



Joint Committee on Taxation
June 3, 2002
JCX-48-02

**DESCRIPTION OF H.R. 4823,
THE “HOLOCAUST RESTITUTION TAX FAIRNESS ACT OF 2002”**

Present Law

Exclusion from Federal income tax for restitution received by victims of the Nazi regime

Present law provides that eligible restitution payments made to an eligible individual (or the individual’s heirs or estate) are: (1) excluded from gross income; and (2) not taken into account for any provision of the Code which takes into account excludable gross income in computing adjusted gross income (e.g., taxation of Social Security benefits).

The basis of any property received by an eligible individual (or the individual’s heirs or estate) that is excluded under this provision is the fair market value of such property at the time of receipt by the eligible individual (or the individual’s heirs or estate).

Eligible restitution payments are any payment or distribution made to an eligible individual (or the individual’s heirs or estate) which: (1) is payable by reason of the individual’s status as an eligible individual (including any amount payable by any foreign country, the United States, or any foreign or domestic entity or fund established by any such country or entity, any amount payable as a result of a final resolution of legal action, and any amount payable under a law providing for payments or restitution of property); (2) constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden, or otherwise lost to, the individual before, during, or immediately after World War II by reason of the individual’s status as an eligible individual (including any proceeds of insurance under policies issued on eligible individuals by European insurance companies immediately before and during World War II); or (3) interest payable as part of any payment or distribution described in (1) or (2), above. An eligible individual is a person who was persecuted for racial or religious reasons, physical or mental disability or sexual orientation by Nazi Germany, or any other Axis regime, or any other Nazi-controlled or Nazi-allied country. Interest earned by enumerated escrow or settlement funds are also excluded under the provision.

Sunset provision

The Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) made a number of changes to the Federal tax laws, including the exclusion from Federal income tax for restitution received by victims of the Nazi regime. However, in order to comply with reconciliation procedures under the Congressional Budget Act of 1974 (e.g., section 313 of the Budget Act, under which a point of order may be lodged in the Senate), EGTRRA included a “sunset” provision, pursuant to which the provisions of EGTRRA expire at the end of 2010. Specifically, EGTRRA’s provisions do not apply for taxable, plan, or limitation years beginning

after December 31, 2010, or to estates of decedents dying after, or gifts or generation-skipping transfers made after, December 31, 2010. EGTRRA provides that, as of the effective date of the sunset, both the Code and the Employee Retirement Income Security Act of 1974 (“ERISA”) will be applied as though EGTRRA had never been enacted. Likewise, all other provisions of the Code and ERISA will be applied as though the relevant provisions of EGTRRA had never been enacted.

Explanation of Provision

H.R. 4823 repeals the sunset provision of EGTRRA for purposes of the exclusion from Federal income tax for restitution received by victims of the Nazi regime.

Effective Date

The provision is effective on the date of its enactment.