

108TH CONGRESS
1ST SESSION

H. R. 1155

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

MARCH 6, 2003

Ms. PRYCE of Ohio (for herself, Mrs. BIGGERT, Mr. CRANE, Mr. FOLEY, Mrs. JOHNSON of Connecticut, Mr. SENSENBRENNER, Mr. BECERRA, Mr. LEWIS of Georgia, Mr. MATSUI, and Mr. VAN HOLLEN) 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 Relief
5 Act of 2003”.

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 140 as section 140A and by in-
 8 serting after section 139 the following new section:

9 **“SEC. 140. 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 in-
 19 clude—

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 National Labor Relations Act (29
8 U.S.C. 151 et seq.)

9 “(4) The Fair Labor Standards Act of 1938
10 (29 U.S.C. 201 et seq.).

11 “(5) Section 4 or 15 of the Age Discrimination
12 in Employment Act of 1967 (29 U.S.C. 623 or
13 633a).

14 “(6) Section 501 or 504 of the Rehabilitation
15 Act of 1973 (29 U.S.C. 791 or 794).

16 “(7) Section 510 of the Employee Retirement
17 Income Security Act of 1974 (29 U.S.C. 1140).

18 “(8) Title IX of the Education Amendments of
19 1972 (29 U.S.C. 1681 et seq.).

20 “(9) The Employee Polygraph Protection Act of
21 1988 (29 U.S.C. 201 et seq.).

22 “(10) The Worker Adjustment and Retraining
23 Notification Act (29 U.S.C. 2102 et seq.).

24 “(11) Section 105 of the Family and Medical
25 Leave Act of 1993 (29 U.S.C. 2615).

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

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

6 “(14) 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 “(15) Section 804 or 805 of the Fair Housing
10 Act (42 U.S.C. 3604 or 3605).

11 “(16) 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 “(17) Any provision of Federal law (popularly
15 known as whistleblower protection provisions) pro-
16 hibiting the discharge of an employee, the discrimi-
17 nation against an employee, or any other form of re-
18 taliation or reprisal against an employee for assert-
19 ing rights or taking other actions permitted under
20 Federal law.

21 “(18) Any provision of State or local law, or
22 common law claims permitted under Federal, State,
23 or local law, providing for the enforcement of civil
24 rights or prohibiting the discharge of an employee,
25 the discrimination against an employee, or any other

1 form of retaliation or reprisal against an employee
 2 for asserting rights or taking other actions per-
 3 mitted by law.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
 5 for part III of subchapter B of chapter 1 of such Code
 6 is amended by striking the last item and inserting the fol-
 7 lowing:

“Sec. 140. Amounts received on account of certain unlawful dis-
 crimination.

“Sec. 140. Cross references to other Acts.”

8 (c) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to damages received in taxable
 10 years beginning after December 31, 2002.

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

15 (a) IN GENERAL.—Part I of subchapter Q of chapter
 16 1 of the Internal Revenue Code of 1986 (relating to in-
 17 come averaging) is amended by adding at the end the fol-
 18 lowing new section:

19 **“SEC. 1302. INCOME FROM BACKPAY AND FRONTPAY RE-**
 20 **CEIVED ON ACCOUNT OF CERTAIN UNLAW-**
 21 **FUL EMPLOYMENT DISCRIMINATION.**

22 “(a) GENERAL RULE.—If employment discrimination
 23 backpay or frontpay is received by a taxpayer during a

1 taxable year, the tax imposed by this chapter for such tax-
 2 able year shall not exceed the sum of—

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

4 “(A) no amount of such backpay or
 5 frontpay were included in gross income for such
 6 year, and

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

13 “(2) the product of—

14 “(A) the number of years in the backpay
 15 period and frontpay period, and

16 “(B) the amount by which the tax deter-
 17 mined under paragraph (1) would increase if
 18 the amount on which such tax is determined
 19 were increased by the average annual net back-
 20 pay and frontpay amount.

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

22 “(1) EMPLOYMENT DISCRIMINATION BACKPAY
 23 OR FRONTPAY.—The term ‘employment discrimina-
 24 tion backpay or frontpay’ means backpay or
 25 frontpay receivable (whether as lump sums or peri-

1 odic payments) on account of a claim of unlawful
2 employment discrimination.

3 “(2) UNLAWFUL EMPLOYMENT DISCRIMINA-
4 TION.—The term ‘unlawful employment discrimina-
5 tion’ has the meaning provided the term ‘unlawful
6 discrimination’ in section 140(b).

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

10 “(A) as compensation which is attrib-
11 utable—

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

19 “(ii) in the case of frontpay, to em-
20 ployment that would have been performed
21 but for a claimed violation of law, in a tax-
22 able year or taxable years following the
23 taxable year; and

24 “(B) which are—

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

4 “(ii) received from the settlement of
5 such a claim.

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

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

19 “(6) AVERAGE ANNUAL NET BACKPAY AND
20 FRONTPAY AMOUNT.—The term ‘average annual net
21 backpay and frontpay amount’ means the amount
22 equal to—

23 “(A) the excess of—

24 “(i) employment discrimination back-
25 pay and frontpay, over

1 “(ii) the amount of deductions that
 2 would have been allowable but for sub-
 3 section (a)(1)(B), divided by
 4 “(B) the number of years in the backpay
 5 period and frontpay period.”.

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

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

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to amounts received in taxable
 12 years beginning after December 31, 2002.

13 **SEC. 3. INCOME AVERAGING FOR BACKPAY AND FRONTPAY**
 14 **RECEIVED ON ACCOUNT OF CERTAIN UNLAW-**
 15 **FUL EMPLOYMENT DISCRIMINATION NOT TO**
 16 **INCREASE ALTERNATIVE MINIMUM TAX LI-**
 17 **ABILITY.**

18 (a) IN GENERAL.—Section 55(c) of the Internal Rev-
 19 enue Code of 1986 (defining regular tax) is amended by
 20 redesignating paragraph (2) as paragraph (3) and by in-
 21 serting after paragraph (1) the following:

22 “(2) COORDINATION WITH INCOME AVERAGING
 23 FOR AMOUNTS RECEIVED ON ACCOUNT OF EMPLOY-
 24 MENT DISCRIMINATION.—Solely for purposes of this

1 section, section 1302 (relating to averaging of in-
2 come from backpay or frontpay received on account
3 of certain unlawful employment discrimination) shall
4 not apply in computing the regular tax.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to taxable years beginning after
7 December 31, 2002.

○