

103D CONGRESS  
1ST SESSION

# H. R. 1141

To amend the Internal Revenue Code of 1986 to allow a credit for a portion of employer social security taxes paid with respect to employee cash tips.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1993

Mr. ANDREWS of Texas (for himself and Mr. SUNDQUIST) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit for a portion of employer social security taxes paid with respect to employee cash tips.

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. CREDIT FOR PORTION OF EMPLOYER SOCIAL**  
4                       **SECURITY TAXES PAID WITH RESPECT TO**  
5                       **EMPLOYEE CASH TIPS.**

6       (a) IN GENERAL.—Subpart D of part IV of sub-  
7       chapter A of chapter 1 of the Internal Revenue Code of  
8       1986 (relating to business related credits) is amended by  
9       adding at the end the following new section:

1 **“SEC. 45A. CREDIT FOR PORTION OF EMPLOYER SOCIAL**  
2 **SECURITY TAXES PAID WITH RESPECT TO**  
3 **EMPLOYEE CASH TIPS.**

4 “(a) GENERAL RULE.—For purposes of section 38,  
5 the employer social security credit determined under this  
6 section for the taxable year is an amount equal to the ex-  
7 cess employer social security tax paid or incurred by the  
8 taxpayer during the taxable year.

9 “(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—  
10 For purposes of this section, the term ‘excess employer  
11 social security tax’ means any tax paid by an employer  
12 under section 3111 with respect to tips received by an em-  
13 ployee during any month, to the extent such tips—

14 “(1) are deemed to have been paid by the em-  
15 ployer to the employee pursuant to section 3121(q),  
16 and

17 “(2) exceed the amount by which the wages (ex-  
18 cluding tips) paid by the employer to the employee  
19 during such month are less than the total amount  
20 which would be payable (with respect to such em-  
21 ployment) at the minimum wage rate applicable to  
22 such individual under section 6(a)(1) of the Fair  
23 Labor Standards Act of 1938 (determined without  
24 regard to section 3(m) of such Act).

1       “(c) DENIAL OF DOUBLE BENEFIT.—No deduction  
2 shall be allowed under this chapter for any amount taken  
3 into account in determining the credit under this section.”

4       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
5 CREDIT.—

6           (1) IN GENERAL.—Subsection (b) of section 38  
7 of such Code (relating to current year business cred-  
8 it) is amended by striking “plus” at the end of para-  
9 graph (7), by striking the period at the end of para-  
10 graph (8) and inserting “, plus”, and by adding at  
11 the end the following new paragraph:

12           “(9) the employer social security credit deter-  
13 mined under section 45A(a).”

14           (2) LIMITATION ON CARRYBACKS.—Subsection  
15 (d) of section 39 of such Code (relating to transi-  
16 tional rules) is amended by adding at the end the  
17 following new paragraph:

18           “(4) NO CARRYBACK OF SECTION 45A CREDIT  
19 BEFORE ENACTMENT.—No portion of the unused  
20 business credit for any taxable year which is attrib-  
21 utable to the employer social security credit deter-  
22 mined under section 45A may be carried back to a  
23 taxable year ending before the date of the enactment  
24 of section 45A.”

1       (c) CLERICAL AMENDMENT.—The table of sections  
2 for subpart D of part IV of subchapter A of chapter 1  
3 of such Code is amended by adding at the end the follow-  
4 ing new item:

“Sec. 45A. Employer social security credit.”

5       (d) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply with respect to taxes paid after  
7 December 31, 1992.

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