



D I S T R I C T O F C O L U M B I A B A R  
*Labor and Employment Law Section*

D.C. BAR LABOR AND EMPLOYMENT LAW SECTION STATEMENT OF SUPPORT  
FOR THE CIVIL RIGHTS TAX RELIEF ACT OF 2011

*The views expressed herein represent only those of the Labor and Employment Law Section<sup>1</sup> of the District of Columbia Bar and not those of the D.C. Bar or of its Board of Governors.*

Comment to be published and delivered to the National Employment Lawyers Association for further distribution.

The D.C. Bar Labor and Employment Law Section Steering Committee has reviewed the Civil Rights Tax Relief Act of 2011 (H.R. 3195/S. 1781) (Act), which would amend the Internal Revenue Code of 1986. The Steering Committee supports enactment of this Act to allow: 1) non-economic damages received for an unlawful employment discrimination claim to be excluded from gross income; 2) income averaging of back pay and front pay awards received on account of such claims; and 3) an exemption from the alternative minimum tax for any tax benefit resulting from the income averaging of amounts received from an unlawful employment discrimination claim.

Currently, monetary amounts received on account of personal injuries or sickness are excluded from gross income only if the damages are received on account of a personal physical injury or physical sickness. The Act would correct the irrationality of the existing law's disparate treatment of taxing emotional distress damages in employment discrimination cases versus those resulting from physical injuries due to tortious conduct. In doing so, it would create an equitable tax scheme for employees who suffer unlawful discrimination, keep litigation costs down for employers by making settlements more viable, and reduce court backlogs. Its enactment would truly represent a "win-win" outcome for both individuals and employers.

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<sup>1</sup> Over the dates of October 25 to 30, 2012, the Steering Committee of the Labor and Employment Law Section voted without dissent, by a tally of 8-0, with one abstention, to adopt this public statement.