

113TH CONGRESS
1ST SESSION

H. R. 2509

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

JUNE 26, 2013

Mr. LEWIS (for himself, Mr. SCOTT of Virginia, Mr. SCHOCK, and Mr. SENBRENNER) 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 Justice Tax Fair-
5 ness Act of 2013”.

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 inserting before section 140 the following new section:

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

10 “(a) EXCLUSION.—Gross income does not include
 11 amounts received by a claimant on account of a judgment
 12 or settlement (whether by suit or agreement and whether
 13 as lump sums or periodic payments) resulting from a
 14 claim of unlawful discrimination (as defined by section
 15 62(e)).

16 “(b) AMOUNTS COVERED.—For purposes of sub-
 17 section (a), the term ‘amounts’ does not include—

18 “(1) backpay or frontpay, as defined in section
 19 1302(b), or

20 “(2) punitive damages.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
 22 for part III of subchapter B of chapter 1 of such Code
 23 is amended by inserting before the item relating to section
 24 140 the following new item:

“Sec. 139F. Amounts received on account of certain unlawful discrimination.”.

1 (c) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to amounts received in taxable
 3 years beginning after December 31, 2012.

4 **SEC. 3. LIMITATION ON TAX BASED ON INCOME AVER-**
 5 **AGING FOR BACKPAY AND FRONTPAY RE-**
 6 **CEIVED ON ACCOUNT OF CERTAIN UNLAW-**
 7 **FUL EMPLOYMENT DISCRIMINATION.**

8 (a) IN GENERAL.—Part I of subchapter Q of chapter
 9 1 of the Internal Revenue Code of 1986 (relating to in-
 10 come averaging) is amended by adding at the end the fol-
 11 lowing new section:

12 **“SEC. 1302. INCOME FROM BACKPAY AND FRONTPAY RE-**
 13 **CEIVED ON ACCOUNT OF CERTAIN UNLAW-**
 14 **FUL EMPLOYMENT DISCRIMINATION.**

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

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

20 “(A) no amount of such backpay or
 21 frontpay were included in gross income for such
 22 year, and

23 “(B) no deduction were allowed for such
 24 year for expenses (otherwise allowable as a de-
 25 duction to the taxpayer for such year) in con-

1 nection with making or prosecuting any claim
 2 of unlawful employment discrimination by or on
 3 behalf of the taxpayer, plus

4 “(2) the product of—

5 “(A) the number of years in the backpay
 6 period and frontpay period, and

7 “(B) the amount by which the tax deter-
 8 mined under paragraph (1) would increase if
 9 the amount on which such tax is determined
 10 were increased by the average annual net back-
 11 pay and frontpay amount.

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

13 “(1) EMPLOYMENT DISCRIMINATION BACKPAY
 14 OR FRONTPAY.—The term ‘employment discrimina-
 15 tion backpay or frontpay’ means backpay or
 16 frontpay receivable (whether as lump sums or peri-
 17 odic payments) on account of a claim of unlawful
 18 employment discrimination.

19 “(2) UNLAWFUL EMPLOYMENT DISCRIMINA-
 20 TION.—The term ‘unlawful employment discrimina-
 21 tion’ has the meaning provided the term ‘unlawful
 22 discrimination’ in section 62(e).

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

1 “(A) as compensation which is attrib-
2 utable—

3 “(i) in the case of backpay, to services
4 performed, or that would have been per-
5 formed but for a claimed violation of law,
6 as an employee, former employee, or pro-
7 spective employee before such taxable year
8 for the taxpayer’s employer, former em-
9 ployer, or prospective employer, and

10 “(ii) in the case of frontpay, to em-
11 ployment that would have been performed
12 but for a claimed violation of law, in a tax-
13 able year or taxable years following the
14 taxable year, and

15 “(B) which are received on account of a
16 judgment or settlement resulting from a claim
17 for a violation of law.

18 “(4) BACKPAY PERIOD.—The term ‘backpay pe-
19 riod’ means the period during which services are
20 performed (or would have been performed) to which
21 backpay is attributable. If such period is not equal
22 to a whole number of taxable years, such period
23 shall be increased to the next highest number of
24 whole taxable years.

1 “(5) FRONTPAY PERIOD.—The term ‘frontpay
2 period’ means the period of foregone employment to
3 which frontpay is attributable. If such period is not
4 equal to a whole number of taxable years, such pe-
5 riod shall be increased to the next highest number
6 of whole taxable years.

7 “(6) AVERAGE ANNUAL NET BACKPAY AND
8 FRONTPAY AMOUNT.—The term ‘average annual net
9 backpay and frontpay amount’ means the amount
10 equal to—

11 “(A) the excess of—

12 “(i) employment discrimination back-
13 pay and frontpay, over

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

17 “(B) the number of years in the backpay
18 period and frontpay period.”.

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

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

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts received in taxable
 3 years beginning after December 31, 2012.

4 **SEC. 4. INCOME AVERAGING FOR BACKPAY AND FRONTPAY**
 5 **RECEIVED ON ACCOUNT OF CERTAIN UNLAW-**
 6 **FUL EMPLOYMENT DISCRIMINATION NOT TO**
 7 **INCREASE ALTERNATIVE MINIMUM TAX LI-**
 8 **ABILITY.**

9 (a) IN GENERAL.—Section 55(c) of the Internal Rev-
 10 enue Code of 1986 (defining regular tax) is amended by
 11 redesignating paragraph (3) as paragraph (4) and by in-
 12 serting after paragraph (2) the following:

13 “(3) COORDINATION WITH INCOME AVERAGING
 14 FOR AMOUNTS RECEIVED ON ACCOUNT OF EMPLOY-
 15 MENT DISCRIMINATION.—Solely for purposes of this
 16 section, section 1302 (relating to averaging of in-
 17 come from backpay or frontpay received on account
 18 of certain unlawful employment discrimination) shall
 19 not apply in computing the regular tax.”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 2012.

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