

117TH CONGRESS
1ST SESSION

H. R. 5704

To amend the Internal Revenue Code of 1986 to require payroll tax withholding on independent contractors of certain large businesses.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2021

Mrs. WATSON COLEMAN (for herself, Mr. CARSON, Ms. SCHAKOWSKY, Ms. TLAIB, Ms. NORTON, Mr. GRIJALVA, Ms. LEE of California, Mr. HUFFMAN, Mr. POCAN, and Mrs. HAYES) 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 require payroll tax withholding on independent contractors of certain large businesses.

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 “Gig Is Up Act”.

5 **SEC. 2. PAYROLL TAX WITHHOLDING FOR CERTAIN INDE-**
6 **PENDENT CONTRACTORS.**

7 (a) IN GENERAL.—Subchapter C of chapter 21 of the
8 Internal Revenue Code of 1986 is amended by redesign-

1 nating section 3128 as section 3129 and by inserting after
 2 section 3127 the following new section:

3 **“SEC. 3128. TREATMENT OF CERTAIN LARGE EMPLOYERS.**

4 “(a) IN GENERAL.—In the case of a person who has
 5 at least \$100,000,000 in gross receipts for a calendar
 6 year, and with whom at least 10,000 individuals contract
 7 to provide services other than as an employee during the
 8 calendar year—

9 “(1) any remuneration paid by such person to
 10 any such individual with respect to such services
 11 (and any payment made by such person to any such
 12 individual in settlement of a transaction for the pro-
 13 vision of such services) shall be treated in the same
 14 manner as wages with respect to employment of
 15 such individual for purposes of subchapter B and
 16 chapter 2, and

17 “(2) section 3111 shall be applied—

18 “(A) by substituting ‘12.4 percent’ for ‘6.2
 19 percent’ in subsection (a) thereof, and

20 “(B) by substituting ‘2.9 percent’ for ‘1.45
 21 percent’ in subsection (b) thereof.

22 “(b) AGGREGATION RULES.—All persons treated as
 23 a single employer under subsections (a) and (b) of section
 24 52 shall be treated as a single employer for purposes of
 25 this section.”.

1 (b) SELF-EMPLOYMENT EARNINGS FOR PURPOSES
 2 OF SOCIAL SECURITY.—Section 211(a) of the Social Secu-
 3 rity Act (42 U.S.C. 411) is amended by striking “and”
 4 at the end of paragraph (15), by striking the period at
 5 the end of paragraph (16) and inserting “; and”, and by
 6 inserting after paragraph (16) the following new para-
 7 graph:

8 “(17) There shall be included amounts treated
 9 as wages under section 3128 and an amount equal
 10 to ½ of the tax imposed under section 3111 pursu-
 11 ant to the substituted rates specified in subpara-
 12 graphs (A) and (B) of section 3128(a)(2).”.

13 (c) CLERICAL AMENDMENT.—The table of sections
 14 for subchapter C of chapter 21 of such Code is amended
 15 by striking the item relating to section 3128 and inserting
 16 the following new items:

“Sec. 3128. Treatment of certain large employers.
 “Sec. 3129. Short title.”.

17 (d) EFFECTIVE DATE.—The amendment made by
 18 this section shall apply to remuneration and other pay-
 19 ments made after December 31, 2021.

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