

H.R. 442 -- QUESTIONS AND ANSWERS

The following are a series of common questions and answers which have been raised relative to the content of H.R. 442.

1. WHO IS ELIGIBLE TO RECEIVE INDIVIDUAL MONETARY PAYMENT FROM THE U.S. GOVERNMENT?

An eligible individual is a person of Japanese ancestry who was living at the time of the bill's enactment (August 10, 1988) and "...who, during the evacuation, relocation, and internment period

a. was a "United States citizen or a permanent resident alien; and

b. (1) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of

(a) Executive Order 9066 dated February 19, 1942;

(b) the act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942; or

(c) any other Executive Order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(2) was enrolled on the records of the United States government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone. These eligible individuals are often labeled "voluntary evacuees" because they left the West Coast after the mandatory military orders of removal and incarceration, but prior to the establishment of concentration camps.

Persons born in the camps are also eligible for the \$20,000 individual compensation.

2. IN THE ANSWER ABOVE, IT SAYS THAT "VOLUNTARY EVACUEES" ARE ELIGIBLE FOR MONETARY COMPENSATION. WHAT ARE SOME SPECIFIC EXAMPLES OF PERSONS THAT BECAME "VOLUNTARY EVACUEES"?

Voluntary evacuees include those Japanese Americans who, prior to the issuance of Executive Order 9066, were ordered by the Navy to leave Bainbridge Island, off the coast of the State of Washington, and Terminal Island, near San Pedro, California. In addition, some 4,889 Japanese Americans left the West Coast during the voluntary phase of the government's evacuation program between the issuance of Public Proclamation No. 1, on March 2, 1942 and Public Proclamation No. 4 on March 27, 1942. These evacuees were required to file a "Change of Residence" cards with the Wartime Civil Control Administration and such cards were tabulated following the mandatory removal and internment of the West Coast Japanese American population. (This "Change of Residence" card will constitute being "enrolled on the records of the U.S. Government.")

3. WHICH PERSONS ARE EXCLUDED FROM ELIGIBILITY (FOR THE \$20,000 INDIVIDUAL MONETARY COMPENSATION)?

The bill excludes from eligibility, "...individuals who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country".

4. WHAT HAPPENS TO THE \$20,000 IF THE ELIGIBLE PERSON PASSES AWAY BEFORE INDIVIDUAL PAYMENT IS MADE?

Included in this bill are vesting rights (rights involving heirs). Before these vesting rights apply, the individual had to be eligible for payment and had to be alive at the time the bill became law (August 10, 1988).

If an eligible person passes away before receiving payment, the monetary compensation "...shall be made only as follows:

- a. If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse. (Note: "the 'spouse' of an eligible individual means a wife or husband...who is married to that eligible individual for at least one year immediately before the death of the eligible individual")
- b. If there is no surviving spouse described in clause (a), such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment. (Note: "a 'child' of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and an adopted child".)
- c. If there is no surviving spouse described in clause (a) and if there are no children described in clause (b), such payment shall be made in equal shares to the parents of the eligible individual who are living at the time of payment. (Note: "a 'parent' of an eligible individual includes fathers and mothers through adoption.")

5. WHAT HAPPENS TO THE MONEY IF THE DECEASED ELIGIBLE PERSON DOES NOT HAVE ANY RELATIVES, AS SPECIFIED IN QUESTION 4?

The money will remain in the Civil Liberties Public Education Fund, where it can be used "to sponsor research and public educational activities, and to publish and distribute the hearings, findings, and recommendations of the Commission...(and where it can be used for)...reasonable administrative expenses of the Fund Board."

6. WHAT IS THE TOTAL APPROPRIATION FOR "REDRESS" TO UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS?

A total of \$1,250,000,000 is to be appropriated to the Fund. The appropriated funds may be expended over a period of not more than ten (10) years, beginning with the date that H.R. 442 became law (August 10, 1988).

No more than \$500,000,000 may be appropriated in any one fiscal year, beginning in fiscal year 1990 (October 1, 1989).

7. HOW WILL "REDRESS" MONIES BE ADMINISTERED?

The U. S. Government will establish "...in the Treasury of the United States the Civil Liberties Public Education Fund, which shall be administered by the Secretary of the Treasury.

...Amounts in the Fund shall be available only for disbursement by the Attorney General (to locate and to pay eligible individuals)...and by the (Civil Liberties Public Education Fund) Board" ("to sponsor research and public educational activities").

8. SINCE NO MORE THAN \$500,000,000 MAY BE APPROPRIATED IN ANY ONE FISCAL YEAR, WHO WILL RECEIVE PAYMENTS FIRST?

The Attorney General will "...endeavor to make payments...in the order of date of birth (with the oldest individual on the date of the enactment of this Act (or, if applicable, that individual's survivors...) receiving full payment first), until all eligible individuals have received payment in full."

9. WHAT HAPPENS TO THE MONEY IF AN INDIVIDUAL REFUSES TO ACCEPT THEIR \$20,000 PAYMENT?

The money will remain in the Civil Liberties Public Education Fund if an eligible individual refuses "in a written document filed with the Attorney General, to accept any payment under this ("Restitution") section...and no payment may be made under this section to such individual at any time after such refusal."

10. WHEN WILL THE FIRST PAYMENTS BE MADE?

At the earliest, payments can begin during fiscal year 1990 -- which covers the period of October 1, 1989 through September 30, 1990. First payment will probably begin during the earlier portion of this period.

11. WHO IS RESPONSIBLE FOR LOCATING ALL THE ELIGIBLE INDIVIDUALS?

The Act stipulates that "the Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the United States government, each eligible individual."

Furthermore, the Act specifies that the Attorney General must "...attempt to complete such identification and location within 12 months after the date of the enactment of this Act."

12. HOW WILL THE U.S. ATTORNEY GENERAL LOCATE ALL THE ELIGIBLE INDIVIDUALS TO OFFER \$20,000 TO EACH?

To date, the Attorney General's (AG) process for locating eligible individuals has not been established. In a telephone conversation to the Justice Department on August 17, 1988, a representative said she anticipated that once this process is formulated, the AG's Office will conduct a major "public awareness campaign" and will do a lot of outreach. She said that people will probably be informed (of what to do) through multiple media sources and through various other forms of contact.

Because AG contact person(s) and office have not yet been established, the AG representative suggested that eligible persons wait until they receive information about what to do. This information will come out in the newspapers, and other sources.

13. THE ACT SAYS THAT ELIGIBLE INDIVIDUALS MAY SUBMIT THEIR NAME, ADDRESS, AND DOCUMENTATION (PROOF OF ELIGIBILITY) TO THE ATTORNEY GENERAL. IF I OPT TO DO THIS, WHAT PROCEDURE SHOULD I FOLLOW?

If you would like to receive verification of your incarceration -- or verification that you were a "voluntary evacuee" (who has a "change of Residence" card on record), write to the following:

Judicial, Fiscal and Social Branch
Civil Archives Division
National Archives
Weshington, D.C. 20408

Telephone: (202) 523-3119

When you write to the National Archives, provide the following information:

- NAME: Include all names that you or your family used while in the camps. Include nicknames, maiden names, and all of the various names you may have used. If you were a child, include names of parents/guardians. Include any other information that would help them identify you.
- DATE OF BIRTH
- NAME OF CAMP(S) YOU WERE IN
- ADDRESS you used before you moved (evacuated) and the address you moved to (this information is needed if you were a "voluntary evacuee")

Once you receive verification, KEEP THE VERIFICATION SHEET UNTIL YOU RECEIVE FURTHER INFORMATION ABOUT WHERE TO SEND THE DOCUMENTATION. Again, the AG will issue instructions in the future. It is not mandatory that you get this verification and submit it, but the AG will gladly receive it.

14. AFTER THE ATTORNEY GENERAL VERIFIES MY ELIGIBILITY FOR PAYMENT, WHAT NOTICE WILL I RECEIVE?

According to the mandates in the Act, "The Attorney General shall, when funds are appropriated to the Fund for payments to an eligible individual under this section, notify that eligible individual in writing of his or her eligibility for payment under this section. Such notice shall inform the eligible individual that:

- a. acceptance of payment under this section shall be in full satisfaction of all claims against the United States arising out of acts described in Answer 1 above, and
- b. each eligible individual who does not refuse, in the manner described in Answer 8 above, to accept payment under this section within 18 months after receiving such written notice shall be deemed to have accepted payment for purposes of (extinguishment of claims against the U.S. government, described in Question 15 below..."

15. IF I ACCEPT PAYMENT, WHAT IMPLICATIONS DOES THAT HAVE IN TERMS OF FUTURE DAMAGES I MIGHT SEEK BECAUSE OF THE INCARCERATION?

When you accept the \$20,000 individual payment under this Act, you will be agreeing that the payment is "in full satisfaction of all claims against the United States arising out of acts (addressed in Answer 1, above)." Furthermore, if you do not refuse the payment within eighteen (18) months (as described in Answer 11, above), you will also have accepted the payment as "full satisfaction of all claims against the United States arising out of the acts..."

16. WHICH "ELIGIBLE INDIVIDUALS" ARE EXCLUDED FROM PAYMENT UNDER THIS ACT?

The following provision is included in the Act: "No payment may be made under this section to any individual who, after September 1, 1987, accepts payment pursuant to an award of a final judgment or a settlement on a claim against the United States for acts described in (Answer 1, above), or to any surviving spouse, child, or parent of such individual..."

17. APPROXIMATELY HOW MANY WILL BE ELIGIBLE TO RECEIVE THE \$20,000 INDIVIDUAL MONETARY COMPENSATION?

It has been estimated that approximately one half of the "evacuees" and "incarcerated individuals" were still alive at the time the bill was signed into law. Therefore, approximately 60,000 persons were eligible for this payment.

18. ONCE PAYMENT IS RECEIVED, HOW WILL THE COMPENSATION BE TREATED UNDER FEDERAL LAWS?

To clarify how the funds will be treated, the following is included in the Act: "Amounts paid to an eligible individual under this section --

- a. shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and
- b. shall not be included as income or resources for purposes of determining eligibility to receive benefits described in Section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits."

(Note: The \$20,000 will not be subject to federal income taxation, nor will the receipt of these monies affect eligibility for federal public assistance programs.)

19. ONCE PAYMENT IS RECEIVED, HOW WILL THE COMPENSATION BE TREATED UNDER STATE LAWS?

In California, Assembly Bill 4087, authored by Assemblyman Patrick Johnston, was enacted on August 22, 1988. This bill exempts the \$20,000 payment from state income taxes, and declares that the receipt of such monies shall not affect an individual's eligibility for Medi-Cal benefits or any other state public assistance program.

How states will treat the "redress" payment will vary from state to state. Some states will pass laws to treat the payment in the same way as the federal government. Others may pass variations of this, or may not pass any laws at all.

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Judicial, Fiscal, and Social Branch (NNFJ-F)
Civil Archives Division
National Archives and Records Service (GSA)
Washington, D.C. 20408

Please send a verification of the dates of internment and release during the evacuation of Japanese-Americans during World War II of:

_____ (Name) _____ 古川 経所 (Date of Birth)

_____ (Maiden name, or other name used at the time)

When evacuated, the person named above lived in _____ and was sent to ハルマシヤ Assembly Center; was transferred later to 2度目ハルマシヤ Relocation Center.

Signature 現 経所
Address _____

This form may be used to request verification of internment.
A separate request should be submitted for each person interned.
Persons who have received verification of internment dates from the Judicial, Fiscal, and Social Branch need not send in this form letter to make a second request.

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