

111TH CONGRESS  
1ST SESSION

# H. R. 3035

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 25, 2009

Mr. LEWIS of Georgia (for himself and Mr. SENSENBRENNER) 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 2009”.

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 after section 139B the following new section:

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

10 “(a) **EXCLUSION.**—Gross income does not include  
11 amounts received by a claimant (whether by suit or agree-  
12 ment and whether as lump sums or periodic payments)  
13 on account of a claim of unlawful discrimination (as de-  
14 fined by section 62(e)).

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

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

19 “(2) punitive damages.”.

20 (b) **CLERICAL AMENDMENT.**—The table of sections  
21 for part III of subchapter B of chapter 1 of such Code  
22 is amended by inserting after the item relating to section  
23 139A the following:

“Sec. 139C. 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, 2008.

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—

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

19                   “(ii) received from the settlement of  
20                   such a claim.

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 such Code is  
23 amended by inserting after section 1301 the following new  
24 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, 2008.

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, 2008.

○