

110TH CONGRESS
2D SESSION

H. R. 7021

To amend the Internal Revenue Code of 1986 to provide tax benefits to individuals who have been wrongfully incarcerated.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2008

Mr. LARSON of Connecticut (for himself, Mr. SAM JOHNSON of Texas, and Mr. BISHOP of Georgia) 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 provide tax benefits to individuals who have been wrongfully incarcerated.

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 “Wrongful Convictions
5 Tax Relief Act of 2008”.

1 **SEC. 2. EXCLUSION FOR WRONGFULLY INCARCERATED IN-**
2 **DIVIDUALS.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 is amended
5 by inserting after section 139B the following new section:

6 **“SEC. 139C. CERTAIN AMOUNTS RECEIVED BY WRONG-**
7 **FULLY INCARCERATED INDIVIDUALS.**

8 “(a) EXCLUSION FROM GROSS INCOME.—Gross in-
9 come shall not include—

10 “(1) in the case of any wrongfully incarcerated
11 individual, any civil damages, restitution, or other
12 monetary award (including compensatory or statu-
13 tory damages and restitution imposed in a criminal
14 matter) relating to the incarceration of such indi-
15 vidual for the covered offense for which such indi-
16 vidual was convicted, and

17 “(2) in the case of a qualified wrongfully incar-
18 cerated individual, the first \$50,000 of income re-
19 ceived by such individual in any taxable year begin-
20 ning after December 31, 2007.

21 “(b) LIMITATION RELATING TO INCOME EXCLU-
22 SION.—

23 “(1) IN GENERAL.—The exclusion under sub-
24 section (a)(2) shall not apply to any qualified wrong-
25 fully incarcerated individual for any taxable year

1 other than a taxable year in the qualified benefit pe-
2 riod with respect to such individual.

3 “(2) QUALIFIED BENEFIT PERIOD.—For pur-
4 poses of paragraph (1), the term ‘qualified benefit
5 period’ means, with respect to any qualified wrong-
6 fully incarcerated individual, the first 15 taxable
7 years ending after the first date on which such indi-
8 vidual is a wrongfully incarcerated individual.

9 “(3) LIMITATION BASED ON YEARS OF INCAR-
10 CERATION.—In the case of a qualified wrongfully in-
11 carcerated individual who served a sentence of im-
12 prisonment of less than 15 years for the covered of-
13 fense with respect to which such individual is a
14 qualified wrongfully incarcerated individual, the
15 number of full years that such individual was so im-
16 prisoned shall be substituted for ‘15’ in paragraph
17 (2).

18 “(4) TERMINATION OF EXCLUSION UPON CON-
19 VICTION OF SUBSEQUENT OFFENSE.—If a qualified
20 wrongfully incarcerated individual is convicted of a
21 criminal offense under Federal or State law that is
22 punishable by more than 1 year imprisonment at
23 any time during the qualified benefit period, sub-
24 section (a)(2) shall not apply to the taxable year

1 which includes the date of such conviction and all
2 subsequent taxable years.

3 “(c) WRONGFULLY INCARCERATED INDIVIDUAL.—

4 For purposes of this section—

5 “(1) IN GENERAL.—The term ‘wrongfully incar-
6 cerated individual’ means an individual—

7 “(A) who was convicted of a covered of-
8 fense,

9 “(B) who served all or part of a sentence
10 of imprisonment relating to that covered of-
11 fense, and

12 “(C)(i) who was pardoned, granted clem-
13 ency, or granted amnesty for that covered of-
14 fense because that individual was innocent of
15 that covered offense, or

16 “(ii)(I) for whom the judgment of convic-
17 tion for that covered offense was reversed or va-
18 cated, and

19 “(II) for whom the indictment, informa-
20 tion, or other accusatory instrument for that
21 covered offense was dismissed or who was found
22 not guilty at a new trial after the judgment of
23 conviction for that covered offense was reversed
24 or vacated.

1 “(2) COVERED OFFENSE.—The term ‘covered
2 offense’ means any criminal offense under Federal
3 or State law, and includes any criminal offense arising
4 from the same course of conduct as that criminal
5 offense.

6 “(d) QUALIFIED WRONGFULLY INCARCERATED INDIVIDUAL.—For purposes of this section, the term ‘qualified
7 individual’ means a wrongfully incarcerated individual who, except for the covered offense
8 wrongfully incarcerated individual’ means a wrongfully in-
9 carcerated individual who, except for the covered offense
10 described in subsection (c)(1)(A), has never been convicted
11 of a criminal offense (other than a juvenile offense) under
12 Federal or State law that is punishable by more than 1
13 year imprisonment.

14 “(e) REPORTING REQUIREMENTS.—For purposes of
15 this section and section 36, the Secretary to impose such
16 reporting requirements as the Secretary determines necessary or appropriate to carry out this section, including
17 essential or appropriate to carry out this section, including
18 a requirement that the individual include with the return
19 of tax for the taxable year a statement or attestation that
20 the individual has not been subsequently convicted of a
21 crime within the meaning of subsection (b)(4).”.

22 (b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting
23 sections for part III of subchapter B of chapter 1 of the In-
24 ternal Revenue Code of 1986 is amended by inserting

1 after the item relating to section 139B the following new
2 item:

“Sec. 139C. Certain amounts received by wrongfully incarcerated individuals.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning before,
5 on, or after the date of the enactment of this Act.

6 **SEC. 3. REFUNDABLE CREDIT FOR EMPLOYMENT TAXES**
7 **PAID BY WRONGFULLY INCARCERATED INDI-**
8 **VIDUALS.**

9 (a) ALLOWANCE OF REFUNDABLE CREDIT.—Sub-
10 part C of part IV of subchapter A of chapter 1 of the
11 Internal Revenue Code of 1986 (relating to refundable
12 credits) is amended by redesignating section 36 as section
13 37 and by inserting after section 35 the following new sec-
14 tion:

15 **“SEC. 36. EMPLOYMENT TAXES OF WRONGFULLY INCAR-**
16 **CERATED INDIVIDUALS.**

17 “(a) IN GENERAL.—In the case of a qualified wrong-
18 fully incarcerated individual, there shall be allowed as a
19 credit against the tax imposed by this subtitle for the tax-
20 able year an amount equal to the sum of—

21 “(1) 50 percent of the taxes imposed on the
22 self-employment income of such individual under
23 subsections (a) and (b) of section 1401 during the
24 taxable year, plus

1 “(2) the taxes imposed on the wages received by
2 such individual with respect to employment under
3 subsections (a) and (b) of section 3101 during the
4 taxable year.

5 “(b) LIMITATIONS.—

6 “(1) DOLLAR LIMITATION.—The total amount
7 of wages and self-employment income taken into ac-
8 count under subsection (a) with respect to any indi-
9 vidual for any taxable year shall not exceed \$50,000.

10 “(2) TAXABLE YEAR LIMITATION.—The credit
11 under subsection (a) shall not be allowed to any
12 qualified wrongfully incarcerated individual for any
13 taxable year other than a taxable year in the quali-
14 fied benefit period determined with respect to such
15 individual under paragraphs (2) and (3) of section
16 139C(b).

17 “(3) TERMINATION OF CREDIT UPON CONVIC-
18 TION OF SUBSEQUENT OFFENSE.—If a qualified
19 wrongfully incarcerated individual is convicted of a
20 criminal offense under Federal or State law that is
21 punishable by more than 1 year imprisonment at
22 any time during the qualified benefit period (as so
23 determined), subsection (a) shall not apply to the
24 taxable year which includes the date of such convic-
25 tion and all subsequent taxable years.

1 “(c) QUALIFIED WRONGFULLY INCARCERATED INDI-
2 VIDUAL.—For purposes of this section, the term ‘qualified
3 wrongfully incarcerated individual’ has the meaning given
4 to such term under section 139C(d).

5 “(d) REFERENCE.—For reporting requirement, see
6 section 139C(e).”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 1324(b)(2) of title 31, United
9 States Code, is amended by inserting “, 36,” after
10 “35,”.

11 (2) The table of sections for subpart C of part
12 IV of subchapter A of chapter 1 of the Internal Rev-
13 enue Code of 1986 is amended by striking the item
14 relating to section 36 and inserting the following:

“Sec. 36. Employment taxes of wrongfully incarcerated individuals.

“Sec. 37. Overpayments of tax.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2007.

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