

118TH CONGRESS
1ST SESSION

S. 45

To amend the Internal Revenue Code of 1986 to simplify reporting requirements, promote tax compliance, and reduce tip reporting compliance burdens in the beauty service industry.

IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 3), 2023

Mr. CARDIN (for himself and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to simplify reporting requirements, promote tax compliance, and reduce tip reporting compliance burdens in the beauty service industry.

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 “Small Business Tax
5 Fairness and Compliance Simplification Act”.

1 **SEC. 2. EXTENSION OF CREDIT FOR PORTION OF EM-**
 2 **EMPLOYER SOCIAL SECURITY TAXES PAID WITH**
 3 **RESPECT TO EMPLOYEE TIPS TO BEAUTY**
 4 **SERVICE ESTABLISHMENTS.**

5 (a) EXTENSION OF TIP CREDIT TO BEAUTY SERVICE
 6 BUSINESS.—

7 (1) IN GENERAL.—Section 45B(b)(2) of the In-
 8 ternal Revenue Code of 1986 is amended to read as
 9 follows:

10 “(2) APPLICATION ONLY TO CERTAIN LINES OF
 11 BUSINESS.—In applying paragraph (1) there shall
 12 be taken into account only tips received from cus-
 13 tomers or clients in connection with the following
 14 services:

15 “(A) The providing, delivering, or serving
 16 of food or beverages for consumption, if the tip-
 17 ping of employees delivering or serving food or
 18 beverages by customers is customary.

19 “(B) The providing of beauty services to a
 20 customer or client if the tipping of employees
 21 providing such services is customary.”.

22 (2) BEAUTY SERVICE DEFINED.—Section 45B
 23 of such Code is amended by adding at the end the
 24 following new subsection:

25 “(e) BEAUTY SERVICE.—For purposes of this sec-
 26 tion, the term ‘beauty service’ means any of the following:

1 “(1) Barbering and hair care.

2 “(2) Nail care.

3 “(3) Esthetics.

4 “(4) Body and spa treatments.”.

5 (b) CREDIT DETERMINED WITH RESPECT TO MIN-
6 IMUM WAGE IN EFFECT.—Section 45B(b)(1)(B) of the
7 Internal Revenue Code of 1986 is amended—

8 (1) by striking “as in effect on January 1,
9 2007, and”; and

10 (2) by inserting “, and in the case of food or
11 beverage establishments, as in effect on January 1,
12 2007” after “without regard to section 3(m) of such
13 Act”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2023.

17 **SEC. 3. EMPLOYER TIP REPORTING SAFE HARBOR.**

18 (a) IN GENERAL.—Section 3121(q) of the Internal
19 Revenue Code of 1986 is amended—

20 (1) by striking so much as precedes “of this
21 chapter” and inserting the following:

22 “(q) TIPS INCLUDED FOR BOTH EMPLOYEE AND
23 EMPLOYER TAXES.—

24 “(1) IN GENERAL.—For purposes”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) TIP PROGRAM SAFE HARBOR.—In the case
4 of an employer who employs one or more employees
5 who receive tips in the course of such employment
6 which are attributable to the performance of beauty
7 services (as such term is defined in section 45B) are
8 considered remuneration for such employment under
9 this section, no IRS tip examination with respect to
10 such employer shall be initiated (except in the case
11 of a tip examination of a current or former em-
12 ployee) if the employer—

13 “(A) establishes an educational program
14 regarding applicable laws relating to proper re-
15 porting of tips received by employees for—

16 “(i) new employees, which shall in-
17 clude both verbal explanation and written
18 materials, and

19 “(ii) existing employees, which shall
20 be conducted quarterly,

21 “(B) establishes procedures for tipped em-
22 ployees to provide monthly reporting of cash
23 and charged services and related tip income of
24 at least \$20 under section 6053(a),

1 “(C) complies with all applicable Federal
2 tax law requirements applicable to employers
3 for purposes of filing returns, and collection
4 and payment of taxes imposed, with respect to
5 tip income received by employees, and

6 “(D) maintains employee records related
7 to—

8 “(i) contact information for such em-
9 ployees, and

10 “(ii) gross receipts from any services
11 subject to tipping, and charge receipts for
12 such services, for a period of not less than
13 4 calendar years after the calendar year to
14 which the records relate.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2023.

18 **SEC. 4. INFORMATION REPORTING OF INCOME FROM**
19 **SPACE RENTALS IN THE BEAUTY SERVICE IN-**
20 **DUSTRY.**

21 (a) IN GENERAL.—Subpart B of part III of sub-
22 chapter A of chapter 61 of the Internal Revenue Code of
23 1986, as amended by section 334(d) of Public Law 117–
24 328, is amended by adding at the end the following new
25 section:

1 **“SEC. 6050AA. RETURNS RELATING TO INCOME FROM CER-**
2 **TAIN RENTALS OF SPACE IN THE BEAUTY**
3 **SERVICE INDUSTRY.**

4 “(a) REQUIREMENT OF REPORTING.—Any person
5 who, in the course of a trade or business and for any cal-
6 endar year, receives rental payments from two or more
7 individuals providing beauty services (as defined in section
8 45B(e)) aggregating \$600 or more each for the lease of
9 space to provide such services to third-party patrons shall
10 make the return described in subsection (b) with respect
11 to each person from whom such rent was so received at
12 such time as the Secretary may by regulations prescribe.

13 “(b) RETURN.—A return is described in this sub-
14 section if such return—

15 “(1) is in such form as the Secretary may pre-
16 scribe, and

17 “(2) contains—

18 “(A) the name, address, and TIN of each
19 person from whom a rental payment described
20 in subsection (a) was received during the cal-
21 endar year,

22 “(B) the aggregate amount of such pay-
23 ments received by such person during such cal-
24 endar year and the date and amount of each
25 such payment, and

1 “(C) such other information as the Sec-
2 retary may require.

3 “(c) STATEMENT TO BE FURNISHED TO PERSONS
4 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

5 “(1) IN GENERAL.—Every person required to
6 make a return under subsection (a) shall furnish to
7 each person whose name is required to be set forth
8 in such return a written statement showing—

9 “(A) the name, address, and phone num-
10 ber of the information contact of the person re-
11 quired to make such a return, and

12 “(B) the aggregate amount of payments to
13 the person required to be shown on the return.

14 “(2) FURNISHING OF INFORMATION.—The
15 written statement required under paragraph (1)
16 shall be furnished to the person on or before Janu-
17 ary 31 of the year following the calendar year for
18 which the return under subsection (a) is required to
19 be made.

20 “(d) REGULATIONS AND GUIDANCE.—The Secretary
21 may prescribe such regulations and other guidance as may
22 be appropriate or necessary to carry out the purpose of
23 this subsection, including rules to prevent duplicative re-
24 porting of transactions.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subchapter A of chapter 61 of such Code is amended
3 by adding at the end the following new item:

“Sec. 6050AA. Returns relating to income from certain rentals of space in the
beauty service industry.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to payments made after December
6 31, 2023.

7 **SEC. 5. GAO STUDY.**

8 Not later than 5 years after the date of enactment
9 of this Act, the Comptroller General shall conduct a study
10 and submit to the Committee on Small Business and En-
11 trepreneurship of the Senate and the Committee on Fi-
12 nance of the Senate a report detailing how the extension
13 of the employer social security credit under section 45B
14 of the Internal Revenue Code of 1986 (as amended by sec-
15 tion 2 of this Act) has impacted employers and employees
16 with respect to Federal income tax compliance and bene-
17 fits.

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