

110TH CONGRESS  
2D SESSION

# H. R. 5703

To amend the Internal Revenue Code of 1986 to provide that elderly and disabled individuals receiving in-home care under certain government programs are not liable for the payment of employment taxes with respect to the providers of such care, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2008

Mr. LEWIS of Georgia introduced the following bill; which was referred to the Committee on Ways and Means

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide that elderly and disabled individuals receiving in-home care under certain government programs are not liable for the payment of employment taxes with respect to the providers of such care, and for other purposes.

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 “Elderly Care Tax Act  
5 of 2008”.

1 **SEC. 2. ELDERLY AND DISABLED INDIVIDUALS RECEIVING**  
2 **IN-HOME CARE UNDER CERTAIN GOVERN-**  
3 **MENT PROGRAMS NOT SUBJECT TO EMPLOY-**  
4 **MENT TAX PROVISIONS.**

5 (a) IN GENERAL.—Chapter 25 (relating to general  
6 provisions relating to employment taxes) is amended by  
7 adding at the end the following new section:

8 **“SEC. 3511. ELDERLY AND DISABLED INDIVIDUALS RECEIV-**  
9 **ING IN-HOME CARE UNDER CERTAIN GOV-**  
10 **ERNMENT PROGRAMS.**

11 “(a) IN GENERAL.—In the case of amounts paid  
12 under a home care service program to a home care service  
13 provider by the fiscal administrator of such program—

14 “(1) the home care service recipient shall not be  
15 liable for the payment of any taxes imposed under  
16 this subtitle with respect to amounts paid for the  
17 provision of services under such program, and

18 “(2) the fiscal administrator shall be so liable.

19 “(b) DEFINITIONS.—For purposes of this section—

20 “(1) HOME CARE SERVICE PROGRAM.—The  
21 term ‘home care service program’ means a State or  
22 local government program—

23 “(A) any portion of which is funded with  
24 Federal funds, and

1           “(B) under which domestic services are  
2           provided to elderly or disabled individuals in  
3           their homes.

4           Such term shall not include any program to the ex-  
5           tent home care service recipients make payments to  
6           the home care service providers for such in-home do-  
7           mestic services.

8           “(2) HOME CARE SERVICE PROVIDER.—The  
9           term ‘home care service provider’ means any indi-  
10          vidual who provides domestic services to a home care  
11          service recipient under a home care service program.

12          “(3) HOME CARE SERVICE RECIPIENT.—The  
13          term ‘home care service recipient’ means any indi-  
14          vidual receiving domestic services under a home care  
15          service program.

16          “(4) FISCAL ADMINISTRATOR.—The term ‘fiscal  
17          administrator’ means any person or governmental  
18          entity who pays amounts under a home care service  
19          program to home care service providers for the pro-  
20          vision of domestic services under such program.

21          “(c) RETURNS BY FISCAL ADMINISTRATOR.—For  
22          purposes of this section—

23                 “(1) IN GENERAL.—Returns relating to taxes  
24                 imposed or amounts required to be withheld under

1 this subtitle shall be made under the identifying  
2 number of the fiscal administrator.

3 “(2) IDENTIFICATION OF SERVICE RECIPI-  
4 ENT.—The fiscal administrator shall, to the extent  
5 required under regulations prescribed by the Sec-  
6 retary, make a return setting forth—

7 “(A) the name and address of each home  
8 care service recipient for whom amounts are  
9 paid by such fiscal administrator under the  
10 home care services program, and

11 “(B) such other information as the Sec-  
12 retary may require.

13 “(d) REGULATIONS.—The Secretary may prescribe  
14 such regulations or other guidance as may be necessary  
15 to carry out the purposes of this section, including requir-  
16 ing deposits of any tax imposed under this subtitle.”.

17 (b) SERVICE RECIPIENT IDENTIFICATION RETURN  
18 TREATED AS INFORMATION RETURN.—Paragraph (3) of  
19 section 6724(d) of such Code is amended by striking  
20 “and” at the end of subparagraph (C)(ii), by striking the  
21 period at the end of subparagraph (D)(ii) and inserting  
22 “, and”, and by adding at the end the following new sub-  
23 paragraph:

24 “(E) any requirement under section  
25 3511(c)(2).”.

1           (c) CLERICAL AMENDMENT.—The table of sections  
2 for chapter 25 is amended by adding at the end the fol-  
3 lowing new item:

          “Sec. 3511. Elderly and disabled individuals receiving in-home care under cer-  
          tain government programs.”.

4           (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to amounts paid after December  
6 31, 2008.

○