

**(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

Pub. L. 100–203, title X, § 10611(c), Dec. 22, 1987, 101 Stat. 1330–452, 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. <sup>1</sup>
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	Repealed.]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	Repealed.]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	Repealed.]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. <sup>1</sup>
[120.	Repealed.]
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.

<sup>1</sup> So in original. Does not conform to section catchline.

[124.	Repealed.]
125.	Cafeteria plans.
126.	Certain cost-sharing payments.
127.	Educational assistance programs.
[128.	Repealed.]
129.	Dependent care assistance programs. <sup>2</sup>
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.
139A.	Federal subsidies for prescription drug plans.
139B.	Benefits provided to volunteer firefighters and emergency medical responders.
139C.	COBRA premium assistance.
139D.	Indian health care benefits.
139E.	Indian general welfare benefits.
139F.	Certain amounts received by wrongfully incarcerated individuals.
140.	Cross references to other Acts.

## AMENDMENTS

2015—Pub. L. 114–113, div. Q, title III, § 304(b), Dec. 18, 2015, 129 Stat. 3088, added item 139F.

2014—Pub. L. 113–295, div. A, title II, § 221(a)(19)(A), Dec. 19, 2014, 128 Stat. 4039, which directed amendment of part III by striking out item 120 in table of sections for “such subpart”, was executed by striking out item 120 “Amounts received under qualified group legal services plans” in table of sections for this part to reflect the probable intent of Congress.

Pub. L. 113–168, § 2(b), Sept. 26, 2014, 128 Stat. 1884, added item 139E.

2011—Pub. L. 112–10, div. B, title VIII, § 1858(b)(2)(B), Apr. 15, 2011, 125 Stat. 168, struck out item 139D “Free choice vouchers”.

2010—Pub. L. 111–148, title X, § 10108(f)(2), Mar. 23, 2010, 124 Stat. 913, added item 139D relating to free choice vouchers.

Pub. L. 111–148, title IX, § 9021(b), Mar. 23, 2010, 124 Stat. 874, added item 139D relating to Indian health care benefits.

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”.

<sup>2</sup> Editorially supplied. Section 129 added by Pub. L. 97–34 without corresponding amendment of part analysis.

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 individ-

ual 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”.

#### EXCLUSION FROM GROSS INCOME OF CERTAIN CLEAN COAL POWER GRANTS TO NON-CORPORATE TAXPAYERS

Pub. L. 114-113, div. Q, title III, §343, Dec. 18, 2015, 129 Stat. 3114, provided that:

“(a) GENERAL RULE.—In the case of an eligible taxpayer other than a corporation, gross income for purposes of the Internal Revenue Code of 1986 shall not include any amount received under section 402 of the Energy Policy Act of 2005 [42 U.S.C. 15962].

“(b) REDUCTION IN BASIS.—The basis of any property subject to the allowance for depreciation under the Internal Revenue Code of 1986 which is acquired with any amount to which subsection (a) applies during the 12-month period beginning on the day such amount is received shall be reduced by an amount equal to such amount. The excess (if any) of such amount over the amount of the reduction under the preceding sentence shall be applied to the reduction (as of the last day of the period specified in the preceding sentence) of the basis of any other property held by the taxpayer. The particular properties to which the reductions required by this subsection are allocated shall be determined by the Secretary of the Treasury (or the Secretary’s delegate) under regulations similar to the regulations under section 362(c)(2) of such Code.

“(c) LIMITATION TO AMOUNTS WHICH WOULD BE CONTRIBUTIONS TO CAPITAL.—Subsection (a) shall not apply to any amount unless such amount, if received by a corporation, would be excluded from gross income under section 118 of the Internal Revenue Code of 1986.

“(d) ELIGIBLE TAXPAYER.—For purposes of this section, with respect to any amount received under section 402 of the Energy Policy Act of 2005 [42 U.S.C. 15962], the term ‘eligible taxpayer’ means a taxpayer that makes a payment to the Secretary of the Treasury (or the Secretary’s delegate) equal to 1.18 percent of the amount so received. Such payment shall be made at such time and in such manner as such Secretary (or the Secretary’s delegate) shall prescribe. In the case of a partnership, such Secretary (or the Secretary’s delegate) shall prescribe regulations to determine the allocation of such payment amount among the partners.

“(e) EFFECTIVE DATE.—This section shall apply to amounts received under section 402 of the Energy Policy Act of 2005 [42 U.S.C. 15962] in taxable years beginning after December 31, 2011.”

#### 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—

“(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 of America, or any other foreign or domestic entity, or a fund established by any such country or entity, any amount payable as a result of a final resolution of a 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 from, 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) consists of interest which is payable as part of any payment or distribution described in paragraph (1) or (2).

“(d) **EXCLUDABLE INTEREST.**—For purposes of this section, the term ‘excludable interest’ means any interest earned by—

“(1) escrow accounts or settlement funds established pursuant to the settlement of the action entitled ‘In re: Holocaust Victim Assets Litigation,’ (E.D.N.Y.) C.A. No. 96-4849,

“(2) funds to benefit eligible individuals or their heirs created by the International Commission on Holocaust Insurance Claims as a result of the Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany concerning the Foundation ‘Remembrance, Responsibility, and Future,’ dated July 17, 2000, or

“(3) similar funds subject to the administration of the United States courts created to provide excludable restitution payments to eligible individuals (or eligible individuals' heirs or estates).

“(e) **EFFECTIVE DATE.**—

“(1) **IN GENERAL.**—This section shall apply to any amount received on or after January 1, 2000.

“(2) **NO INFERENCE.**—Nothing in this Act [see Tables for classification] shall be construed to create any inference with respect to the proper tax treatment of any amount received before January 1, 2000.”

## § 101. Certain death benefits

### (a) Proceeds of life insurance contracts payable by reason of death

#### (1) General rule

Except as otherwise provided in paragraph (2), subsection (d), subsection (f), and subsection (j), gross income does not include amounts received (whether in a single sum or otherwise) under a life insurance contract, if such amounts are paid by reason of the death of the insured.

#### (2) Transfer for valuable consideration

In the case of a transfer for a valuable consideration, by assignment or otherwise, of a

life insurance contract or any interest therein, the amount excluded from gross income by paragraph (1) shall not exceed an amount equal to the sum of the actual value of such consideration and the premiums and other amounts subsequently paid by the transferee. The preceding sentence shall not apply in the case of such a transfer—

(A) if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor, or

(B) if such transfer is to the insured, to a partner of the insured, to a partnership in which the insured is a partner, or to a corporation in which the insured is a shareholder or officer.

The term “other amounts” in the first sentence of this paragraph includes interest paid or accrued by the transferee on indebtedness with respect to such contract or any interest therein if such interest paid or accrued is not allowable as a deduction by reason of section 264(a)(4).

**(b) Repealed. Pub. L. 104-188, title I, § 1402(a), Aug. 20, 1996, 110 Stat. 1789]**

### (c) Interest

If any amount excluded from gross income by subsection (a) is held under an agreement to pay interest thereon, the interest payments shall be included in gross income.

### (d) Payment of life insurance proceeds at a date later than death

#### (1) General rule

The amounts held by an insurer with respect to any beneficiary shall be prorated (in accordance with such regulations as may be prescribed by the Secretary) over the period or periods with respect to which such payments are to be made. There shall be excluded from the gross income of such beneficiary in the taxable year received any amount determined by such proration. Gross income includes, to the extent not excluded by the preceding sentence, amounts received under agreements to which this subsection applies.

#### (2) Amount held by an insurer

An amount held by an insurer with respect to any beneficiary shall mean an amount to which subsection (a) applies which is—

(A) held by any insurer under an agreement provided for in the life insurance contract, whether as an option or otherwise, to pay such amount on a date or dates later than the death of the insured, and

(B) equal to the value of such agreement to such beneficiary

(i) as of the date of death of the insured (as if any option exercised under the life insurance contract were exercised at such time), and

(ii) as discounted on the basis of the interest rate used by the insurer in calculating payments under the agreement and mortality tables prescribed by the Secretary.