



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

September 11, 2015

Number: **2015-0034**
Release Date: 12/24/2015

CC:ITA:B04:
CONEX-129233-15

UIL: 61.40-00

The Honorable Jeff Merkley
United States Senator
121 Southwest Salmon Street, Suite 1400
Portland, OR 97204

Attention:

Dear Senator Merkley:

I am responding to your inquiry received August 31, 2015, on behalf of your constituent, . asked if he must pay income tax on nursing care benefits associated with the pension he receives from the Republic of Austria.

For federal income tax purposes, excludable restitution payments received by an eligible individual are not included in gross income (Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, section 803, 115 Stat. 38, 149-50 (2001); Holocaust Restitution Tax Fairness Act of 2002, Pub. L. No. 107-358, 116 Stat. 3015 (2002)).

A letter from the Austrian Consulate General establishes that . is a Holocaust victim of the Nazi regime, thereby qualifying him as an eligible individual. The letter also explains that the pension is paid by the Republic of Austria and constitutes restitution for harm done to .

In a previous letter, the IRS concluded that the pension payments received by . are Holocaust restitution payments and are therefore not subject to federal income tax. Thus, the nursing care benefits associated with the pension he receives would also qualify as Holocaust restitution payments excludable from income under federal income tax law.

I hope this information is helpful. If you have questions, please call me or
at .

Sincerely,

Michael J. Montemurro
Chief, Branch 4,
Office of Associate Chief Counsel
(Income Tax and Accounting)