

106TH CONGRESS  
1ST SESSION

# H. R. 1329

To amend the Internal Revenue Code of 1986 to provide that tips received for certain services shall not be subject to income or employment taxes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1999

Mr. HUNTER (for himself and Mrs. BONO) 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 provide that tips received for certain services shall not be subject to income or employment taxes.

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. TIPS RECEIVED FOR CERTAIN SERVICES NOT**  
4                               **SUBJECT TO INCOME OR EMPLOYMENT**  
5                               **TAXES.**

6       (a) IN GENERAL.—Section 102 of the Internal Rev-  
7       enue Code of 1986 (relating to gifts and inheritances) is  
8       amended by adding at the end the following new sub-  
9       section:

10       “(d) TIPS RECEIVED FOR CERTAIN SERVICES.—

1           “(1) IN GENERAL.—For purposes of subsection  
2           (a), tips received by an individual for qualified serv-  
3           ices performed by such individual shall be treated as  
4           property transferred by gift.

5           “(2) QUALIFIED SERVICES.—For purposes of  
6           this subsection, the term ‘qualified services’ means  
7           cosmetology, hospitality (including lodging and food  
8           and beverage services), recreation, taxi, newspaper  
9           deliveries and shoe shine services.

10          “(3) ANNUAL LIMIT.—The amount excluded  
11          from gross income for the taxable year by reason of  
12          paragraph (1) with respect to each service provider  
13          shall not exceed \$10,000.

14          “(4) EMPLOYEE TAXABLE ON AT LEAST MIN-  
15          IMUM WAGE.—Paragraph (1) shall not apply to tips  
16          received by an employee during any month to the ex-  
17          tent that such tips—

18                 “(A) are deemed to have been paid by the  
19                 employer to the employee pursuant to section  
20                 3121(q) (without regard to whether such tips  
21                 are reported under section 6053), and

22                 “(B) do not exceed the excess of—

23                         “(i) the minimum wage rate applica-  
24                         ble to such individual under section 6(a)(1)  
25                         of the Fair Labor Standards Act of 1938

1 (determined without regard to section 3(m)  
2 of such Act), over

3 “(ii) the amount of the wages (exclud-  
4 ing tips) paid by the employer to the em-  
5 ployee during such month.

6 “(5) TIPS.—For purposes of this title, the term  
7 ‘tips’ means a gratuity paid by an individual for  
8 services performed for such individual (or for a  
9 group which includes such individual) by another in-  
10 dividual if such services are not provided pursuant  
11 to an employment or similar contractual relationship  
12 between such individuals.”

13 (b) EXCLUSION FROM SOCIAL SECURITY TAXES.—

14 (1) Paragraph (12) of section 3121(a) of such  
15 Code is amended to read as follows:

16 “(12)(A) tips paid in any medium other than  
17 cash;

18 “(B) cash tips received by an employee in any  
19 calendar month in the course of his employment by  
20 an employer unless the amount of such cash tips is  
21 \$20 or more and then only to the extent includible  
22 in gross income after the application of section  
23 102(d);”.

24 (2) Paragraph (10) of section 209(a) of the So-  
25 cial Security Act is amended to read as follows:

1           “(10)(A) tips paid in any medium other than  
2 cash;

3           “(B) cash tips received by an employee in any  
4 calendar month in the course of his employment by  
5 an employer unless the amount of such cash tips is  
6 \$20 or more and then only to the extent includible  
7 in gross income after the application of section  
8 102(d) of the Internal Revenue Code of 1986 for  
9 such month;”.

10           (3) Paragraph (3) of section 3231(e) of such  
11 Code is amended to read as follows:

12           “(3) Solely for purposes of the taxes imposed  
13 by section 3201 and other provisions of this chapter  
14 insofar as they relate to such taxes, the term ‘com-  
15 pensation’ also includes cash tips received by an em-  
16 ployee in any calendar month in the course of his  
17 employment by an employer if the amount of such  
18 cash tips is \$20 or more and then only to the extent  
19 includible in gross income after the application of  
20 section 102(d).”.

21           (c) EXCLUSION FROM UNEMPLOYMENT COMPENSA-  
22 TION TAXES.—Subsection (s) of section 3306 of such  
23 Code is amended to read as follows:

24           “(s) TIPS NOT TREATED AS WAGES.—For purposes  
25 of this chapter, the term ‘wages’ shall include tips received

1 in any month only to the extent includible in gross income  
2 after the application of section 102(d) for such month.”

3 (d) EXCLUSION FROM WAGE WITHHOLDING.—Para-  
4 graph (16) of section 3401(a) of such Code is amended  
5 to read as follows:

6 “(16)(A) as tips in any medium other than  
7 cash;

8 “(B) as cash tips to an employee in any cal-  
9 endar month in the course of his employment by an  
10 employer unless the amount of such cash tips is \$20  
11 or more and then only to the extent includible in  
12 gross income after the application of section  
13 102(d);”

14 (e) CONFORMING AMENDMENT.—Sections  
15 32(c)(2)(A)(i) and 220(b)(4)(A) of such Code are each  
16 amended by striking “tips” and inserting “tips to the ex-  
17 tent includible in gross income after the application of sec-  
18 tion 102(d)”.

19 (f) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to tips received after the calendar  
21 month which includes the date of the enactment of this  
22 Act.

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