

[§ 89. Repealed. Pub. L. 101-140, title II, § 202(a), Nov. 8, 1989, 103 Stat. 830]

Section, added Pub. L. 99-514, title XI, §1151(a), Oct. 22, 1986, 100 Stat. 2494; amended Pub. L. 100-647, title I, §1011B(a)(1)-(9), (21), (28), (29), (34), title III, §3021(a)(1)(A), (B), (2)(A), (3)-(9), (11)-(13)(A), (b)(2)(B), (3), title VI, §6051(a), Nov. 10, 1988, 102 Stat. 3483-3485, 3487, 3488, 3625-3632, 3695, related to nondiscrimination rules regarding benefits provided under employee benefit plans.

EFFECTIVE DATE OF REPEAL

Section 202(c) of Pub. L. 101-140 provided that: "The amendments made by this section [repealing this section] shall take effect as if included in section 1151 of the Tax Reform Act of 1986 [Pub. L. 99-514, see section 1151(k) set out as a note under section 79 of this title]."

NONENFORCEMENT OF SECTION FOR FISCAL YEAR 1990

Pub. L. 101-136, title V, §528, Nov. 3, 1989, 103 Stat. 816, provided that: "No monies appropriated by this Act [see Tables for classification] may be used to implement or enforce section 1151 of the Tax Reform Act of 1986 or the amendments made by such section [section 1151 of Pub. L. 99-514, which enacted section 89 of this title, amended sections 79, 105, 106, 117, 120, 125, 127, 129, 132, 414, 505, 3121, 3306, 6039D, and 6652 of this title and section 409 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note under section 89 of this title]."

TRANSITIONAL PROVISIONS

Section 3021(c) of Pub. L. 100-647 provided for the first issue of valuation rules, the interim impact on former employees, the meeting of the written requirement for covered plans in connection with implementation of section 89 of the Code, and the issuance by Nov. 15, 1988, of rules necessary to carry out section 89, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

PART-TIME EMPLOYEE DEFINED FOR PURPOSES OF SUBSECTION (f)

Section 6070 of Pub. L. 100-647 increased the number of employees who would be excluded from consideration under this section during plan years 1989 and 1990, in the case of a plan maintained by an employer which employs fewer than 10 employees on a normal working day during a plan year, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

§ 90. Illegal Federal irrigation subsidies

(a) General rule

Gross income shall include an amount equal to any illegal Federal irrigation subsidy received by the taxpayer during the taxable year.

(b) Illegal Federal irrigation subsidy

For purposes of this section—

(1) In general

The term "illegal Federal irrigation subsidy" means the excess (if any) of—

- (A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over
- (B) the amount paid for such water.

(2) Federal irrigation water

The term "Federal irrigation water" means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

(c) Denial of deduction

No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a).

(Added Pub. L. 100-203, title X, §10611(a), Dec. 22, 1987, 101 Stat. 1330-451.)

REFERENCES IN TEXT

Section 202 of the Reclamation Reform Act of 1982, referred to in subsec. (b)(2), is classified to section 390bb of Title 43, Public Lands.

EFFECTIVE DATE

Section 10611(c) of Pub. L. 100-203 provided that: "The amendments made by this section [enacting this section] shall apply to water delivered to the taxpayer in months beginning after the date of the enactment of this Act [Dec. 22, 1987]."

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

Sec.	
101.	Certain death payments. ¹
102.	Gifts and inheritances.
103.	Interest on State and local bonds.
[103A.	Repealed.]
104.	Compensation for injuries or sickness.
105.	Amounts received under accident and health plans.
106.	Contributions by employer to accident and health plans.
107.	Rental value of parsonages.
108.	Income from discharge of indebtedness.
109.	Improvements by lessee on lessor's property.
110.	Qualified lessee construction allowances for short-term leases.
111.	Recovery of tax benefit items.
112.	Certain combat zone compensation of members of the Armed Forces.
[113, 114.	Repealed.]
115.	Income of States, municipalities, etc.
[116.	Repealed.]
117.	Qualified scholarships.
118.	Contributions to the capital of a corporation.
119.	Meals or lodging furnished for convenience of employer. ¹
120.	Amounts received under qualified group legal services plans.
121.	Exclusion of gain from sale of principal residence.
122.	Certain reduced uniformed services retirement pay.
123.	Amounts received under insurance contracts for certain living expenses.
[124.	Repealed.]
125.	Cafeteria plans.
126.	Certain cost-sharing payments.
127.	Educational assistance programs.
[128.	Repealed.]
129.	Dependent care assistance programs. ²
130.	Certain personal injury liability assignments.
131.	Certain foster care payments.
132.	Certain fringe benefits.
[133.	Repealed.]
134.	Certain military benefits.
135.	Income from United States savings bonds used to pay higher education tuition and fees.
136.	Energy conservation subsidies provided by public utilities.
137.	Adoption assistance programs.
138.	Medicare Advantage MSA.
139.	Disaster relief payments.

¹ So in original. Does not conform to section catchline.

² Editorially supplied. Section 129 added by Pub. L. 97-34 without corresponding amendment of part analysis.

- 139A. Federal subsidies for prescription drug plans.
 139B. Benefits provided to volunteer firefighters and emergency medical responders.
 139C. COBRA premium assistance.
 140. Cross references to other Acts.

AMENDMENTS

2009—Pub. L. 111-5, div. B, title III, §3001(a)(15)(B), Feb. 17, 2009, 123 Stat. 465, added item 139C.

2007—Pub. L. 110-142, §5(b), Dec. 20, 2007, 121 Stat. 1806, added item 139B.

2004—Pub. L. 108-357, title I, §101(b)(3), Oct. 22, 2004, 118 Stat. 1423, struck out item 114 “Extraterritorial income”.

Pub. L. 108-311, title IV, §408(a)(5)(G), Oct. 4, 2004, 118 Stat. 1191, substituted “Medicare Advantage MSA” for “Medicare+Choice MSA” in item 138.

2003—Pub. L. 108-173, title XII, §1202(c), Dec. 8, 2003, 117 Stat. 2480, added item 139A.

2002—Pub. L. 107-134, title I, §111(b), Jan. 23, 2002, 115 Stat. 2433, added item 139 and redesignated former item 139 as 140.

2000—Pub. L. 106-519, §4(6), Nov. 15, 2000, 114 Stat. 2433, added item 114.

1997—Pub. L. 105-34, title III, §312(d)(14), title XII, §1213(d), Aug. 5, 1997, 111 Stat. 841, 1001, added item 110 and substituted “Exclusion of gain from sale of principal residence” for “One-time exclusion of gain from sale of principal residence by individual who has attained age 55” in item 121.

Pub. L. 105-33, title IV, §4006(b)(3), Aug. 5, 1997, 111 Stat. 334, added items 138 and 139 and struck out former item 138 “Cross reference to other Acts”.

1996—Pub. L. 104-188, title I, §§1602(b)(8), 1704(t)(4)(B), 1807(c)(7), Aug. 20, 1996, 110 Stat. 1834, 1887, 1902, substituted “combat zone compensation” for “combat pay” in item 112, struck out item 133 “Interest on certain loans used to acquire employer securities”, added items 137 and 138, and struck out former item 137 “Cross reference to other Acts”.

1992—Pub. L. 102-486, title XIX, §1912(b), Oct. 24, 1992, 106 Stat. 3016, added items 136 and 137 and struck out former item 136 “Cross references to other Acts”.

1990—Pub. L. 101-508, title XI, §11801(b)(2), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 110 “Income taxes paid by lessee corporation”, item 113 “Mustering-out payments for members of the Armed Forces”, item 114 “Sports programs conducted for the American National Red Cross”, item 124 “Qualified transportation provided by employer”, and item 128 “Interest on certain savings certificates”.

1988—Pub. L. 100-647, title I, §1013(a)(37), title VI, §6009(c)(4), Nov. 10, 1988, 102 Stat. 3544, 3690, substituted “Interest on State and local bonds” for “Interest on certain governmental obligations” in item 103, struck out item 103A “Mortgage subsidy bonds”, added item 135 and redesignated former item 135 “Cross references to other Acts” as item 136.

1986—Pub. L. 99-514, title I, §123(b)(4), title VI, §612(b)(8), title XI, §1168(b), Oct. 22, 1986, 100 Stat. 2113, 2251, 2512, struck out item 116 “Partial exclusion of dividends received by individuals”, substituted in item 117 “Qualified scholarships” for “Scholarships and fellowship grants”, added item 134, and redesignated former item 134 as 135.

1984—Pub. L. 98-369, div. A, title I, §171(b), title V, §§531(a)(2), 543(b), July 18, 1984, 98 Stat. 699, 881, 892, substituted “Recovery of tax benefit items” for “Recovery of bad debts, prior taxes, and delinquency amounts” in item 111, added items 132 (relating to certain fringe benefits) and 133 (relating to interest on certain loans used to acquire employer securities), and redesignated former item 132 (relating to cross references to other Acts) as item 134.

Pub. L. 98-369, div. A, title I, §16(a), July 18, 1984, 98 Stat. 505, repealed an amendment made by Pub. L. 97-34, §302(c). See 1981 Amendment note below.

1983—Pub. L. 97-473, title I, §101(b)(2), Jan. 14, 1983, 96 Stat. 2606, purported to strike out the item relating to section 130, and added items 130 (relating to certain

personal injury liability assignments) and 131 (relating to cross references to other Acts).

Pub. L. 97-473, title I, §102(b), Jan. 14, 1983, 96 Stat. 2607, struck out item 131 (relating to cross references to other Acts) and added items 131 (relating to certain foster care payments) and 132 (relating to cross references to other Acts).

1981—Pub. L. 97-34, title III, §§301(b)(1), 302(c)(1), (d)(1), Aug. 13, 1981, 95 Stat. 270, 272, 274, effective with regard to taxable years beginning after Sept. 30, 1981, redesignated item 128 “Cross References to other Acts” as 129 and added item 128 “Interest on certain savings certificates” and, section 302(c)(1), with regard to taxable years beginning after Dec. 31, 1984, provided that “Partial exclusion of interest” is substituted for “Interest on certain savings certificates” in item 128. Section 16(a) of Pub. L. 98-369, repealed section 302(c) of Pub. L. 97-34, and provided that this title shall be applied and administered as if section 302(c), and the amendments made by section 302(c), had not been enacted.

1980—Pub. L. 96-499, title XI, §1102(b), Dec. 5, 1980, 94 Stat. 2669, added item 103A.

Pub. L. 96-223, title IV, §404(b)(1), Apr. 2, 1980, 94 Stat. 306, inserted “and interest” after “dividends” in item 116.

1978—Pub. L. 95-618, title II, §242(b), Nov. 9, 1978, 92 Stat. 3194, redesignated former item 124 as 125 and added item 124.

Pub. L. 95-600, title I, §§134(b), 164(c), title IV, §404(c)(3), title V, §543(b), Nov. 6, 1978, 92 Stat. 2785, 2814, 2870, 2890, in item 121 substituted “One-time exclusion of gain from sale of principal residence by individual who has attained age 55” for “Gain from sale of exchange of residence of individual who has attained age 65”, redesignated former item 124 as 128, and added items 125 to 127.

1976—Pub. L. 94-455, title XXI, §2134(c), Oct. 4, 1976, 90 Stat. 1928, added item 120.

1969—Pub. L. 91-172, title IX, §901(b), Dec. 30, 1969, 83 Stat. 709, redesignated former item 123 as 124, and added item 123.

1966—Pub. L. 89-365, §1(a)(2), Mar. 8, 1966, 80 Stat. 32, redesignated former item 122 as 123, and added item 122.

1964—Pub. L. 88-272, title II, §206(b)(2), Feb. 26, 1964, 78 Stat. 40, redesignated former item 121 as 122, and added item 121.

1958—Pub. L. 85-866, title I, §3(b), Sept. 2, 1958, 72 Stat. 1607, struck out item 120 “Statutory subsistence allowance received by police”.

NO FEDERAL INCOME TAX ON RESTITUTION RECEIVED BY VICTIMS OF THE NAZI REGIME OR THEIR HEIRS OR ESTATES

Pub. L. 107-16, title VIII, §803, June 7, 2001, 115 Stat. 149, provided that:

“(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any excludable restitution payments received by an eligible individual (or the individual’s heirs or estate) and any excludable interest—

“(1) shall not be included in gross income; and

“(2) shall not be taken into account for purposes of applying any provision of such Code which takes into account excludable income in computing adjusted gross income, including section 86 of such Code (relating to taxation of Social Security benefits).

For purposes of such Code, the basis of any property received by an eligible individual (or the individual’s heirs or estate) as part of an excludable restitution payment shall be the fair market value of such property as of the time of the receipt.

“(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means a person who was persecuted on the basis of race, religion, physical or mental disability, or sexual orientation by Nazi Germany, any other Axis regime, or any other Nazi-controlled or Nazi-allied country.

“(c) EXCLUDABLE RESTITUTION PAYMENT.—For purposes of this section, the term ‘excludable restitution payment’ means any payment or distribution to an individual (or the individual’s heirs or estate) which—