

**PROPOSED COMMENTS OF THE LABOR AND EMPLOYMENT LAW SECTION
OF THE DISTRICT OF COLUMBIA BAR ON SUPPORT FOR
"D.C. CIVIL RIGHTS TAX FAIRNESS ACT OF 2001" (Bill No. 14-321)**

to be filed with

Jack Evans, Chair, Committee on Finance and Revenue
Council
District of Columbia

One-Page Summary for D.C. Bar Reviewers

In 1996, Congress passed the Small Business Act, which among its provisions, made compensation for emotional distress damages in discrimination cases subject to Federal income tax. The District of Columbia Tax Code § 47-1803.2 incorporates changes to the Federal Tax Code definition of gross income, and as a result, emotional distress damages have become taxable income in the District of Columbia.

The D.C. Civil Rights Tax Fairness Act of 2001 (CRTFA) would eliminate taxation of emotional distress awards in discrimination cases by excluding such damages completely from taxable gross income. If enacted, the CRTFA would prevent workers subjected to illegal discrimination from paying higher taxes on lump-sum wage awards. It also greatly enhances the chances of settlements in discrimination cases, as often employees will insist upon a higher sum to compensate them for the additional taxes to be paid. Furthermore, it would also benefit employers who would not have to continue to pay increased amounts in settlement agreements because of the employees' tax liability.

The CRTFA also provides for income averaging of back pay awards that would permit those individuals recovering back wage awards to be taxed over the number of years for which the award was designed to compensate. This would eliminate the requirement that awards be taxed in the year received which may place employees in a higher tax bracket than would have applied if they had received their wages over the years they had worked.

In addition, the CRTFA would eliminate the taxation of attorney fees awards by eliminating attorney fees from the individual's gross income. At present, employees who bring civil rights cases can also be taxed on the portion of the award paid to their attorney as fees even though the attorneys are also taxed on that amount as well. Under current law, deductions for attorney fees often trigger the alternative minimum tax, making more of the award, including the attorney fees, taxable to the individual whose rights were violated.

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