

106TH CONGRESS
1ST SESSION

H. R. 1997

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1999

Ms. PRYCE of Ohio (for herself and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

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 “Civil Rights Tax Fair-
5 ness Act of 1999”.

1 **SEC. 2. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**
2 **RECEIVED ON ACCOUNT OF CERTAIN UNLAW-**
3 **FUL DISCRIMINATION.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 of the Internal Revenue Code of 1986 (relating to
6 items specifically excluded from gross income) is amended
7 by redesignating section 139 as section 140) and by in-
8 serting after section 138 the following new section:

9 **“SEC. 139. AMOUNTS RECEIVED ON ACCOUNT OF CERTAIN**
10 **UNLAWFUL DISCRIMINATION.**

11 “(a) IN GENERAL.—

12 “(1) EXCLUSION.—Gross income does not in-
13 clude amounts received by a claimant (whether by
14 suit or agreement and whether as lump sums or
15 periodic payments) on account of a claim of unlawful
16 discrimination.

17 “(2) AMOUNTS COVERED.—For purposes of
18 paragraph (1), the term ‘amounts’ does not
19 include—

20 “(A) backpay or frontpay, as defined in
21 section 1302(b), or

22 “(B) punitive damages.

23 “(b) UNLAWFUL DISCRIMINATION DEFINED.—For
24 purposes of this section, the term ‘unlawful discrimination’
25 means an act that is unlawful under any of the following:

1 “(1) Section 302 of the Civil Rights Act of
2 1991 (2 U.S.C. 1202).

3 “(2) Section 201, 202, 203, 204, 205, 206, or
4 207 of the Congressional Accountability Act of 1995
5 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or
6 1317)

7 “(3) The Fair Labor Standards Act of 1938
8 (29 U.S.C. 201 et seq.).

9 “(4) Section 4 or 15 of the Age Discrimination
10 in Employment Act of 1967 (29 U.S.C. 623 or
11 633a).

12 “(5) Section 501 or 504 of the Rehabilitation
13 Act of 1973 (29 U.S.C. 791 or 794).

14 “(6) Section 510 of the Employee Retirement
15 Income Security Act of 1974 (29 U.S.C. 1140).

16 “(7) Title IX of the Education Amendments of
17 1972 (29 U.S.C. 1681 et seq.).

18 “(8) The Employee Polygraph Protection Act of
19 1988 (29 U.S.C. 201 et seq.).

20 “(9) The Worker Adjustment and Retraining
21 Notification Act (29 U.S.C. 2102 et seq.).

22 “(10) Section 105 of the Family and Medical
23 Leave Act of 1993 (29 U.S.C. 2615).

1 “(11) Chapter 43 of title 38, United States
2 Code (relating to employment and reemployment
3 rights of members of the uniformed services).

4 “(12) Section 1977, 1979, or 1980 of the Re-
5 vised Statutes (42 U.S.C. 1981, 1983, or 1985).

6 “(13) Section 703, 704, or 717 of the Civil
7 Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3,
8 or 2000e–16).

9 “(14) Section 804 or 805 of the Fair Housing
10 Act (42 U.S.C. 3604 or 3605).

11 “(15) Section 102, 202, 302, or 503 of the
12 Americans with Disabilities Act of 1990 (42 U.S.C.
13 12112, 12132, 12182, or 12203).

14 “(16) Section 40302 of the Violence Against
15 Women Act of 1994 (42 U.S.C. 13981).

16 “(17) Any provision of Federal law (popularly
17 known as whistleblower protection provisions) pro-
18 hibiting the discharge of an employee, the discrimi-
19 nation against an employee, or any other form of re-
20 taliation or reprisal against an employee for assert-
21 ing rights or taking other actions permitted under
22 Federal law.

23 “(18) Any provision of State or local law, or
24 common law claims permitted under Federal, State,
25 or local law, providing for the enforcement of civil

1 rights, regulating any aspect of the employment re-
 2 lationship, or prohibiting the discharge of an em-
 3 ployee, the discrimination against an employee, or
 4 any other form of retaliation or reprisal against an
 5 employee for asserting rights or taking other actions
 6 permitted by law.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
 8 for part III of subchapter B of chapter 1 of such Code
 9 is amended by inserting after the item relating to section
 10 138 the following new item:

“Sec. 139. Amounts received on account of certain unlawful dis-
 crimination.”

11 (c) EFFECTIVE DATE.—The amendment made by
 12 this section shall apply to damages received in taxable
 13 years beginning after December 31, 1998.

14 **SEC. 3. LIMITATION ON TAX BASED ON INCOME AVER-**
 15 **AGING FOR BACKPAY AND FRONTPAY RE-**
 16 **CEIVED ON ACCOUNT OF CERTAIN UNLAW-**
 17 **FUL EMPLOYMENT DISCRIMINATION.**

18 (a) IN GENERAL.—Part I of subchapter Q of chapter
 19 1 of the Internal Revenue Code of 1986 (relating to in-
 20 come averaging) is amended by adding at the end the fol-
 21 lowing new section:

1 **“SEC. 1302. INCOME FROM BACKPAY AND FRONTPAY RE-**
2 **CEIVED ON ACCOUNT OF CERTAIN UNLAW-**
3 **FUL EMPLOYMENT DISCRIMINATION.**

4 “(a) GENERAL RULE.—If employment discrimination
5 backpay or frontpay is received by a taxpayer during a
6 taxable year, the tax imposed by this chapter for such tax-
7 able year shall not exceed the sum of—

8 “(1) the tax which would be so imposed if—

9 “(A) no amount of such backpay or
10 frontpay were included in gross income for such
11 year, and

12 “(B) no deduction were allowed for such
13 year for expenses (otherwise allowable as a de-
14 duction to the taxpayer for such year) in con-
15 nection with making or prosecuting any claim
16 of unlawful employment discrimination by or on
17 behalf of the taxpayer, plus

18 “(2) the product of—

19 “(A) the number of years in the backpay
20 period and frontpay period, and

21 “(B) the amount of tax that would be im-
22 posed on the average annual net backpay and
23 frontpay amount, determined as if such average
24 amount were the only income of the taxpayer
25 for the taxable year and the taxpayer had no
26 deductions for such year.

1 “(b) DEFINITIONS.—For purposes of this section—

2 “(1) EMPLOYMENT DISCRIMINATION BACKPAY
3 OR FRONTPAY.—The term ‘employment discrimina-
4 tion backpay or frontpay’ means backpay or
5 frontpay receivable (whether as lump sums or peri-
6 odic payments) on account of a claim of unlawful
7 employment discrimination.

8 “(2) UNLAWFUL EMPLOYMENT DISCRIMINA-
9 TION.—The term ‘unlawful employment discrimina-
10 tion’ has the meaning provided the term ‘unlawful
11 discrimination’ in section 139(b).

12 “(3) BACKPAY AND FRONTPAY.—The terms
13 ‘backpay’ and ‘frontpay’ mean amounts includible in
14 gross income in the taxable year—

15 “(A) as compensation which is
16 attributable—

17 “(i) in the case of backpay, to services
18 performed, or that would have been per-
19 formed but for a claimed violation of law,
20 as an employee, former employee, or pro-
21 spective employee before such taxable year
22 for the taxpayer’s employer, former em-
23 ployer, or prospective employer; and

24 “(ii) in the case of frontpay, to em-
25 ployment that would have been performed

1 but for a claimed violation of law, in a tax-
2 able year or taxable years following the
3 taxable year; and

4 “(B) which are—

5 “(i) ordered, recommended, or ap-
6 proved by any governmental entity to sat-
7 isfy a claim for a violation of law, or

8 “(ii) received from the settlement of
9 such a claim.

10 “(4) BACKPAY PERIOD.—The term ‘backpay pe-
11 riod’ means the period during which services are
12 performed (or would have been performed) to which
13 backpay is attributable. If such period is not equal
14 to a whole number of taxable years, such period
15 shall be increased to the next highest number of
16 whole taxable years.

17 “(5) FRONTPAY PERIOD.—The term ‘frontpay
18 period’ means the period of foregone employment to
19 which frontpay is attributable. If such period is not
20 equal to a whole number of taxable years, such pe-
21 riod shall be increased to the next highest number
22 of whole taxable years.

23 “(6) AVERAGE ANNUAL NET BACKPAY AND
24 FRONTPAY AMOUNT.—The term ‘average annual net

1 backpay and frontpay amount’ means the amount
2 equal to—

3 “(A) the excess of—

4 “(i) employment discrimination back-
5 pay and frontpay, over

6 “(ii) the amount of deductions that
7 would have been allowable but for sub-
8 section (a)(1)(B), divided by

9 “(B) the number of years in the backpay
10 period and frontpay period.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for part I of subchapter Q of chapter 1 of such Code is
13 amended by inserting after section 1301 the following new
14 item:

“Sec. 1302. Income from backpay or frontpay received on account
of certain unlawful employment discrimination.”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts received in taxable
17 years beginning after December 31, 1998.

18 **SEC. 3. INCOME AVERAGING FOR BACKPAY AND FRONTPAY**
19 **RECEIVED ON ACCOUNT OF CERTAIN UNLAW-**
20 **FUL EMPLOYMENT DISCRIMINATION NOT TO**
21 **INCREASE ALTERNATIVE MINIMUM TAX LI-**
22 **ABILITY.**

23 (a) IN GENERAL.—Section 55(c) of the Internal Rev-
24 enue Code of 1986 (defining regular tax) is amended by

1 redesignating paragraph (2) as paragraph (3) and by in-
2 serting after paragraph (1) the following:

3 “(2) COORDINATION WITH INCOME AVERAGING
4 FOR AMOUNTS RECEIVED ON ACCOUNT OF EMPLOY-
5 MENT DISCRIMINATION.—Solely for purposes of this
6 section, section 1302 (relating to averaging of in-
7 come from backpay or frontpay received on account
8 of certain unlawful employment discrimination) shall
9 not apply in computing the regular tax.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 1998.

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