

Social Security

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Emergency Message

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All RCs/ARCs/ADs/FOs/TSCs/PSCs/OCO/ODAR

Originating Office:

ORDP OISP

Title:

How to Treat Inherited Payments to Victims of Nazi Persecution

Type:

EM - Emergency Messages

Program:

Title XVI (SSI)

Link To Reference:

See [References](#) at the end of this EM.

Retention Date: June 16, 2015

A. Purpose

This EM provides background and guidance regarding treatment of inherited reparation payments for Supplemental Security Income (SSI) eligibility and payment-amount purposes. These reparation payments were originally made to individuals because of their status as victims of Nazi persecution.

B. Background

The Victims of Nazi Persecution Act of 1994 (P.L. 103-286) provides that any payments made to individuals because of their status as victims of Nazi persecution must be disregarded in determining eligibility for and the amount of benefits provided under any needs-based federal program. Thus, these payments are excluded from both income and resources for purposes of SSI. The statute does not specifically address the treatment of reparation payments inherited upon the death of the victim of persecution.

This EM provides guidance for treatment of inherited reparation payments for SSI income and resource purposes.

C. Policy for income and resource treatment

1. Definition - Inheritance

The regulation at 20 CFR 416.1121(g) defines an inheritance as something that comes to you

as a result of someone's death. It can be by will or through the action of law (intestate succession) or other means.

2. Which inherited funds does the exclusion apply to?

Exclude from income and resources inherited funds if:

- the funds were inherited from or can be traced back to an individual who received the funds as payments because of his or her status as a victim of Nazi persecution;
- the funds were or would have been excludable under the Victims of Nazi Persecution Act for the original recipient;
- the funds are identifiable as reparation payments; and
- the funds are unspent.

3. To whom does the exclusion of inherited funds apply?

The income and resource exclusions apply to reparation payments inherited by any individual. The individual inheriting the funds does not have to be related to the original recipient, nor does he or she have to inherit the funds directly from the original recipient. The exclusion applies to the funds as long as the SSI claimant or recipient provides evidence that establishes that the criteria in section C.2. of this EM are met.

4. Examples

Example 1 – Intestate succession

An individual who received reparation payments died without a will. His parents and spouse predeceased him, and he had no children. Under State laws of intestate succession, his brother inherits the estate that includes \$5,000 in identifiable reparation payments. Upon submission of appropriate evidence, the excludability of the funds for SSI purposes can apply to the brother.

Example 2- Series of inheritances by will

The original recipient of reparation payments from the German government died and left \$10,000 of his conserved reparation payments to his wife in his will. When his wife died, she left the remaining \$6,000 of conserved reparation payments to their daughter, who is an SSI recipient. Upon submission of appropriate evidence, the income and resource exclusions can apply to the funds inherited by the daughter.

Example 3 – Inherited funds are not identifiable

An individual alleges that he received an inheritance from his father that included \$8,000 of Nazi reparation payments paid to his grandfather and inherited by his father. He establishes that his grandfather received payment because of his status as a victim of Nazi persecution. However, his father had commingled the payments with regular funds in his savings account, of which other money had passed in and out for 20 years. The individual is unable to establish that the funds are identifiable as reparation payments. The \$8,000 is income to the individual in the month of receipt and any funds unspent count as resource the following month.

5. Exclusion of interest

Exclude from income any interest earned on funds subject to exclusion as payments to a victim of Nazi persecution. For more information on how to exclude interest income, see [SI 00830.500](#).

D. Procedure

If an individual alleges that he or she inherited funds that include reparation payments originally made to a victim of Nazi persecution:

1. Ask the individual to provide evidence:

- of the inheritance, such as a copy of the will or other notice; and
- that identifies the inherited funds as payments to a victim of Nazi persecution.

2. Develop the amount and excludability of the payments for the original recipient under the appropriate POMS section pertaining to the type of payment. See SI 00830.710 for instructions on the different payment programs. Develop evidence per the appropriate POMS instruction. Since you cannot obtain a statement from the original recipient, use any available evidence or statements from individuals who have knowledge of the payments. If the payments would have been excluded as payments to a victim of Nazi persecution, go to section D.3. in this EM. If not, count the inherited funds as income in the month of receipt and count as a resource any unspent funds the following month.

Example – An SSI recipient inherited a bank account containing \$30,000 from her father, whom she alleges was a victim of Nazi persecution. She provides a copy of her father's will, which states that the bank account contains his pension payments from the German government. She also provides a copy of a letter from the German government indicating the monthly payment amount and that the payments include pension credits received for the period he was subjected to persecution. Exclude the inherited funds from the SSI recipient's income and resources.

3. Obtain the applicant/recipient's statement either signed or recorded on a DROC as to the date(s) and amount(s) of any inherited funds corresponding to the payments originally made to the victim of Nazi persecution. Exclude the identifiable, unspent payments from the determination of countable income and resources.
4. Reopen and revise prior incorrect determinations affected by these instructions, subject to the rules of administrative finality.

E. Reference

[SI 00830.005](#) General Rules for Developing Unearned Income

[SI 00830.105](#) Payments in Foreign Currency

[SI 00830.500](#) Dividends and Interest

[SI 00830.550](#) Inheritances

[SI 00830.710](#) Payments to Victims of Nazi Persecution

[SI 01130.610](#) Payments to Victims of Nazi Persecution

[SI 01130.700](#) Identifying Excluded Funds That Have Been Commingled With Nonexcluded Funds

[SI 04070.010](#) Title XVI Administrative Finality – General Reopening Policies

[SM 01305.200](#) Unearned Income and Exclusions (UM)

Direct all program–related and technical questions to your RO support staff or PSC OA staff. RO support staff or PSC OA staff may refer questions or problems to their Central Office.