

110TH CONGRESS  
1ST SESSION

# S. 1689

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2007

Mr. BINGAMAN (for himself and Ms. COLLINS) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## 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 2007”.

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 139A the following new section:

8 **“SEC. 139B. 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 suit or agreement and whether as lump sums or  
 14 periodic payments) on account of a claim of unlawful  
 15 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),

21 “(B) punitive damages, or

22 “(C) such amounts allowed as a deduction  
 23 under this chapter.

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

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 for part III of subchapter B of chapter 1 of the Internal  
 3 Revenue Code of 1986 is amended by inserting after the  
 4 item relating to section 139A the following new item:

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

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to amounts received in taxable  
 7 years beginning after December 31, 2007.

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

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

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

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

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

1           “(A) no amount of such backpay or  
2 frontpay were included in gross income for such  
3 year, and

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

10          “(2) the product of—

11           “(A) the number of years in the backpay  
12 period and frontpay period, and

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

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

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

1           “(2) UNLAWFUL EMPLOYMENT DISCRIMINA-  
2           TION.—The term ‘unlawful employment discrimina-  
3           tion’ has the meaning provided the term ‘unlawful  
4           discrimination’ in section 139B(b).

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

8                   “(A) as compensation which is attrib-  
9                   utable—

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

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

22                   “(B) which are—

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

1                   “(ii) received from the settlement of  
2                   such a claim.

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

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

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

20                         “(A) the excess of—

21                                 “(i) employment discrimination back-  
22                                 pay and frontpay, over

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



1 of certain unlawful employment discrimination) shall  
2 not apply in computing the regular tax.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2007.

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