

reduced the rate of withholding tax otherwise applicable to a particular type of fixed or determinable annual or periodical income subject to withholding under section 1441 or 1442, such as dividends, interest, rents, or royalties to the extent such income is beneficially owned by an individual or a State (including a political subdivision or local authority);

* * * * *

(d) * * *

(4) * * *

(v) The provision(s) of the limitation on benefits article (if any) in the treaty that the taxpayer relies upon to meet the requirements of that article and a statement of the relevant facts in support of the taxpayer's claim.

* * * * *

Par. 50. Section 301.6402-3 is amended as follows:

1. Paragraph (e) is revised as set forth below.

2. Removing the OMB parenthetical and the authority citation at the end of the section.

§ 301.6402-3 Special rules applicable to income tax.

* * * * *

(e) In the case of a nonresident alien individual or foreign corporation, the appropriate income tax return on which the claim for refund or credit is made must contain the tax identification number of the taxpayer required pursuant to section 6109 and the entire amount of income of the taxpayer subject to tax, even if the tax liability for that income was fully satisfied at source through withholding under chapter 3 of the Internal Revenue Code. Also, if the overpayment of tax resulted from the withholding of tax at source under chapter 3 of the Internal Revenue Code, a copy of the Form 1042-S required to be provided to the beneficial owner pursuant to § 1.1461-1(c)(1)(i) of this chapter must be attached to the return. For purposes of claiming a refund, the Form 1042-S must include the taxpayer identifying number of the beneficial owner even if not otherwise required. No claim of refund or credit under chapter 65 may be made by the taxpayer for any amount that the withholding agent has repaid to the taxpayer pursuant to § 1.1461-2(a)(2) of this chapter or that was subject to a set-off pursuant to § 1.1461-2(a)(3) of this chapter. Upon request, a taxpayer must also submit such documentation as the Commissioner (or delegate), the District Director, or the Assistant Commissioner (International), may require establishing that the taxpayer is the beneficial owner of the income for which a claim of refund or credit is being made.

PART 502—[REMOVED]

Par. 51. Part 502 is removed.

PART 503—[REMOVED]

Par. 52. Part 503 is removed.

PART 509—[AMENDED]

Par. 53. The authority citation for part 509 is revised and the authority citation for "Subpart—General Income Tax" is removed, to read as follows:

Authority: 26 U.S.C. 62, 3791 and 7805.

Par. 54. Part 509 is amended as follows:

1. Subpart—Withholding of Tax consisting of §§ 509.1 through 509.10 is removed.

2. In § 509.103, paragraph (e) is removed and reserved.

3. In § 509.117, paragraph (a) is removed and reserved.

4. Sections 509.119 and 509.122 are removed.

PART 513—[AMENDED]

Par. 55. The authority citation for part 513 is revised to read as follows:

Authority: 26 U.S.C. 62.

Par. 56. Part 513 is amended as follows:

1. Section 513.1 is removed.

2. Section 513.2 is amended as follows:

a. Paragraphs (a)(1) and (a)(2) are removed and reserved.

b. Paragraph (a)(4) is removed.

c. Paragraph (b) is removed and reserved.

d. Paragraphs (c) and (d) are removed.

3. Section 513.3 is amended as follows:

a. Paragraph (a)(1) is removed and reserved.

b. Paragraphs (b) and (c) are removed.

4. Section 513.4 is amended as follows:

a. Paragraph (a) is removed and reserved.

b. Paragraphs (c) and (d) are removed.

5. Section 513.5 is amended as follows:

a. Paragraph (a) is removed and reserved.

b. Paragraphs (c) and (d) are removed.

PART 514—[AMENDED]

Par. 57. The authority citation for part 514 is revised to read as follows:

Authority: 26 U.S.C. 7805.

Par. 58. Part 514 is amended as follows:

1. The undesignated centerheading preceding § 514.1 and §§ 514.1 through 514.10 are removed.

2. Sections 514.20 through 514.21 are removed.

3. In § 514.22, paragraph (c) is removed.

4. Sections 514.23 through 514.32 are removed.

5. Sections 514.101 through 514.117 are removed.

PART 516—[REMOVED]

Par. 59. Part 516 is removed.

PART 517—[REMOVED]

Par. 60. Part 517 is removed.

PART 520—[REMOVED]

Par. 61. Part 520 is removed.

PART 521—[AMENDED]

Par. 62. The authority citation for part 521 is revised to read as follows:

Authority: 26 U.S.C. 62, 143, 144, 211, and 231.

Par. 63. Part 521 is amended as follows:

1. Subpart—Withholding of Tax consisting of §§ 521.1 through 521.8 is removed.

2. In § 521.103, paragraph (d) is removed and reserved.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96-8936 Filed 4-15-96; 10:14 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 74

[Order No. 2017-96]

Redress Provisions for Persons of Japanese Ancestry

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice hereby proposes a change to the regulations governing redress provisions for persons of Japanese ancestry. This change will amend the standards of the Civil Liberties Act of 1988 to make eligible for payments of \$20,000 those persons who were born after their parents "voluntarily" evacuated from the prohibited military zones of the West Coast of the United States as a result of military proclamations issued pursuant to Executive Order 9066. This change will also make eligible for redress those persons who were born outside the prohibited military zones in the United States after their parents were released from internment camps during the defined war period and

whose parents had resided in the prohibited military zones on the West Coast immediately prior to their internment. In practice, this amendment will make potentially eligible those persons who were born after their parents were evacuated, relocated, or interned by the United States Government, and who could not legally return to their parents' original place of residence within the prohibited military zones on the West Coast.

DATES: Comments must be submitted on or before June 6, 1996.

ADDRESSES: Comments may be mailed to the Office of Redress Administration, P.O. Box 66260, Washington, DC 20035-6260.

FOR FURTHER INFORMATION CONTACT: Tink D. Cooper or Emlei M. Kuboyama, Office of Redress Administration, Civil Rights Division, U.S. Department of Justice, P.O. Box 66260, Washington, DC 20035-6260; (202) 219-6900 (voice) or (202) 219-4710 (TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

The Civil Liberties Act of 1988, Pub. L. No. 100-383 (codified at 50 U.S.C. app. 1989 *et. seq.*, as amended) ("the Act"), enacted into law the recommendations of the Commission on Wartime Relocation and Internment of Civilians established by Congress in 1980. See Commission on Wartime Relocation and Internment of Civilians Act, Pub. L. No. 96-317 (1980). This bipartisan commission was established: (1) To review the facts and circumstances surrounding Executive Order 9066, issued February 19, 1942, and the impact of that Executive order on American citizens and permanent resident aliens of Japanese ancestry; (2) to review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of these American citizens and permanent resident aliens; and (3) to recommend appropriate remedies. The Commission submitted to Congress in February 1983 a unanimous report, *Personal Justice Denied*, which extensively reviewed the history and circumstances of the decisions to exclude, remove, and then to detain Japanese-Americans and Japanese resident aliens from the West Coast, as well as the treatment of Aleuts during World War II. The final part of the Commission's report, *Personal Justice Denied Part 2: Recommendations*, concluded that these events were influenced by racial prejudice, war hysteria, and a failure of political leadership, and recommended remedial

action to be taken by Congress and the President.

On August 10, 1988, President Ronald Reagan signed the Civil Liberties Act of 1988 into law. The purposes of the Act were to acknowledge and apologize for the fundamental injustice of the evacuation, relocation, and internment of Japanese-Americans and permanent resident aliens of Japanese ancestry, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Section 105 of the Act makes the Attorney General responsible for identifying, locating, and authorizing payment of redress to eligible individuals. 50 U.S.C. app. 1989b-4. The Attorney General delegated these responsibilities and duties assigned to her to the Assistant Attorney General for Civil Rights, who, in keeping with precedent, has designated the Office of Redress Administration ("ORA") in the Civil Rights Division to carry out the responsibilities and duties mandated by the Act.

The ORA is charged with identifying and locating persons eligible under the Act. To date, restitution has been paid to a total of 79,832 Japanese-Americans and permanent resident aliens of Japanese ancestry.

In the preamble of the final regulation, the Civil Rights Division stated that "while children born in assembly centers, relocations [sic] camps and internment camps are included as eligible for compensation, the regulations do not include as eligible children born after their parents had voluntarily relocated from prohibited military zones or from assembly centers, relocation camps, or internment camps." 54 Fed. Reg. 34160 (1989). A number of these persons asserted claims for redress based on their parents' evacuation or internment by the United States Government prior to their birth and their subsequent inability to legally return to their parents' original place of residence in the prohibited military zones on the West Coast. However, based on section 108 of the Act and 28 CFR 74.4, ORA found these persons ineligible for redress. In all, approximately 900 persons who were born after their parents "voluntarily" evacuated from the prohibited military zones or after their parents were released from internment camps claimed compensation under the Act. Most of these claimants were born prior to midnight on January 2, 1945, the effective date of Proclamation No. 21, which rescinded the prohibited military zones on the West Coast and lifted the

general exclusion restrictions on persons of Japanese ancestry. ORA's denial of redress to these claimants was upheld during the administrative appeal process set forth in 28 CFR 74.17 and in some decisions of the U.S. Court of Federal Claims. See *Ishida v. United States*, 31 Fed. Cl. 280 (1994); *Tanihara v. United States*, 32 Fed. Cl. 805 (1995). However, the United States Court of Appeals for the Federal Circuit recently determined that ORA's policy of denying such claims was inconsistent with the terms of the Act. *Ishida v. United States*, 59 F.3d 1224 (Fed. Cir. 1995); *Consolo v. U.S.*, No. 94-5150 (Fed. Cir., July 10, 1995) (unpubl.).

II. Revised Interpretation

In order to conform to these recent decisions, the Civil Rights Division proposes to revise its interpretation regarding the eligibility for redress of persons who either were born after their parents "voluntarily" evacuated from the prohibited military zones on the West Coast or who were born after a parent had been evacuated from the prohibited military zones on the West Coast and interned. Specifically, the regulation would reverse the Civil Rights Division's current policy of denying redress to such persons who were prevented by law from returning to a parent's original place of residence in the prohibited military zones on the West Coast, and who are otherwise eligible under these regulations.

The appellant in *Ishida* was born on November 23, 1942, in Ohio, after his parents had voluntarily evacuated from California in March 1942. His claim of deprivation was based on his inability to return to California during World War II. The Department's determination of ineligibility was affirmed by the U.S. Court of Federal Claims. However, as mentioned above, on July 6, 1995, the U.S. Court of Appeals for the Federal Circuit reversed, holding that persons such as *Ishida*, who were excluded by law "from the parents' original place of residence or the family home" in a prohibited military zone were deprived of liberty as a result of the laws and orders specified in the Act and were eligible to receive compensation under the Act. In the companion case, *Consolo*, the court affirmed the trial court, holding that for the reasons set forth in *Ishida*, the appellee, who was born in Utah on April 11, 1943, after her parents had voluntarily evacuated from California in March 1942, was also eligible to receive redress under the Act.

The Civil Rights Division proposes that it be guided by certain principles in applying the modified standard discussed above. First, the Civil Rights

Division proposes to apply the standard not only to persons similarly situated to the plaintiffs in *Ishida* and *Consolo*, who were born after their parents "voluntarily" evacuated the prohibited military zones on the West Coast pursuant to military proclamations, but also to persons who were born after their parents had been evacuated from the prohibited military zones on the West Coast and interned. These latter persons, who were born outside of the prohibited military zones after their parents were released from internment camps, also could not return to their parents' original places of residence in the prohibited military zones on the West Coast. Because, consistent with the Federal Circuit's reasoning, persons in this category can also be deemed to have been deprived of liberty, based solely on their Japanese ancestry, as a result of certain Federal Government actions, the Civil Rights Division proposes to make redress available to them. Accordingly, redress will be made available to persons born outside of the prohibited military zones after their parents were interned where at least one parent's original place of residence immediately prior to his or her internment was in the prohibited military zones of the West Coast. However, this change will not affect those persons born outside of the prohibited military zones after their parents were released from internment camps during the defined war period where such parents had resided outside of the prohibited military zones on the West Coast immediately prior to their internment.

Second, the Civil Rights Division proposes to limit eligibility under this policy to claimants born prior to January 3, 1945, the effective date of Proclamation No. 21 (midnight on January 2, 1945). Proclamation No. 21 lifted the general restrictions that had prevented persons of Japanese ancestry from returning to their original places of residence in the prohibited military zones on the West Coast. Accordingly, persons born on or after January 3, 1945, could legally return to their parents' original residence on the West Coast.

Historical evidence indicates that persons of Japanese ancestry were, in fact, allowed to return to the West Coast without any restrictions as early as December 17, 1944, the date on which Proclamation No. 21 was issued and the War Department publicly announced the lifting of the general exclusion orders. In addition, on December 18, 1944, the Secretary of the Interior issued a press release stating that the blanket exclusion orders for persons of Japanese ancestry on the Pacific Coast were revoked. Moreover, War Relocation

Authority ("WRA") records indicate that 26 people of Japanese ancestry left WRA internment camps and returned to California between December 17, 1944 and January 3, 1945. However, because the proclamation might not have been fully implemented or fully publicized at the time of its issuance, ORA will not use the earlier date of issuance but will use the effective date of Proclamation No. 21.

Third, the West Coast is defined as those geographic areas in the State of California, the western portions of Washington and Oregon, and the southern portion of Arizona, where persons of Japanese ancestry were initially required to reside and later barred from entering, pursuant to several proclamations. Proclamation No. 4 prohibited persons of Japanese ancestry from leaving parts of the West Coast while the United States Government was preparing to forcibly evacuate them. Subsequent proclamations were issued to exclude those of Japanese ancestry from these defined West Coast areas. For example, persons of Japanese ancestry were excluded from Military Area No. 1 pursuant to Proclamation No. 7, dated June 8, 1942, and excluded from the California portion of Military Area No. 2 pursuant to Proclamation No. 11, dated August 18, 1942.

III. Regulatory Impact Analysis

The Attorney General has determined that this proposed rule is not a significant regulatory action under Executive Order No. 12866, and accordingly this proposed rule has not been reviewed by the Office of Management and Budget.

List of Subjects in 28 CFR Part 74

Administrative practice and procedure, Aliens, Archives and records, Citizenship and naturalization, Civil rights, Indemnity payments, Minority groups, Nationality, War claims.

For the reasons set forth in the preamble and by the authority vested in me, including 28 U.S.C. 509 and 510, chapter I of title 28 of the Code of Federal Regulations is proposed to be amended by revising part 74 to read as follows:

PART 74—CIVIL LIBERTIES ACT REDRESS PROVISION

1. The authority citation for Part 74 continues to read as follows:

Authority: 50 U.S.C. app. 1989b.

2. In Subpart B, section 74.3 is amended by adding paragraph (b)(9) to read as follows:

Subpart B—Standards of Eligibility

§ 74.3 Eligibility determinations.

(a) * * *

(b) * * *

(9) Individuals born after a parent had been evacuated, relocated, or interned pursuant to paragraph (a)(4) of this section, and whose parent's or parents' original place of residence was in the prohibited military zones on the West Coast on or after March 2, 1942, and who could not legally return to their parent's or parents' original place of residence in the prohibited military zones on the West Coast prior to January 3, 1945. This also includes those individuals who were born after a parent had "voluntarily" evacuated pursuant to paragraph (b)(3), and whose parent's or parents' original place of residence was in the prohibited military zones on the West Coast immediately prior to their evacuation, and who could not legally return to their parent's or parents' original place of residence in the prohibited military zones on the West Coast prior to January 3, 1945.

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Dated: April 9, 1996.

Janet Reno,

Attorney General.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH96-1; FRL-5462-1]

Proposed Approval and Promulgation of Revisions to the New Source Review State Implementation Plan; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to conditionally approve a requested State Implementation Plan (SIP) revision submitted by the State of Ohio for the purpose of meeting requirements of the Clean Air Act, as amended in 1990 (CAA) with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS). The requested revision was submitted by the State to satisfy certain Federal requirements for an approvable nonattainment new source review SIP. This proposed conditional approval is based upon the State's agreeing with two USEPA interpretations of the Ohio rules and a commitment by the State to remedy the omission of a definition for