 years.

PART 302–3—RELOCATION ALLOWANCES BY SPECIFIC TYPE

6. The authority for part 302–3 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

7. Amend § 302–3.502 by revising the second sentence in paragraph (b) to read as follows:

§ 302–3.502 What factors should we consider in determining whether to authorize a TCS for a long-term assignment?

* * * * *

(b) * * * The Withholding Tax Allowance and the Extended TDY Tax Reimbursement Allowance allow for the reimbursement of Federal, state, and local income taxes incurred as a result of taxable extended temporary duty assignments (see §§ 301–11.601—301–11.605 of this Subtitle). * * *

* * * * *

8. Revise part 302–17 to read as follows:

PART 302–17—TAXES ON RELOCATION EXPENSES

Authority: 5 U.S.C. 5724b; 5 U.S.C. 5738; E.O. 11609, as amended.

§ 302–17.0 How are the terms "I" and "you" used in this part?

The pronouns "I" and "you" and their variants throughout this part refer to the employee.

Subpart A—General

§ 302–17.1 What special terms apply to this part?

The following definitions apply to this part:

Allowance:

(1) Money paid to the employee to cover future expenses, such as the miscellaneous expense allowance (see part 302–16 of this chapter for information about the miscellaneous expense allowance);

(2) Money paid to the employee to cover past expenses, such as the relocation income tax allowance (RITA) under the two-year tax process described in part 302–17, subpart G; or

(3) A limit established by statute or regulation, such as the 18,000 pound net weight allowance for household goods shipments (see part 302–7 of this chapter for information about the 18,000 pound net weight allowance).

City means any unit of general local government as defined in 31 CFR 215.2(b).

Combined marginal tax rate (CMTR) means a single rate determined by combining the applicable marginal tax rates for Federal, state, and local income taxes, using the formula provided in § 302–17.40. If you incur liability for income tax in the Commonwealth of Puerto Rico, see § 302–17.44.

County means any unit of local general government as defined in 31 CFR 215.2(e).

Gross-up used as a noun, has two related meanings in this part. It is either:

(1) The process that your agency uses to estimate the additional income tax liability that you incur as a result of relocation benefits and taxes on those benefits; or

(2) The result of the gross-up process.

Note to the definition of *gross-up:* The gross-up allows for the fact that every reimbursement of taxes is itself taxable. Therefore, the gross-up calculates the amount an agency must reimburse an employee to cover substantially all of the income taxes incurred as the result of a relocation.

Internal Revenue Code (IRC) means Title 26 of the United States Code, which governs Federal income taxes.

Local income tax means a tax imposed by a recognized city or county tax authority that is deductible for Federal income tax purposes as a *local income tax* under the IRC, at 26 U.S.C. 164(a)(3). (See the definitions for the terms *city* and *county* in this section.)

Marginal tax rate (MTR) means the tax rate that applies to the last increment of taxable income after taxable relocation benefits have been added to the employee's income. For example, a married employee who files jointly has a taxable income of $120,000. According to the IRS 2010 Tax Rate Schedules, taxable income between $68,000 and $137,700 is taxed at the 25 percent tax rate; therefore, the $120,000 taxable income of the employee and spouse is in this range, so they have a 25 percent marginal tax rate. If the employee receives $30,000 of taxable relocation benefits, the taxable income for the employee and spouse is now $150,000, which is in the next highest tax bracket. In this example, the employee and spouse now have a Federal marginal tax rate of 28 percent once the taxable relocation benefits have been added to their income.

Reimbursement means money paid to you to cover expenses that you have already paid for out of your own funds.

Relocation benefits means all reimbursements and allowances that you receive, plus all direct payments that your agency makes on your behalf, in connection with your relocation.

Relocation income tax allowance (RITA) means the payment to the employee to cover the difference between the withholding tax allowance (WTA), if any, and the actual tax liability incurred by the employee as a result of their taxable relocation benefits; RITA is paid whenever the actual tax liability exceeds the WTA.

State means any one of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory and possession of the United States.

State income tax means a tax imposed by a state tax authority that is deductible for Federal income tax purposes under the IRC, specifically 26 U.S.C. 164(a)(3).

Withholding tax allowance (WTA) means the amount paid to the Federal IRS by the agency as withholding of income taxes for any taxable relocation allowance, reimbursement, or direct payment to a vendor.

§ 302–17.2 Why does relocation affect personal income taxes?

When you are relocated from one permanent duty station to another, you are reimbursed by your employing agency for certain expenses. The IRC requires that you report many of these relocation benefits, including some that your agency pays on your behalf, as taxable income. When you receive taxable benefits, you must pay income tax on the amount or value of those benefits. However, 5 U.S.C. 5724b also requires that your agency reimburse you for substantially all of the additional Federal, state, and local income taxes you incur as a result of any taxable relocation benefits. A reimbursement for taxes is also a taxable benefit on which you must pay additional taxes.

§ 302–17.3 What is the Government's objective in reimbursing the additional income taxes incurred as a result of a relocation?

The Government's objective is to reimburse transferred employees for substantially all (not exactly all—see § 302–17.4) of the additional Federal, state, and local income taxes incurred as a result of a relocation, including the taxes on the taxable relocation benefits and the taxes on the reimbursement for taxes.

§ 302–17.4 Why is the reimbursement for substantially all, and not exactly all, of the additional income taxes incurred as a result of a relocation?

Because of the complexity of the calculations, which involve not only Federal income tax but also the income tax rates of many states and localities, it is not reasonable for the Government to compute the exact impact of relocation on an affected employee's taxes. Making a good faith effort to reimburse substantially all additional income taxes is sufficient. The statute where this appears, at 5 U.S.C. 5724b does not define substantially all. This part provides the description through its provisions.

§ 302–17.5 Who is eligible for the withholding tax allowance and the relocation income tax allowance?

(a) The withholding tax allowance (WTA) and the relocation income tax allowance (RITA) are the two allowances through which the Government reimburses you for substantially all of the income taxes that you incur as a result of your relocation. You are eligible for the WTA and the RITA if your agency is transferring you from one permanent duty station to another, in the interest of the Government, and your agency's reimbursements to you for relocation expenses result in you being liable for additional taxes.

(b) If your agency chooses to offer you the choice, the WTA is optional to you. See 302–17.61 through 302–17.69.

§ 302–17.6 Who is not eligible for the WTA and the RITA?

You are not eligible for the WTA or the RITA if you are:

(a) A new appointee;

(b) Assigned under the Government Employees Training Act; or

(c) Returning from an overseas assignment for the purpose of separation from Government service.

§ 302–17.7 Is there any circumstance under which the WTA and the RITA are not paid even though I would otherwise be eligible?

If you violate the 12-month service agreement under which you are relocated, your agency will not pay the WTA or the RITA to you, and you must repay any relocation benefits paid prior to the violation.

§ 302–17.8 What limitations and Federal income tax treatments apply to various relocation reimbursements?

(a) If you were moving yourself for a new job, with no help from your employer, then you probably would be able to deduct some of your relocation expenses. However, if you are eligible for WTA and RITA under this part, your Federal agency reimburses you or pays directly for many relocation expenses that otherwise would be deductible. Since you could have deducted these expenses if you had paid them yourself, the benefits you receive from your agency for these "deductible" relocation expenses are nontaxable. Therefore, you do not report them as income and you cannot take them as deductions.

(b) However, many other relocation benefits are taxable income to you, the employee, because you could not have deducted them. You also may not deduct the additional taxes you incur, as a result of taxable benefits (except that you may deduct state and local income taxes on your Federal tax return). Your agency will reimburse you for most of these taxable expenses and for substantially all of the additional taxes that you incur as a result of the taxable benefits.

(c) The table to § 302–17.8 summarizes the FTR allowances, limitations, and tax treatment of each reimbursement, allowance, or direct payment to a vendor. See IRS Publication 521, Moving Expenses, and the cited FTR paragraphs for details.

TABLE TO § 302–17.8—FTR ALLOWANCES AND FEDERAL INCOME TAX TREATMENTS

Entitlement	Summary of FTR allowance	FTR part or section	Tax treatments
Meals while en route to the new duty station.	The standard CONUS per diem for meals and incidental expenses.	§ 302–4.200	Taxable.
Lodging while en route to the new duty station.	The standard CONUS per diem for lodging expenses for the employee only.	§ 302–4.200	Nontaxable provided the cost is reasonable according to the IRC.
Transportation using your POV to your new duty station.	Actual cost or the rate established by the IRS for using a POV for relocation.	Part 302–4	Nontaxable.
Transportation to your new duty station using a common carrier (an airline, for example).	Actual cost	Part 302–4	Nontaxable.
Per diem and transportation for househunting trip.	Actual Expense Method: 10 days of per diem plus transportation expenses—must be itemized; *or*	Part 302–5	Taxable.
	Lump Sum Method: locality rate times 5 (one person) or times 6.25 (employee and spouse) for up to 10 days—no itemization required.	Part 302–5	Taxable.
Temporary quarters subsistence expenses (TQSE).	Actual Expense Method: Maximum of 120 days; full per diem for only the first 30 days—itemization required; *or*	§ 302–6.100	Taxable.
	Lump Sum Method: multiply number of days allowed by .75 times the locality rate (30 days maximum)—no itemization required. ***Note:*** *Additional TQSE allowances for family members are less than the benefit for the employee occupying TQ alone.*	§ 302–6.200	Taxable.
Shipment of household goods (HHG)	Transportation of up to 18,000 pounds	§ 302–7.2	Transportation of goods from your former residence to your new residence is nontaxable.
Temporary storage of household goods in transit, as long as the expenses are incurred within any 30 calendar day period after the day your items are removed from your old residence and before they are delivered to the new residence.	Temporary storage of up to 30 days (However, see the section immediately below).	§ 302–7.8	Nontaxable.
Temporary storage of household goods beyond 30 days.	Temporary storage of 60 plus 90 days, NTE 150 days.	§ 302–7.8	Taxable.
Extended storage of Household Goods (HHG).	CONUS—TCS (per agency policy) or isolated duty station only.	Part 302–8, Subpart B.	Taxable.
	OCONUS—Agency policy	Part 302–8, Subparts C and D.	Nontaxable.
Transportation of privately-owned vehicle (POV).	CONUS—Agency discretion	Part 302–9, Subpart D.	Nontaxable.
	OCONUS—Agency discretion	Part 302–9, Subparts B & C.	Nontaxable.
Shipment of mobile home in lieu of HHG.	Limited to maximum allowance for HHG.	§ 302–10.3	Nontaxable.
Residence transactions:			
• Sale of home	Closing costs up to 10% of actual sales price.	§ 302–11.300(a)	Taxable.
• Purchase of home	Closing costs up to 5% of actual purchase price.	§ 302–11.300(b)	Taxable.
• Lease-breaking	Itemization required	§§ 302–11.430 & 431.	Taxable.
Payments to Relocation Service Contractors.	According to agency policy and contracts.	Part 302–12	Taxability determined on a case-by-case basis.
Home Marketing Incentive Payment	See internal agency policies and regulations.	Part 302–14	Taxable, but not eligible for WTA or RITA.
Property Management Services	See internal agency policies and regulations.	Part 302–15	Taxable.
Miscellaneous expenses	$500 or $1,000; or	§ 302–16.102	Taxable.
	Maximum of 1 or 2 weeks basic pay	§ 302–16.103	Taxable.
Withholding tax allowance	25 percent of reimbursements, allowances, and direct payments to vendors.	Part 302–17, Subpart B.	Taxable.

TABLE TO § 302–17.8—FTR ALLOWANCES AND FEDERAL INCOME TAX TREATMENTS—Continued

Entitlement	Summary of FTR allowance	FTR part or section	Tax treatments
Relocation income tax allowance	Based on income and tax filing status.	Part 302–17, Subpart C.	Taxable.

§ 302–17.9 Who is responsible for knowing which relocation expenses are taxable and which expenses are nontaxable?

Both you and your agency must know which reimbursements and direct payments to vendors are taxable and which are nontaxable in your specific circumstances. When you submit a voucher for reimbursement, your agency must determine whether the reimbursement is taxable income at the Federal, state, and/or local level. Then, when you file your income tax returns, you must report the taxable allowances, reimbursements, and direct payments to vendors as income. Your agency is ultimately responsible for calculating and reporting withholding accurately, and you are ultimately responsible for filing your taxes correctly.

§ 302–17.10 Which expenses should I report on my state tax returns if I am required to file returns in two different states?

In most cases, your state tax return for the state you are leaving should reflect your reimbursement or allowance, if any, for househunting expenses and your reimbursement or direct payments to vendors for real estate expenses at the home you are leaving. All other taxable expenses should be shown as income on the tax return you file in the state into which you have moved. However, you and your agency must carefully study the rules in both states and include everything that each state considers to be income on each of your state tax returns.

§ 302–17.11 When is an expense considered completed in a specific tax year?

A reimbursement, allowance, or direct payment to a vendor is considered completed in a specific tax year only if the money was actually disbursed to the employee or vendor during the tax year in question.

§ 302–17.12 Where can I find additional information and guidance on WTA and RITA?

To find additional information and guidance on WTA and RITA, see:

(a) IRS Publication 521, Moving Expenses; and

(b) FTR Bulletins; GSA publishes additional information on RITA, including the illustrations and examples of various RITA computations, in FTR Bulletins which are updated as necessary. The current GSA FTR Bulletins may be found at *http://www.gsa.gov/bulletins.*

§ 302–17.13 How are taxes on extended TDY benefits and taxes on relocation allowances related?

(a) Taxes on extended TDY benefits are computed using exactly the same processes described in this part for the WTA and RITA except that:

(1) The tax process for extended TDY benefits uses the term "withholding tax allowance " (WTA) in exactly the same fashion as the process for taxes on relocation allowances; however, in place of the term "relocation income tax allowance," the tax process for extended TDY benefits uses the term "extended TDY tax reimbursement allowance" (ETTRA); and

(2) All benefits are taxable under extended TDY, so the sections of this part that discuss which benefits are taxable and which are not have no relevance to ETTRA.

(b) See part 301–11, subpart F of this title for additional information about taxes on extended TDY benefits.

Subpart B—The Withholding Tax Allowance (WTA)

§ 302–17.20 What is the purpose of the WTA?

(a) The purpose of the WTA is to protect you from having to use part of your relocation expense reimbursements to pay Federal income tax withholding; it does not cover state taxes, local taxes, Medicare taxes, or Social Security taxes (see § 302–17.22(c) and (d)).

(b) If your agency chooses to offer you the choice, the WTA is optional to you. See 302–17.61 through 302–17.69.

§ 302–17.21 What relocation expenses does the WTA cover?

The WTA covers certain allowances, reimbursements, and/or direct payments to vendors, to the extent that each of them is taxable income. It does not cover any allowance, reimbursement, or direct payment to a vendor that is nontaxable; that is, your agency will not give you a WTA for anything that is not considered taxable income to you (see the table in § 302–17.8 for a summary of tax treatment). In particular, the WTA covers:

(a) En route meals and incidental expenses—Reimbursements for meals and incidental expenses while en route are taxable and, therefore, are covered by the WTA.

(b) Househunting trip—Travel (including per diem and transportation) expenses for you (and your spouse) for one round trip to the new official station to seek permanent residence quarters. Househunting is covered regardless of whether it is reimbursed under the actual expense or lump sum method. (See part 302–5 of this chapter.)

(c) Temporary quarters—Subsistence expenses for you and your immediate family during occupancy of temporary quarters. Temporary quarters are covered regardless of whether it is reimbursed under the actual expense or lump sum method. (See part 302–6 of this chapter.)

(d) Extended storage expenses—Extended storage for a temporary change of station in CONUS or assignment to an isolated duty station in CONUS, but only if these expenses are allowed by part 302–8 of this chapter and your agency's policy.

(e) Real estate expenses—Expenses for the sale of the residence at your old official station and purchase of a home at your new official station. This can also include expenses for settling an unexpired lease ("breaking" a lease) at your old official station. (See part 302–11 of this chapter. If you do not hold full title to the home you are selling or buying, see § 302–12.7 of this chapter.)

(f) Expenses paid by a relocation company to the extent such payments constitute taxable income to the employee. The extent to which such payments constitute taxable income varies according to the individual circumstances of your relocation, and by the state and locality in which you reside. (See IRS Publication 521, Moving Expenses, and appropriate state and local tax authorities for additional information.)

(g) Property Management Services—Payment for the services of a property manager for renting rather than selling a residence at your old official station. (See part 302–15 of this chapter.)

(h) Miscellaneous expense allowance—Miscellaneous expenses for defraying certain relocation expenses not covered by other relocation benefits. (See part 302–16 of this chapter.)

§ 302–17.22 What relocation expenses does the WTA not cover?

The WTA does not cover the following relocation expenses:

(a) Any reimbursement, allowance, or direct payment to a vendor that should not be reported as taxable income when you file your Federal tax return; this includes but is not limited to en route lodging and transportation, HHG transportation, and transportation of POVs.

(b) Reimbursed expenses for extended storage of household goods during an OCONUS assignment, if reimbursement is permitted under your agency's policy.

(c) State and local withholding tax obligations. To the extent that your state or local tax authority requires periodic (such as quarterly) tax payments, you are responsible to pay these from your own funds. Your agency reimburses you for substantially all of these payments through the RITA process, but your agency does not provide a WTA for them. If required to by state or local law, your agency may withhold these from your reimbursement.

(d) Additional taxes due under the Federal Insurance Contributions Act including Social Security tax, if applicable, and Medicare tax. Current law does not allow Federal agencies to reimburse transferees for these employment taxes on relocation benefits. However, your agency will deduct for these taxes from your reimbursements for taxable items.

(e) Any reimbursement amount that exceeds the actual expense paid or incurred. For example, if your reimbursement for the movement of household goods is based on the commuted rate schedule but your actual relocation expenses are less than that, your tax liability for the difference is not covered by the WTA or RITA.

(f) Home marketing incentive payment. In accordance with FTR part 302–14, your agency may not provide you either a WTA or RITA for this incentive.

(g) Any recruitment, relocation, or retention incentive payment that you receive. Any withholding of taxes for such payments is outside the scope of this regulation. Rather, it is covered by regulations issued by the Office of Personnel Management, Treasury's Financial Management Service, and the IRS.

(h) Any allowances, reimbursements, and/or direct payments to vendors not related to your relocation; for example, a reimbursement for office supplies would not be covered by the WTA, even if it occurred during your relocation.

§ 302–17.23 What are the procedures for my WTA?

(a) Your agency prepares a relocation travel authorization, which includes an estimate of the WTA and RITA, to obligate funds for your relocation.

(b) Your agency pays certain allowances to you. Your agency also pays vendors directly for other relocation expenses.

(c) Your agency instructs you as to whether to submit one voucher after you have completed your relocation or to submit vouchers at various points as your relocation progresses plus another when your relocation is completed.

(d) You submit your voucher(s) for reimbursement of certain relocation expenses.

(e) Your agency determines the extent to which each allowance, each item on your voucher(s), and each direct payment to a vendor is nontaxable or is taxable income to you under the IRC.

(f) For the taxable items, your agency calculates your WTA and any reimbursement(s) due to you in accordance with § 302–17.24. Your agency sets aside the amount of your WTA and pays the IRS as a withholding tax in accordance with IRS requirements.

§ 302–17.24 How does my agency compute my WTA?

(a) Your agency computes your WTA by applying the grossed-up withholding formula below each time your agency incurs a covered, taxable relocation expense, regardless of whether it is a reimbursement, allowance, or direct payment to a vendor.

(b) The law currently provides for a withholding rate of 25 percent for "supplemental wages" that are identified separately from regular wages (This rate has not always been 25 percent and may change in the future; GSA will revise the FTR to reflect any changes as quickly as possible, but users of this part should see IRS Publication 15, Employer's Tax Guide, for the most current rate). Taxable payments for relocation expenses are "supplemental wages," as defined in IRS Publication 15. However, you owe taxes on the WTA itself because, like most other relocation allowances, it is taxable income. To reimburse you for the taxes on the WTA itself, your agency computes the WTA by multiplying the reimbursement, allowance, or direct payment to a vendor by 0.3333 instead of 0.25. That is:

$WTA = R/(1-R) \times Expense$

Where R is the withholding rate for supplemental wages, or

$WTA = 0.25/(1 - 0.25) \times Expense$, or $0.3333 \times Expense$

EXAMPLE 1—CALCULATING THE WITHHOLDING TAX ALLOWANCE (WTA)

Househunting Trip Actual Expense Claim	3,000
WTA = .3333 × $3,000 = $999.90	
Temporary Quarters Lump Sum Allowance	5,000
WTA = .3333 × $5,000 = $1,666.50	
Total WTA $999.90 + $1,666.50 = $2,666.40	

Note: Your agency must deduct withholding for Medicare and FICA (Social Security) from your reimbursement for expenses such as househunting, as the WTA does not cover such expenses.

Subpart C—The Relocation Income Tax Allowance (RITA)

§ 302–17.30 What is the purpose of the RITA?

(a) The purpose of the RITA is to reimburse you for any taxes that you owe that were not adequately reimbursed by the WTA. As discussed in § 302–17.24, the WTA calculation is based on the 25 percent income tax withholding rate applicable to supplemental wages. This may be higher or lower than your actual tax rate. The RITA, on the other hand, is based on your marginal tax rate, determined by your actual taxable income and filing status, which allows your agency to reimburse you for *substantially all* of your Federal income taxes. The RITA also reimburses you for any additional state and local taxes that you incur as a result of your relocation, because they are not reimbursed in the WTA process.

(b) The WTA may be optional to you. See 302–17.61 for a discussion of criteria for choosing whether or not to accept the WTA. See 302–17.62 through 302–17.69 for procedures if you choose not to accept the WTA.

§ 302–17.31 What are the procedures for calculation and payment of my RITA?

The procedures for the calculation and payment of your RITA depend on whether your agency has chosen to use a one-year or two-year RITA process. See subpart F for the one-year process and subpart G for the two-year process.

§ 302–17.32 Who chooses the one-year or two-year process?

Your agency or a major component of your agency determines whether it will adopt a one-year or two-year RITA process. Your agency may use the one-year RITA process for one or more specific categories of employees and the two-year process for one or more other categories.

§ 302–17.33 May I ask my agency to recalculate my RITA?

(a) Yes, you may ask your agency to recalculate your RITA provided you filed your "Statement of Income and Tax Filing Status," and amended it, if necessary, in a timely manner. If, once you have completed all Federal, state, and local tax returns, you believe that your RITA should have been significantly different from the RITA that your agency calculated, you may ask your agency to recalculate your RITA. This is true for either the one-year or two-year process. With any request for recalculation, you must submit a statement explaining why you believe your RITA was incorrect.

(b) Please note that your agency may require that you also submit an amended "Statement of Income and Tax Filing Status" (if, for example, you inadvertently did not report some of your income in your original Statement), your actual tax returns, or both, as attachments to your request for recalculation.

Note to § 302–17.33: Please see § 302–17.55, if your agency uses a one-year RITA process, or § 302–17.69, if your agency uses a two-year RITA process, for more information about positive and negative RITA calculations.

Subpart D—The Combined Marginal Tax Rate (CMTR)

§ 302–17.40 How does my agency calculate my CMTR?

(a) The CMTR is a key element that greatly enhances the accuracy of the calculation of your RITA. Your agency uses the information on your "Statement of Income and Tax Filing Status," as amended, to determine your CMTR, as follows (see subparts F and G of this part for information about the "Statement of Income and Tax Filing Status").

(b) The CMTR is, in essence, a combination of your Federal, state, and local tax rates. However, the CMTR cannot be calculated by merely adding the Federal, state, and local marginal tax rates together because of the deductibility of state and local income taxes from income on your Federal income tax return. The formula prescribed below for calculating the CMTR, therefore, is designed to adjust the state and local tax rates to compensate for their deductibility from income for Federal tax purposes.

(c) The formula for calculating the CMTR is:

$$CMTR = F + (1 - F)S + (1 - F)L$$

Where:

F = Your Federal marginal tax rate
S = Your state marginal tax rate, if any
L = Your local marginal tax rate, if any

(d) Your agency finds the Federal marginal tax rate by comparing your taxable income, as shown in your "Statement of Income and Filing Status," to the Federal tax tables in the current year's Form 1040–ES instructions (See §§ 302–17.50 through 302–17.53 and §§ 302–17.63 through 302–17.65 for additional information on the "Statement of Income and Tax Filing Status.")

(e) Your agency finds the state and local marginal tax rates that apply to you (if any) by comparing your taxable income to the most current state and/or local tax tables provided by the states and localities. Every Federal payroll office and every provider of tax calculation software has these tables readily available, and the tables are also available on the Web sites of the various state and local taxing authorities.

§ 302–17.41 Is there any difference in the procedures for calculating the CMTR, depending on whether my agency chooses the one-year or two-year RITA process?

No. The procedures for calculating the CMTR are the same for the one-year and two-year RITA processes.

EXAMPLE 2—CALCULATING THE COMBINED MARGINAL TAX RATE

	Percent
Federal marginal tax rate	33
State marginal tax rate	6
Local marginal tax rate	3

$$CMTR = 0.33 + (1.00 - 0.33)(.06) + (1.00 - 0.33)(0.03) = .3903 \text{ or } 39.03\%$$

§ 302–17.42 Which state marginal tax rate(s) does my agency use to calculate the CMTR if I incur tax liability in more than one state, and how does this affect my RITA and my state tax return(s)?

If two or more states that are involved in your relocation impose an income tax on relocation benefits, then your relocation benefits may be taxed by both states. Most commonly, your old and new duty stations are in the two states involved. The following table lays out the possibilities:

If:	But:	Your agency will use the following as the state marginal tax rate in the CMTR:	Your RITA will include an appropriate allowance for:	Your action:
Only one involved state has a state income tax.		The marginal tax rate of the one state that taxes income.	Taxes you incur in that state.	You pay the taxes required by the state that taxes income.
Each involved state taxes a different set of your relocation benefits, with no overlap.		The average of the marginal tax rates for each state involved.	Taxes you incur in all involved states.	You file tax returns in each involved state and pay the applicable taxes.
Two or more involved states tax some of your same relocation benefits.	All involved states *allow* you to adjust or take a credit for income taxes paid to other states.	The marginal tax rate of the state that has the highest state income tax rate.	Taxes you incur in all involved states.	You file tax returns in each involved state, take the appropriate credits and/or adjustments, and pay the applicable taxes.
Two or more involved states tax some of the same relocation benefits.	One or more involved states *does not allow* you to adjust or take a credit for income taxes paid to other states.	The sum of all applicable state marginal tax rates.	Taxes you incur in all involved states.	You file tax returns in each involved state, and pay the applicable taxes. This may result in paying taxes in more than one state on the same relocation benefits.

§ 302–17.43 What local marginal tax rate(s) does my agency use?

(a) If you incur local tax liability, you provide the applicable marginal tax rate(s) on your "Statement of Income and Tax Filing Status. Your agency validates the applicable local marginal tax rate(s) and uses it (them) in the CMTR formula.

(b) If you incur local income tax liability in more than one locality, then your agency should follow the rules described for state income taxes in § 302–17.42 to calculate the local marginal tax rate that will be used in the CMTR formula and to compute your RITA, and you should follow the rules in § 302–17.42 to determine your actions.

(c) If a locality in which you incur income tax liability publishes its tax rates in terms of a percentage of your Federal or state taxes, then your agency must convert that tax rate to a percentage of your income to use it in computing your CMTR. This is accomplished by multiplying the applicable Federal or state tax rate by the applicable local tax rate. For example, if the state marginal tax rate is 6 percent and the local tax rate is 50 percent of state income tax liability, the local marginal tax rate stated as a percentage of taxable income would be 3 percent.

§ 302–17.44 What if I incur income tax liability to the Commonwealth of Puerto Rico?

A Federal employee who is relocated to or from a point, or between points, in the Commonwealth of Puerto Rico may be subject to income tax by both the Federal government and the government of Puerto Rico. However, under current Puerto Rico law, an employee receives a credit on his/her Puerto Rico income tax for the amount of taxes paid to the Federal government. Therefore:

(a) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *equal to or lower* than the applicable Federal marginal tax rate, then your agency uses the Federal marginal tax rates and the formula in § 302–17.40(c) in calculating your CMTR.

(b) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *higher* than the applicable Federal marginal tax rate, and if all of the states involved either have no income tax or allow an adjustment or credit for income taxes paid to the other state(s) and Puerto Rico, then your agency uses the rate for Puerto Rico in place of the Federal marginal tax rate in the formula in § 302–17.40(c).

(c) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *higher* than the applicable Federal marginal tax rate and one or more of the state(s) involved does not allow an adjustment or credit for income taxes paid to the other state(s) and/or Puerto Rico, then your agency uses the formula below:

CMTR = P + S + L

Where:

P = Your Puerto Rico marginal tax rate
S = Your state marginal tax rate, if any
L = Your local marginal tax rate, if any

§ 302–17.45 What if I incur income tax liability to the Commonwealth of the Northern Mariana Islands or any other territory or possession of the United States?

If you are relocated to, from, or within the Commonwealth of the Northern Mariana Islands or any territory or possession of the United States that is not covered by the definitions in § 302–17.7 or § 302–17.44, your agency will have to determine the tax rules of that locality and then include those taxes in your RITA calculation, as applicable.

Subpart E—Special Procedure if a State Treats an Expense as Taxable Even Though It Is Nontaxable Under the Federal IRC

§ 302–17.46 What does my agency do if a state treats an expense as taxable even though it is nontaxable under the Federal IRC?

(a) If one or more of the states where you have incurred tax liability for relocation expenses treats one or more relocation expenses as taxable, even though it (they) are nontaxable under Federal tax rules, you may be required to pay additional state income tax when you file tax returns with those states. In this case, your agency calculates a state gross-up to cover the additional tax liability resulting from the covered relocation expense reimbursement(s) that are nontaxable under Federal, but not state tax rules. Your agency calculates the state gross-up and then adds that amount to your RITA. Your agency will use this formula to calculate the state gross-up:

$$\text{State Gross-up} = S \times \left(\frac{1-F}{1-C}\right) \times N$$

F = Federal Marginal Tax Rate
S = State Marginal Tax Rate
C = CMTR
N = Dollar amount of covered relocation expenses that are nontaxable under Federal tax rules but are taxable under state tax rules

All information, except "N," can be found in previous calculations (if moving to, from, or within Puerto Rico, follow the rules in 302–17.44 to determine when to substitute "P" for "F").

"N" is determined as follows:

1. Take the dollar amount of reimbursements, allowances, and direct payments to vendors treated as nontaxable under Federal tax rules.
2. Subtract the dollar amount of reimbursements, allowances, and direct payments to vendors treated as nontaxable by the state.
3. The difference represents "N."

(b) This calculation is the same, regardless of whether your agency has chosen to use the one-year or two-year RITA process.

Subpart F—The One-Year RITA Process

§ 302–17.50 What information should I provide to my agency to make the RITA calculation possible under the one-year process?

You should provide the information required in the following "Statement of Income and Tax Filing Status."

Statement of Income and Tax Filing Status—One-Year Process

The following information, which my agency will use in calculating the RITA to which I am entitled, was shown on the Federal, state, and local income tax returns that I (or my spouse and I) filed for the 20____ tax year (this should be the most recent year in which you filed).

Filing status:

☐ Single ☐ Head of Household
☐ Married Filing Jointly
☐ Qualifying Widow(er)
☐ Married Filing Separately

(a) Taxable income as shown on my (our) IRS Form 1040: $ ____

Significant future changes in income (including cost of living raises) that you can foresee for the current year:

__Increase __ Decrease __ No Foreseeable Changes

(b) Approximate net amount of this (these) change(s): $ ____

(c) Predicted taxable income for the current tax year 20__ =

Sum of (a) and (b) = $ ____

State you are moving out of :______
Marginal Tax Rate: ____%
State you are moving into: ______
Marginal Tax Rate: ____%
Locality you are moving out of: ______
Marginal Tax Rate: ____%
Locality you are moving into: ______
Marginal Tax Rate: ____%

The above information is true and accurate to the best of my (our) knowledge. I (we) agree to notify the appropriate agency official of any significant changes to the above so that appropriate adjustments to the RITA can be made.

____

Employee's signature

____

Date

____

Spouse's signature

____

Date (if filing jointly)

§ 302–17.51 When should I file my "Statement of Income and Tax Filing Status" under the one-year process?

For the one-year process, you should file this form as soon as you receive your relocation orders, or as soon as you file your tax returns for the most recent tax year, whichever occurs later.

§ 302–17.52 When should I file an amended "Statement of Income and Tax Filing Status" under the one-year process?

You should submit an amended "Statement of Income and Tax Filing Status" to your agency under the one-year process whenever the information on it changes, and you should continue to amend it until you have received the last W–2 from your agency in connection with a specific relocation. In particular, you should file an amended version of this statement whenever:

(a) Your filing status changes;

(b) Your income changes enough that your income, including WTA and RITA, might put you into a different tax bracket; or

(c) You have taxable relocation expenses in a second or third year.

Note to § 302–17.52: Your agency will not be able to use your original or amended "Statement of Income and Tax Filing Status" if you file it after the cut-off date established by your agency in accordance with § 302–17.54(b).

§ 302–17.53 What happens if I do not file and amend the "Statement of Income and Tax Filing Status" in a timely manner?

If you don't file the "Statement of Income and Tax Filing Status" and/or amend it when necessary, your agency will switch to the 2-year process, and because the WTA is an advance of your income tax expenses, you will be liable to repay the full amount of the WTA that your agency has paid to the IRS. See subpart G of this part.

§ 302–17.54 How does my agency calculate my RITA under the one-year process?

(a) Your agency provides allowances to you, reimburses you for vouchers that you submit, and pays certain relocation vendors directly, all during the calendar year as described in subpart B of this part. Some of these reimbursements, allowances, and direct payments to vendors are taxable income to you, the employee, as described in subpart A of this part. Your agency computes a WTA and reports the WTA to the IRS as taxes withheld for you for each of these taxable reimbursements, allowances, and direct payments to vendors.

Note to § 302–17.54(a): The WTA may be optional to you. However, if your agency is using a one-year RITA process, there is no advantage to you in choosing not to receive the WTA, because your agency will adjust the WTA payment to the IRS. See 302–17.55(a)(1).

(b) Your agency establishes a cutoff date (for example, December 1), after which it will not issue reimbursements or allowances to you or make direct payments to relocation vendors for the rest of the calendar year.

(c) If the information on your "Statement of Income and Tax Filing Status" changes after you have submitted the initial version, you must submit an amended "Statement of Income and Tax Filing Status" no later than your agency's cutoff date.

(d) During the period between the cutoff date and the end of the calendar year, your agency calculates your RITA.

(e) Your RITA is itself taxable income to you. To account for taxes on the RITA, your agency will gross-up your RITA by using a gross-up formula that multiplies the grossed-up CMTR by the total of all covered taxable relocation benefits, and then subtracts your grossed-up WTA from that total. That is:

$$\underline{RITA} = \left[\left(\frac{C}{1-\underline{C}} \right) \times \underline{R} \right] - Y$$

Where

C = CMTR

R = Reimbursements, allowances, and direct payments to vendors covered by WTA

Y = Total grossed-up WTAs paid during the current year.

§ 302–17.55 What does my agency do once it has calculated my RITA under the one-year process?

(a) Your RITA is likely to be different from the sum of the WTA computed and reported during the year, because the WTA is calculated using a flat rate, established by the IRC, while the RITA is calculated using the CMTR. Therefore:

(1) If the calculation above results in a negative value (that is, if your agency's calculation shows that it withheld and reported too much money as WTA), then your agency will send an adjustment to the IRS using Form 941. In this case, your agency does not make a RITA payment to you because you do not need additional funds to pay your taxes. That is, everything you need to pay substantially all of your taxes was included in the adjusted WTA, and that is the amount that will appear on your Form W–2.

(2) If the calculation above results in a positive value (that is if your agency's calculation shows that it did not withhold enough money for your income taxes), then your agency will pay your RITA to you before the end of the calendar year and report it to the IRS as part of your income for that year.

(b) Shortly after the end of the calendar year, your agency will provide one or two W–2 Forms to you. At your agency's discretion, you may receive one W–2 that includes all of your taxable relocation expenses, WTA, and RITA (if any), along with your payroll wages, or you may receive one W–2 for your payroll wages and a separate one for your taxable relocation expenses, WTA, and RITA.

§ 302–17.56 What do I do, under the one-year process, once my agency has provided my W–2(s)?

(a) You must use all W–2(s) that you have received to file your tax returns. On those returns, you must include all taxable relocation expenses shown on your W–2(s) as income, including your WTA and RITA (if any). Please note that you must also include all WTA as withholding, in addition to the standard withholding from your payroll wages.

(b) If you finished your relocation within one calendar year, and your agency paid all of your relocation reimbursements, allowances, and direct payments to vendors in the same calendar year, before the cutoff date, then your tax returns for that calendar year are the end of your relocation tax process. If, on the other hand, your agency reimburses you for relocation expenses, or pays allowances or relocation vendors on your behalf, during a second (and possibly a third) calendar year, then you and your agency repeat the process above for each of those years.

Subpart G—The Two-Year RITA Process

§ 302–17.60 How are the terms "Year 1" and "Year 2" used in the two-year RITA process?

(a) Year 1 is the calendar year in which the agency reimburses you for a specific expense, provides an allowance, or pays a vendor directly. If your reimbursements, allowances, and/or direct payments to vendors occur in more than one calendar year, you will have more than one Year 1.

(b) Year 2 is the calendar year in which you submit your RITA claim and your agency pays your RITA to you.

(c) In most cases:

(1) For every Year 1 you will have a corresponding Year 2;

(2) Every Year 2 immediately follows a Year 1; and

(3) Year 2 is the year in which you file a tax return reflecting your remaining tax liability for taxable reimbursement(s), allowance(s), and/or direct payments to vendors in each Year 1.

(d) The table below offers a graphic explanation of Year 1 and Year 2, assuming that you begin your relocation in 2010 and incurred additional approved expenses in 2011 and 2012.

2010	2011	2012	2013
First Year 1	Second Year 1 *and* Year 2 for 2010.	Third Year 1 *and* Year 2 for 2011	Year 2 for 2012.

§ 302–17.61 Is the WTA optional under the two-year process?

(a) Yes. If your agency makes the WTA optional to you, you may choose to not receive the WTA.

(b) WTA is paid at a rate of 25 percent. When deciding whether or not to receive the WTA, you should consider the following:

(1) If you expect that your marginal Federal tax rate will be 25 percent or higher for the calendar year for which you received the majority of your relocation reimbursements, you may want to elect to receive the WTA, because your initial reimbursements will be higher, as shown in the following Example 3).

EXAMPLE 3—CLAIMS PAID WITH AND WITHOUT WTA

Allowance computed without WTA:		
	$1,000.00	Miscellaneous Expenses Allowance.
Minus	250.00	Federal Withholding Tax (25%).
Minus	14.50	Medicare Withholding Tax (1.45%).
Minus	62.50	FICA (Social Security) Tax (6.20%).
Equals	673.50	Amount due to the transferee.
Allowance computed with WTA:		
	$1,000.00	Miscellaneous Expenses Allowance.
Plus	333.30	Withholding Tax Allowance (25% of $1333.30).
Equals	1,333.30	Net allowance with WTA.
Minus	333.30	Federal Withholding Tax (25%).
Minus	19.33	Medicare Withholding Tax (1.45%).
Minus	82.66	FICA (Social Security) Tax (6.20%).
Equals	898.01	Amount due to the transferee.

(2) If you expect that your marginal Federal tax rate will be less than 25 percent, you may want to decline the WTA to avoid or limit possible overpayment of the WTA, the so-called "negative RITA" situation (In a "negative RITA" situation, you must repay some of the WTA in Year 2). However, even if your marginal Federal tax rate will be less than 25 percent, you may want to accept the WTA so that your initial reimbursement is larger. Example 3 shows the relative reimbursements you would receive by accepting and declining the WTA, in the case of a hypothetical $1000 Miscellaneous Expense Allowance.

§ 302–17.62 What information do I put on my tax returns for Year 1 under the two-year process?

(a) Your agency provides allowances to you, reimburses you for vouchers that you submit, and pays certain relocation vendors directly, all during the same calendar year, as described in subpart B of this part. Some of these reimbursements, allowances, and direct payments to vendors are taxable income to you, the employee. Your agency computes a WTA and reports that withholding to the IRS for each of these that is taxable. This is Year 1 of the two-year process.

(b) If your agency makes the WTA optional to you and you have chosen not to receive the WTA, then your agency computes withholding tax for each taxable reimbursement, allowance, and direct payment, and reports that withholding to the IRS. See Example 3 in this section

(c) Shortly after the end of the calendar year, your agency provides one or more W–2 forms to you. At its discretion, your agency may include all of your taxable relocation expenses and WTA (if any) in one W–2, along with your regular payroll wages, or it may provide you one W–2 for your regular payroll wages and a separate W–2 for your taxable relocation expenses and WTA (if any).

(d) At approximately the same time as your agency provides your W–2(s), it also may provide you an itemized list of all relocation benefits and the WTA (if any) for each benefit. You should use this statement to verify that your agency has included all covered taxable items in its calculations and to check your agency's calculations.

(e) You must submit all W–2s that you have received with your Year 1 tax returns. On those returns, you must include all taxable relocation expenses during the previous year as income. Furthermore, you must include the WTA (if any) as tax payments that your agency made for you during the previous year, in addition to the regular withholding of payroll taxes from your salary.

§ 302–17.63 What information should I provide to my agency to make the RITA calculation possible under the two-year process?

You should provide the information required in the following "Statement of Income and Tax Filing Status." This information should be taken from the income tax returns you filed for Year 1.

Statement of Income and Tax Filing Status—Two-Year Process

The following information, which my agency will use in calculating the RITA to which I am entitled, was shown on the Federal, state and local income tax returns that I (or my spouse and I) filed for the 20_______ tax year.

Filing status:

☐Single ☐ Head of Household
☐ Married Filing Jointly
☐ Qualifying Widow(er)
☐ Married Filing Separately

Taxable income as shown on my (our) IRS Form 1040: $ _____________

State you are moving out of:________________

Marginal Tax Rate: _______%

State you are moving into:

____

Marginal Tax Rate: _______%

Locality you are moving out of:

____

Marginal Tax Rate: ________%

Locality you are moving into:

____

Marginal Tax Rate: ________%

The above information is true and accurate to the best of my (our) knowledge. I (we) agree to notify the appropriate agency official of any significant changes to the above so that appropriate adjustments to the RITA can be made.

____

Employee's signature

____

Date

____

Spouse's signature (if filing jointly)

____

Date

§ 302–17.64 When should I file my "Statement of Income and Tax Filing Status" and RITA claim under the two-year process?

For the two-year process, you should file the "Statement of Income and Tax Filing Status" in Year 2, along with your RITA claim, after you file your income tax return. If your agency pays any taxable expenses covered by the WTA (if any) in more than one year, then you will have to file a new "Statement of Income and Tax Filing Status" each year. Your agency establishes the deadline each year for filing of your Statement.

§ 302–17.65 What happens if I do not file the "Statement of Income and Tax Filing Status" in a timely manner?

The WTA is an advance on your income tax expenses, thus if you don't file the "Statement of Income and Tax Filing Status" in a timely manner, your agency will require you to repay the entire amount of the withholding and WTA (if any) that the agency has paid on your behalf.

§ 302–17.66 How do I claim my RITA under the two-year process?

(a) To claim your RITA under the two-year process, you must submit a voucher and attach the "Statement of Income and Tax Filing Status," as discussed in §§ 302–17.63—302–17.65.

(b) Your voucher must claim a specific amount. However, your agency will calculate your actual RITA after you submit your RITA voucher and your "Statement of Income and Tax Filing Status;" the amount you claim on your voucher does not enter into that calculation. You should perform the RITA calculation for yourself, as a check on your agency's calculation, but you are not required to put the "right answer" on the voucher you submit to claim your RITA.

§ 302–17.67 How does my agency calculate my RITA under the two-year process?

(a) Your agency calculates your RITA after receipt of your RITA voucher.

(b) Your RITA is itself taxable income to you. To account for taxes on the RITA, your agency will gross-up your RITA by applying the CMTR to the final amount rather than the reimbursed amount.

(c) Thus, your agency calculates your RITA by multiplying the Combined Marginal Tax Rate (CMTR) (using the state and local tax tables most current at the time of the RITA calculation) by the total of all covered taxable relocation benefits during the applicable Year 1, and then subtracting your WTA(s), if any, from the same Year 1 from that total. That is:

$$RITA = \left(\left(\frac{C}{1-C} \right) \times R \right) - Z$$

Where C = CMTR
R = Reimbursements, allowances, and direct payments to vendors covered by WTA during Year 1
Z = Total grossed-up WTAs paid during Year 1.

Note to 302–17.67(c): If your agency chooses to offer you the choice, the WTA is optional to you. If the employee has declined the WTA, enter zero for element Z in the above calculation.

§ 302–17.68 What does my agency do once it has calculated my RITA under the two-year process?

(a) Your RITA is likely to be different from the sum of the WTA(s) paid during Year 1, if any, because the WTA is calculated using a flat rate, established by the IRC, while the RITA is calculated using the CMTR. Therefore:

(1) If the RITA calculation in § 302–17.67 results in a negative value (that is, if your agency's calculation shows that it withheld and reported too much money as income taxes), then your agency will report this result to you and will send you a bill for the difference, to repay the excess amount that it sent to the IRS on your behalf as withheld income taxes. The IRS will credit you for the full amount of withheld taxes, including the excess amount, when you file your income tax return for Year 1; therefore, you must repay the excess amount to your agency within 90 days, or within a time period set by your agency. If you are required to repay an amount in Year 2 that was included as wages on your W–2 in Year 1, you may be entitled to a miscellaneous itemized deduction on your Federal income tax return in Year 2. For more information, see IRS Publication 535, "Business Expenses." If your agency chooses to offer you the choice, then you may want to decline the WTA to avoid this so-called "negative RITA" situation.

(2) If the RITA calculation in § 302–17.67 results in a positive value (that is, if your agency's calculation shows that it did not withhold enough money as income taxes), then your agency will pay your RITA to you before the end of Year 2 and will report it to the IRS as part of your income for that year. Also, after your agency has paid your RITA to you, it will provide a W–2 that shows your RITA as taxable income to you.

(b) At your agency's discretion, you may receive one W–2 that includes all of your taxable relocation expenses, WTA (if any), and RITA (if any), along with your regular payroll wages, or you may receive one W–2 for your regular payroll wages and a separate one for your taxable relocation expenses, WTA, and RITA.

§ 302–17.69 How do I pay taxes on my RITA under the two-year process?

When income taxes are due for Year 2, you must report your RITA, if any, as taxable income on your Federal, state, and local tax returns.

(a) If your relocation process results in only one Year 2, or if the previous year was your last Year 1, your RITA is the only amount that you report as income resulting from your relocation for that Year 2.

(b) If, on the other hand, your relocation process results in more than one Year 2 (if, for example, you incurred relocation expenses during more than one calendar year), then, except for your last Year 2, you will need to report reimbursements, allowances, direct payments to vendors, and WTA(s), if any, for succeeding Year 1's at the same time that you report each Year 2's RITA.

(c) See the table in § 302–17.60 for a graphic explanation of Year 1 and Year 2.

Subpart H—Agency Responsibilities

§ 302–17.100 May we use a relocation services provider to comply with the requirements of this part?

Yes. You may use the services of relocation companies to manage all aspects of relocation, including the RITA computation. Agencies that relocate few employees or do not have the resources to manage the complexity of relocation may find that the use of relocation companies is a practical alternative. As another alternative, agencies with infrequent requirements for relocation or with inadequate internal resources may establish an interagency agreement with one or more other agencies to pool resources to provide this service.

§ 302–17.101 What are our responsibilities with regard to taxes on relocation expenses?

To ensure that all provisions of this part are fulfilled, you must:

(a) Prepare a relocation travel authorization that includes an estimate of the WTA and RITA, to obligate the funds that will be needed.

(b) Determine, in light of the specific circumstances of each employee relocation, which reimbursements, allowances, and direct payments to vendors are taxable, and which are nontaxable.

(c) Decide whether or not you will allow individual employees and/or categories of employees to choose not to receive the WTA.

(d) Calculate the WTA, and credit the amount of the WTA to the employee at the time of reimbursement.

(e) Prepare the employee's W–2 Form(s) and ensure that it (they) reflect(s) the WTA.

(f) Provide each employee an itemized list of relocation expenses after the end of each calendar year in which you provided an allowance, reimbursement, or direct payment to a vendor.

(g) Establish processes for identifying the relevant Federal, state, and local marginal tax rates and for keeping that information current.

(h) Establish processes for identifying states that treat a reimbursement or direct payment to a vendor as taxable even though it is nontaxable under the Federal IRC, and for keeping that information current.

(i) Calculate the employee's CMTR(s).

(j) Decide whether you will use the one-year or two-year RITA process and whether you will use different processes (that is, one-year or two-year) for different groups of employees within your agency.

(k) Make sure the RITA calculation is done correctly and in a timely manner, whether your policies call for the calculation to be done by you or by a third party.

(l) Make sure that payment of the RITA occurs in a timely manner (this is especially critical for the one-year process).

(m) Develop criteria for accepting and rejecting requests for recalculation of RITA.

(n) Establish a process for recalculating the RITA when the employee's request for recalculation is accepted.

(o) Consult with IRS for clarification of any confusion stemming from taxes on relocation expenses.

§ 302–17.102 What happens if an employee fails to file and/or amend a "Statement of Income and Tax Filing Status" prior to the required date?

(a) If a relocating employee does not file and/or amend a "Statement of Income and Tax Filing Status" prior to the required date, and you are using a one-year RITA process, you are to switch to a two-year RITA process and send a written warning to the employee reminding them of the requirement and informing them that if they do not submit the "Statement of Income and Tax Filing Status," you may declare the entire amount of the WTA forfeited.

(b) If the relocating employee does not file and/or amend a Statement of Income and Tax Filing Status prior to the required date, and you are using a two-year RITA process, you are to send the employee a written warning informing them they have 60 days to file or amend their "Statement of Income and Tax Filing Status," or you will declare the WTA that you have already paid on his/her behalf forfeited and due as a debt to the Government.

(c) If the relocating employee chose not to receive the WTA and fails to file a Statement of Income and Tax Filing Status prior to your required date, you are to send the employee a written warning that they have 60 days to file. If the employee still fails to file, you may close your case file and refuse any later claims for RITA related to this specific relocation.

§ 302–17.103 What are the advantages of choosing a one-year or a two-year RITA process?

(a) The one-year process is simpler. It reimburses the employee more quickly, and it eases the administrative burden required to calculate the RITA. Most importantly, the one-year process eliminates the possibility of charging employees for excess payments to the IRS, the so-called "negative RITA."

(b) The two-year process provides a somewhat more accurate calculation of the additional taxes the employee incurs because it is based on the employee's actual Year One taxable income and filing status rather than the taxable income and filing status from the year before.

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