

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:ITA:2 – PLR-126252-00
Date: April 10, 2001

LEGEND:

X =

A =

B =

Act =

D =

E =

F =

\$x =

\$y =

\$z =

Dear

This letter responds to your request for a letter ruling regarding the taxation of a payment you will receive from X. You request a ruling that the payment will not be includible in your gross income.

FACTS

The Federal Republic of Germany established X, in part, for the purpose of compensating individuals who were subjected to A under the B regime. X was created by the Act, which was passed by the German legislature. X will be funded with \$x, of which one-half will be contributed by the German government and one-half by private sector companies in Germany. About \$z of the funds will be used to make payments to individuals who were subjected to A under the B regime.

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All decisions regarding X will be made by a Board of Trustees, which includes representatives from the German government, representatives from the participating companies, and other participating governments, including the United States. In addition, X will be overseen by D.

You were subjected to A under the B regime and, therefore, meet the criteria for receiving a payment from X, which will be distributed to you by E. You will receive approximately \$y in 2001.

LAW AND ANALYSIS

Article 19(1)(c) of the Convention Between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes, signed on August 29, 1989, and that entered into force on August 21, 1991 (“the Treaty”) provides that amounts paid by one of the Contracting States or by a juridical person organized under the public laws of that State as compensation for an injury or damage sustained as a result of hostilities or political persecution shall be exempt from tax by the other State.

The Treasury Department’s Technical Explanation to Article 19(1)(c) of the Treaty provides that the subparagraph provides that amounts paid by a Contracting State or by a juridical person organized under the public laws of that State which are compensation for injury or damage sustained as a result of hostilities or political persecution are exempt from tax in the other Contracting State. Although the subparagraph is drafted reciprocally, it is intended to provide a U.S. exemption for German war reparation payments.

Revenue Ruling 56-518, 1956-2 C.B. 25, concludes that compensation paid by the German government to citizens or residents of the United States pursuant to claims made under German law due to persecution does not constitute taxable income. Revenue Ruling 57-505, 1957-2 C.B. 50, specifies which German laws qualify under Rev. Rul. 56-518. Rev. Rul. 57-505 further provides that whether payments made under any other laws would come under the guidelines of Rev. Rul. 56-518 will be decided on the basis of the facts and circumstances involved in each case. The conclusions in Rev. Rul. 56-518 and Rev. Rul. 57-505 are not based on a treaty exemption.

Notice 95-31, 1995-1 C.B. 307, addresses application of Article 19(1)(c) of the Treaty to monetary compensation or property received by individuals pursuant to the German Act Regulating Unresolved Property Claims. Notice 95-31 provides that, pursuant to a competent authority agreement between the United States and Germany, monetary compensation or property received pursuant to the Act would represent payment for damages resulting from hostilities or political persecution. Therefore, any payments

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pursuant to the Act are not subject to taxation in the United States, in accordance with Article 19(1)(c) of the Treaty.

Neither the Treaty, the Senate Foreign Relations Committee Report, nor the Treasury Department's Technical Explanation defines what is meant by "juridical person" in Article 19(1)(c) of the Treaty. As a result, it is necessary to look to U.S. domestic law. Article 3(2) provides that any term not defined in the Treaty shall have the meaning it has under the domestic law of the Contracting State whose taxes are at issue. In the present case, U.S. taxes are in question, so we look to U.S. law for a definition of the term. In general, the term "juridical person" is defined as an entity organized under the laws of any given jurisdiction. Such an entity can include, but is not limited to, corporations, partnerships, and joint ventures. Black's Law Dictionary, 7th ed. (1999), refers to a "juridical person" as an artificial person and the latter as "[a]n entity, such as a corporation, created by law and given certain rights and duties of a human being. . . ." Similarly, Webster's Third New International Dictionary (1986) defines "juridical person" as a juristic person" and the latter as a "body of persons, a corporation, a partnership, or other legal entity that is recognized by law as the subject of rights and duties. . . ." The Act passed by the German legislature that established X specified its rights and responsibilities and is, in our view, a juridical person for purposes of Article 19(1)(c) of the Treaty.

HOLDING

The payments made by X are made by a juridical person for purposes of Article 19(1)(c) of the Treaty. Accordingly, based strictly on the information submitted and representations made, the approximately \$y payment you will receive from X (through E) is not includible in your income.

Except as expressly provided in the preceding paragraph, no opinion is expressed or implied concerning the tax consequences of any aspect of any item discussed or referenced in this letter. We expressly reserve making a determination with regard to F, pertaining to reimbursements for property loss. This ruling is limited to the provisions of X pertaining to compensation for individuals subjected to A under the B regime.

A copy of this letter should be attached to any income tax return to which it is relevant. We enclose a copy of the letter for this purpose. Also enclosed is a copy of the letter ruling showing the deletions proposed to be made in the letter when it is disclosed under § 6110 of the Internal Revenue Code.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

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In accordance with the power of attorney on file, we are sending a copy of this letter to your authorized representative.

Sincerely,

Associate Chief Counsel
(Income Tax & Accounting)
By: Michael J. Montemurro
Senior Technician Reviewer, Branch 2

cc: Director, Compliance, W:CP