

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4743

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2010

Mr. LARSON of Connecticut (for himself, Mr. SAM JOHNSON of Texas, Mr. BISHOP of Georgia, and Ms. EDDIE BERNICE JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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 2010”.

1 **SEC. 2. EXCLUSION FOR WRONGFULLY INCARCERATED IN-**  
2 **DIVIDUALS.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-  
4 ter 1 of the Internal Revenue Code of 1986 is amended  
5 by inserting after section 139C the following new section:

6 **“SEC. 139D. CERTAIN AMOUNTS RECEIVED BY WRONG-**  
7 **FULLY INCARCERATED INDIVIDUALS.**

8 “(a) EXCLUSION FROM GROSS INCOME.—Gross in-  
9 come shall not include—

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

17 “(2) in the case of a qualified wrongfully incar-  
18 cerated individual, the first \$50,000 of income re-  
19 ceived by such individual in any taxable year begin-  
20 ning after December 31, 2009.

21 “(b) LIMITATION RELATING TO INCOME EXCLU-  
22 SION.—

23 “(1) IN GENERAL.—The exclusion under sub-  
24 section (a)(2) shall not apply to any qualified wrong-  
25 fully incarcerated individual for any taxable year

1 other than a taxable year in the qualified benefit pe-  
2 riod with respect to such individual.

3 “(2) QUALIFIED BENEFIT PERIOD.—For pur-  
4 poses of paragraph (1), the term ‘qualified benefit  
5 period’ means, with respect to any qualified wrong-  
6 fully incarcerated individual, the first 15 taxable  
7 years ending after the first date on which such indi-  
8 vidual is a wrongfully incarcerated individual.

9 “(3) LIMITATION BASED ON YEARS OF INCAR-  
10 CERATION.—In the case of a qualified wrongfully in-  
11 carcerated individual who served a sentence of im-  
12 prisonment of less than 15 years for the covered of-  
13 fense with respect to which such individual is a  
14 qualified wrongfully incarcerated individual, the  
15 number of full years that such individual was so im-  
16 prisoned shall be substituted for ‘15’ in paragraph  
17 (2).

18 “(4) TERMINATION OF EXCLUSION UPON CON-  
19 VICTION OF SUBSEQUENT OFFENSE.—If a qualified  
20 wrongfully incarcerated individual is convicted of a  
21 criminal offense under Federal or State law that is  
22 punishable by more than 1 year imprisonment at  
23 any time during the qualified benefit period, sub-  
24 section (a)(2) shall not apply to the taxable year

1 which includes the date of such conviction and all  
2 subsequent taxable years.

3 “(c) WRONGFULLY INCARCERATED INDIVIDUAL.—

4 For purposes of this section—

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

7 “(A) who was convicted of a covered of-  
8 fense,

9 “(B) who served all or part of a sentence  
10 of imprisonment relating to that covered of-  
11 fense, and

12 “(C)(i) who was pardoned, granted clem-  
13 ency, or granted amnesty for that covered of-  
14 fense because that individual was innocent of  
15 that covered offense, or

16 “(ii)(I) for whom the judgment of convic-  
17 tion for that covered offense was reversed or va-  
18 cated, and

19 “(II) for whom the indictment, informa-  
20 tion, or other accusatory instrument for that  
21 covered offense was dismissed or who was found  
22 not guilty at a new trial after the judgment of  
23 conviction for that covered offense was reversed  
24 or vacated.

1           “(2) COVERED OFFENSE.—The term ‘covered  
2           offense’ means any criminal offense under Federal  
3           or State law, and includes any criminal offense arising  
4           from the same course of conduct as that criminal  
5           offense.

6           “(d) QUALIFIED WRONGFULLY INCARCERATED INDIVIDUAL.—For purposes of this section, the term ‘qualified  
7           individual’ means a wrongfully incarcerated individual who, except for the covered offense  
8           wrongfully incarcerated individual’ means a wrongfully in-  
9           carcerated individual who, except for the covered offense  
10          described in subsection (c)(1)(A), has never been convicted  
11          of a criminal offense (other than a juvenile offense) under  
12          Federal or State law that is punishable by more than 1  
13          year imprisonment.

14          “(e) REPORTING REQUIREMENTS.—For purposes of  
15          this section and section 36B, the Secretary shall impose  
16          such reporting requirements as the Secretary determines  
17          necessary or appropriate to carry out this section, including  
18          a requirement that the individual include with the return  
19          of tax for the taxable year a statement or attestation  
20          that the individual has not been subsequently convicted  
21          of a crime within the meaning of subsection (b)(4).”.

22          (b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting  
23          24          internal Revenue Code of 1986 is amended by inserting

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

“Sec. 139D. 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 inserting after section 36A the fol-  
13 lowing new section:

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

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

20 “(1) 50 percent of the taxes imposed on the  
21 self-employment income of such individual under  
22 subsections (a) and (b) of section 1401 during the  
23 taxable year, plus

24 “(2) the taxes imposed on the wages received by  
25 such individual with respect to employment under

1 subsections (a) and (b) of section 3101 during the  
2 taxable year.

3 “(b) LIMITATIONS.—

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

8 “(2) TAXABLE YEAR LIMITATION.—The credit  
9 under subsection (a) shall not be allowed to any  
10 qualified wrongfully incarcerated individual for any  
11 taxable year other than a taxable year in the quali-  
12 fied benefit period determined with respect to such  
13 individual under paragraphs (2) and (3) of section  
14 139D(b).

15 “(3) TERMINATION OF CREDIT UPON CONVIC-  
16 TION OF SUBSEQUENT OFFENSE.—If a qualified  
17 wrongfully incarcerated individual is convicted of a  
18 criminal offense under Federal or State law that is  
19 punishable by more than 1 year imprisonment at  
20 any time during the qualified benefit period (as so  
21 determined), subsection (a) shall not apply to the  
22 taxable year which includes the date of such convic-  
23 tion and all subsequent taxable years.

24 “(c) QUALIFIED WRONGFULLY INCARCERATED INDI-  
25 VIDUAL.—For purposes of this section, the term ‘qualified

1 wrongfully incarcerated individual' has the meaning given  
2 to such term under section 139D(d).

3 “(d) REFERENCE.—For reporting requirement, see  
4 section 139D(e).”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 1324(b)(2) of title 31, United  
7 States Code, is amended by inserting “, 36B,” after  
8 “36A,”.

9 (2) The table of sections for subpart C of part  
10 IV of subchapter A of chapter 1 of the Internal Rev-  
11 enue Code of 1986 is amended by inserting after the  
12 item relating to section 36A the following new item:

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

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2009.

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