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CITY BAR

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June 20, 2007

Honorable Charles B. Rangel  
Chair, Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington D.C. 20515

Dear Representative Rangel:

On behalf of the Labor and Employment Law Committee of the Association of the Bar of the City of New York (the "Association"), I write to voice the Association's strong support for the Civil Rights Tax Relief Act of 2007, H.R. 1540, ("CRTRA"), a bi-partisan bill sponsored by Representatives John Lewis (D-GA) and Deborah Pryce (R-OH). This bill has been referred to the Ways and Means Committee.

Our Committee, as its name suggests, is charged with monitoring the area of labor and employment law on behalf of the more than 23,000 members of the Association. The attorneys on our Committee represent a broad range of public and private employers, as well as employees and unions. On very rare occasions, the membership of the Committee is able to support unanimously important legislation that will greatly benefit both employers and employees alike. We believe the CRTRA is just such legislation.

If passed into law, the CRTRA will make two long overdue changes to the Internal Revenue Service Tax Code ("Tax Code") that will ultimately make it easier for both employers and employees to settle the vast majority of workplace disputes. First, under the current Tax Code, an individual is required to pay taxes on monies attributable to non-economic damages he or she receives as a result of a settlement or an award related to allegations of unfair employment practices, such as workplace harassment or discrimination. Individuals, however, do *not* have to pay taxes on awards or settlement monies arising out of non-economic damages resulting from physical injuries (such as slip-and-falls). There is simply no valid justification for this inequity.

Second, under the current Tax Code, an individual who receives a lump-sum payment attributable to back-pay is required to pay taxes at the high marginal tax rate of the year of receipt of the award – regardless of whether the back-pay award compensates the employee for multiple years of lost compensation. Individuals should be permitted to allocate any payments over the appropriate back-pay period, thereby enabling them to pay taxes at the marginal rates applicable to the actual compensation that they earned or that they should have earned in each year of the back-pay period.

These taxes under the current Tax Code substantially increase the cost of settlement for employers, while simultaneously reducing recoveries for employees. The CRTRA will solve this problem by: 1) eliminating non-economic damages from the definition of "gross income"; and 2) permitting income-averaging for lump-sum back-pay settlements or awards.

Virtually all employers – large and small – stand to benefit from the CRTRA by making it less expensive to settle cases. Individuals will also benefit by not having to pay taxes on the non-economic component of their settlements or awards and by permitting income-averaging for lump-sum settlements or awards. Moreover, by helping to encourage quicker and less expensive settlements of work-related disputes, the CRTRA will undoubtedly reduce legal proceedings in employment-related cases, thereby reducing the overload on the limited resources of courts and of administrative agencies, such as the EEOC, that handle employment matters. Such efficiency may result in savings for the government that can compensate for lost tax revenues.

For all of these reasons, the Association urges prompt passage of the Civil Rights Tax Relief Act of 2007.

Very truly yours,



Barry Kamins

cc: Hon. Nancy Pelosi, Speaker  
Hon. John Boehner, Republican Leader  
  
House Committee on Ways and Means  
  
NY Congressional Delegation