

113TH CONGRESS
1ST SESSION

S. 1224

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 SENATE OF THE UNITED STATES

JUNE 26, 2013

Mr. CARDIN (for himself and Ms. COLLINS) 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 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. 139E. AMOUNTS RECEIVED ON ACCOUNT OF CERTAIN**
 9 **UNLAWFUL DISCRIMINATION.**

10 “(a) IN GENERAL.—

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

16 “(2) AMOUNTS COVERED.—For purposes of
 17 paragraph (1), the term ‘amounts’ does not in-
 18 clude—

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

21 “(B) punitive damages.

22 “(b) UNLAWFUL DISCRIMINATION DEFINED.—For
 23 purposes of this section, the term ‘unlawful discrimination’
 24 has the meaning given such term by section 62(e).”.

25 (b) CLERICAL AMENDMENT.—The table of sections
 26 for part III of subchapter B of chapter 1 of the Internal

1 Revenue Code of 1986 is amended by inserting before the
2 item relating to section 140 the following new item:

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

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

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

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

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

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

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

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

1 “(B) no deduction were allowed for such
 2 year for expenses (otherwise allowable as a de-
 3 duction to the taxpayer for such year) in con-
 4 nection with making or prosecuting any claim
 5 of unlawful employment discrimination by or on
 6 behalf of the taxpayer, plus

7 “(2) the product of—

8 “(A) the number of years in the backpay
 9 period and frontpay period, and

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

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

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

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

1 “(3) BACKPAY AND FRONTPAY.—The terms
2 ‘backpay’ and ‘frontpay’ mean amounts—

3 “(A) which are includible in gross income
4 in the taxable year as compensation which is at-
5 tributable—

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

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

18 “(B) which are received on account of a
19 judgment or settlement resulting from a claim
20 for a violation of law.

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

1 shall be increased to the next highest number of
2 whole taxable years.

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

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

13 “(A) the excess of—

14 “(i) employment discrimination back-
15 pay and frontpay, over

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

19 “(B) the number of years in the backpay
20 period and frontpay period.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for part I of subchapter Q of chapter 1 of the Internal
23 Revenue Code of 1986 is amended by inserting after sec-
24 tion 1301 the following new 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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