

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5445

To amend the Internal Revenue Code of 1986 to provide that an employer shall be liable for Social Security taxes on unreported tips paid to an employee only after the Internal Revenue Service establishes the amount of tips received by that employee.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2002

Mr. HERGER (for himself, Mr. TANNER, Mr. KINGSTON, Mr. BLUNT, Mr. FOLEY, Mr. MCINTYRE, Mr. McNULTY, Mr. FORD, Mr. GRAHAM, Mr. RYAN of Wisconsin, Mr. SIMMONS, Mr. MANZULLO, Mr. GIBBONS, Mr. SMITH of Michigan, Mr. CALVERT, Mr. JEFF MILLER of Florida, Mr. GORDON, Mr. HALL of Texas, Mr. TIBERI, and Mr. PICKERING) 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 an employer shall be liable for Social Security taxes on unreported tips paid to an employee only after the Internal Revenue Service establishes the amount of tips received by that employee.

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 “Tip Tax Fairness Act  
5       of 2002”.

1 **SEC. 2. EMPLOYER LIABLE FOR FICA TAX ON TIPS RE-**  
2 **CEIVED BY EMPLOYEE ONLY AFTER IRS ES-**  
3 **TABLISHES AMOUNT OF TIPS RECEIVED BY**  
4 **THAT EMPLOYEE.**

5 (a) **IN GENERAL.**—Subsection (q) of section 3121 of  
6 the Internal Revenue Code of 1986 (relating to tips in-  
7 cluded for both employee and employer taxes) is amended  
8 by adding at the end the following new sentence: “The  
9 Secretary may issue a notice and demand to an employer  
10 for taxes imposed by section 3111 with respect to tips re-  
11 ferred to in the exception in the preceding sentence only  
12 after the Secretary has determined the liability of each  
13 employee for taxes imposed by section 3101 on such tips.”

14 (b) **EFFECTIVE DATE.**—The amendment made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

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