

Transfer of property restituted after being unlawfully expropriated

If an immovable has been transferred into the ownership of the taxpayer through return of unlawfully expropriated property and an essential part of the immovable or the object of an apartment ownership or of a right of superficies in an apartment is a **dwelling** (for example, a residential building returned as a movable, which is later registered and sold as an immovable), then the income from the transfer of such immovable is not subject to income tax.

This tax incentive does not apply to the transfer of business premises (such as offices, shops or production facilities) even if they were obtained by way of return.

If a person has been restituted a plot of land larger than the part of the right of claim, then the income from the sale of this plot of land is also exempt from tax.

However, gains from the transfer of standing crop of the restituted forest land **is taxed with income tax**.

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THE PROPERTY IS INHERITED

In the case of inheritance, it is legal succession arising from the law and the tax exemption can be used by the person who transfers the land for the **first time**. If the owner of the property restituted after being unlawfully expropriated bequeaths the property to a successor and the successor transfers it, he or she does not have to pay income tax on the gains received.

THE PROPERTY IS RECEIVED AS A GIFT

Gifting is a transfer transaction and the tax exemption cannot be used upon transfer of property, which has been restituted after being unlawfully expropriated and received as a gift. If the owner of property restituted after being unlawfully expropriated gives this property as a gift and the recipient of the gift sells it, then he or she must pay income tax on the gain received.

THE PROPERTY IS RECEIVED AS A LEGACY

If the property restituted after being unlawfully expropriated has been obtained by a contract for the transfer of a legacy, it is deemed to be the first transfer transaction. If the legatee transfers the property, he or she must pay income tax on the gains received.

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