

110TH CONGRESS
1ST SESSION

S. 2421

To amend the Internal Revenue Code of 1986 to provide tax benefits to individuals who have been wrongfully incarcerated.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2007

Mr. SCHUMER (for himself and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax benefits to individuals who have been wrongfully incarcerated.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wrongful Convictions
5 Tax Relief Act of 2007”.

6 **SEC. 2. EXCLUSION FOR WRONGFULLY INCARCERATED IN-**
7 **DIVIDUALS.**

8 (a) IN GENERAL.—Part III of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 is amended
10 by inserting after section 139A the following new section:

1 **“SEC. 139B. CERTAIN AMOUNTS RECEIVED BY WRONG-**
2 **FULLY INCARCERATED INDIVIDUALS.**

3 “(a) **EXCLUSION FROM GROSS INCOME.**—Gross in-
4 come shall not include—

5 “(1) in the case of any wrongfully incarcerated
6 individual, any civil damages, restitution, or other
7 monetary award (including compensatory or statu-
8 tory damages and restitution imposed in a criminal
9 matter) relating to the incarceration of such indi-
10 vidual for the covered offense for which such indi-
11 vidual was convicted, and

12 “(2) in the case of a qualified wrongfully incar-
13 cerated individual, the first \$50,000 (\$75,000 in the
14 case of a joint return) of income received by such in-
15 dividual in any taxable year beginning after Decem-
16 ber 31, 2007.

17 “(b) **LIMITATION RELATING TO INCOME EXCLU-**
18 **SION.**—

19 “(1) **IN GENERAL.**—The exclusion under sub-
20 section (a)(2) shall not apply to any qualified wrong-
21 fully incarcerated individual in any taxable year if
22 an exclusion has been allowed for such individual
23 under this section for the number of preceding tax-
24 able years equal to the lesser of—

25 “(A) 15 years, or

1 “(B) the number of years during which the
2 qualified wrongfully incarcerated individual
3 served a sentence of imprisonment for the cov-
4 ered offense for which such individual was con-
5 victed.

6 “(2) ROUNDING.—For purposes of paragraph
7 (1)(B), if the number of years for which a qualified
8 wrongfully incarcerated individual served a sentence
9 of imprisonment is not a multiple of 1, the number
10 of years shall be rounded to the next lowest multiple
11 of 1.

12 “(c) WRONGFULLY INCARCERATED INDIVIDUAL.—
13 For purposes of this section—

14 “(1) IN GENERAL.—The term ‘wrongfully incar-
15 cerated individual’ means an individual—

16 “(A) who was convicted of a covered of-
17 fense,

18 “(B) who served all or part of a sentence
19 of imprisonment relating to that covered of-
20 fense, and

21 “(C)(i) who was pardoned, granted clem-
22 ency, or granted amnesty for that covered of-
23 fense because that individual was innocent of
24 that covered offense, or

1 “(ii)(I) for whom the judgment of convic-
2 tion for that covered offense was reversed or va-
3 cated, and

4 “(II) for whom the indictment, informa-
5 tion, or other accusatory instrument for that
6 covered offense was dismissed or who was found
7 not guilty at a new trial after the judgment of
8 conviction for that covered offense was reversed
9 or vacated.

10 “(2) COVERED OFFENSE.—The term ‘covered
11 offense’ means any criminal offense under Federal
12 or State law, and includes any criminal offense aris-
13 ing from the same course of conduct as that crimi-
14 nal offense.

15 “(d) QUALIFIED WRONGFULLY INCARCERATED INDI-
16 VIDUAL.—For purposes of this section, the term ‘qualified
17 wrongfully incarcerated individual’ means a wrongfully in-
18 carcerated individual who, except for the covered offense
19 described in subsection (c)(1)(A), has never been convicted
20 of a criminal offense under Federal or State law that is
21 punishable by more than 1 year imprisonment.”.

22 (b) CONFORMING AMENDMENT.—The table of sec-
23 tions for part III of subchapter B of chapter 1 of the In-
24 ternal Revenue Code of 1986 is amended by inserting

1 after the item relating to section 139A the following new
2 item:

“Sec. 139B. Certain amounts received by wrongfully incarcerated individuals.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning before,
5 on, or after the date of the enactment of this Act.

6 **SEC. 3. REFUNDABLE CREDIT FOR EMPLOYMENT TAXES**
7 **PAID BY WRONGFULLY INCARCERATED INDI-**
8 **VIDUALS.**

9 (a) ALLOWANCE OF REFUNDABLE CREDIT.—Sub-
10 part C of part IV of subchapter A of chapter 1 of the
11 Internal Revenue Code of 1986 (relating to refundable
12 credits) is amended by redesignating section 36 as section
13 37 and by inserting after section 35 the following new sec-
14 tion:

15 **“SEC. 36. EMPLOYMENT TAXES OF WRONGFULLY INCAR-**
16 **CERATED INDIVIDUALS.**

17 “(a) IN GENERAL.—In the case of a qualified wrong-
18 fully incarcerated individual, there shall be allowed as a
19 credit against the tax imposed by this subtitle for the tax-
20 able year an amount equal to the sum of—

21 “(1) 50 percent of the taxes imposed on the
22 self-employment income of such individual under
23 subsections (a) and (b) of section 1401 during the
24 taxable year, plus

1 “(2) the taxes imposed on the wages received by
2 such individual with respect to employment under
3 subsections (a) and (b) of section 3101 during the
4 taxable year.

5 “(b) LIMITATIONS.—

6 “(1) DOLLAR LIMITATION.—The total amount
7 of wages and self-employment income taken into ac-
8 count under subsection (a) with respect to any indi-
9 vidual shall not exceed \$50,000.

10 “(2) TAXABLE YEAR LIMITATION.—

11 “(A) IN GENERAL.—The credit under sub-
12 section (a) shall not be allowed with respect to
13 any qualified wrongfully incarcerated individual
14 in any taxable year if a credit has been allowed
15 to such individual under this section for the
16 number of preceding taxable years equal to the
17 lesser of—

18 “(i) 15 years, or

19 “(ii) the number of years during
20 which the qualified wrongfully incarcerated
21 individual served a sentence of imprison-
22 ment for the covered offense for which
23 such individual was convicted.

24 “(B) ROUNDING.—For purposes of sub-
25 paragraph (A)(ii), if the number of years for

1 which a qualified wrongfully incarcerated indi-
 2 vidual served a sentence of imprisonment is not
 3 a multiple of 1, the number of years shall be
 4 rounded to the next lowest multiple of 1.

5 “(c) QUALIFIED WRONGFULLY INCARCERATED INDI-
 6 VIDUAL.—For purposes of this section, the term ‘qualified
 7 wrongfully incarcerated individual’ has the meaning given
 8 to such term under section 139B(d).”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 1324(b)(2) of title 31, United
 11 States Code, is amended by inserting before the pe-
 12 riod at the end “, or enacted by the Wrongful Con-
 13 victions Tax Relief Act of 2007”.

14 (2) The table of sections for subpart C of part
 15 IV of subchapter A of chapter 1 of the Internal Rev-
 16 enue Code of 1986 is amended by striking the item
 17 relating to section 36 and inserting the following:

“Sec. 36. Employment taxes of wrongfully incarcerated individuals.

“Sec. 37. Overpayments of tax.”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 2007.

21 **SEC. 4. REPORTING WITH RESPECT TO WRONGFULLY IN-**
 22 **CARCERATED INDIVIDUALS.**

23 (a) FEDERAL COURTS.—

1 (1) IN GENERAL.—The Director of the Admin-
2 istrative Office of United States Courts shall report
3 annually to the Secretary of the Treasury such in-
4 formation with respect to individuals described in
5 paragraph (2) as the Secretary of the Treasury, in
6 consultation with the Administrator, determines is
7 necessary for the administration of sections 36 and
8 139B of the Internal Revenue Code of 1986.

9 (2) INDIVIDUALS DESCRIBED.—An individual is
10 described in this paragraph if such individual is a
11 wrongfully incarcerated individual (as defined under
12 section 139B of the Internal Revenue Code of
13 1986)—

14 (A) for whom the judgment of conviction
15 for that covered offense was reversed or va-
16 cated; and

17 (B) for whom the indictment, information,
18 or other accusatory instrument for that covered
19 offense was dismissed or who was found not
20 guilty at a new trial after the judgment of con-
21 viction for that covered offense was reversed or
22 vacated.

23 (b) AGREEMENTS WITH STATES.—The Secretary of
24 the Treasury shall enter into agreements with States
25 under which a State will report to the Secretary not less

1 frequently than annually such information with respect to
2 wrongfully incarcerated individuals (as defined under sec-
3 tion 139B of the Internal Revenue Code of 1986) as the
4 Secretary determines is necessary for the administration
5 of sections 36 and 139B of the Internal Revenue Code
6 of 1986.

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