

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-89 (3) I  
Income Tax  
March 10, 1989

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. I890105A

On January 5, 1989, a Petition for Advisory Opinion was received from William Kochiyama and Mary Yuriko Kochiyama, 545 West 126th Street, Apartment 3B, New York, New York 10027

The issue raised is whether restitution to Petitioners under the Civil Liberties Act of 1988, Public Law 100-383, will be subject to New York State personal income tax and New York City personal income tax on residents.

The Civil Liberties Act of 1988 was signed into law on August 10, 1988. The purpose of the Act is to acknowledge and apologize for the fundamental violations of basic civil liberties and constitutional rights of individuals of Japanese ancestry during World War II, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Under Section 104(c) of the Act, the United States Attorney General is authorized to make restitution in the amount of \$20,000 to eligible individuals. Both Petitioners are eligible for restitution pursuant to the Act.

Section 105 (f) of the Civil Liberties Act states that: "Amounts paid to an eligible individual under this section (1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering;...

Section 612 of the Tax Law states that: "[t]he New York adjusted gross income of a resident individual means his federal adjusted gross income as defined in the laws of the United States for the taxable year, with the modifications specified in this section."

The modifications contained in Section 612 require various additions to and subtractions from federal adjusted gross income in arriving at New York adjusted gross income. None of the modifications contained in section 612 of the Tax Law pertain to the payments here at issue.

Accordingly, if Petitioners are not required to include amounts received under the Civil Liberties Act in their federal adjusted gross income, such amounts would not be included in their New York adjusted gross income or New York taxable income and would, therefore, not be subject to New York State personal income tax.

Section 1303 of the Tax Law states that: "[t]he city taxable income of a city resident individual shall mean and be the same as his New York taxable income as defined in section six hundred eleven of this chapter."

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Accordingly, if payments received under the Act are not included in their New York taxable income, then such amounts would not be included in their New York City taxable income. Thus, the payments would not be subject to New York City personal income tax.

DATED: March 10, 1989

s/FRANK J. PUCCIA  
Director  
Technical Services

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth therein.