

117TH CONGRESS  
1ST SESSION

# H. R. 2304

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to modify the portion of wages and self-employment income subject to payroll taxes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2021

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

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## A BILL

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to modify the portion of wages and self-employment income subject to payroll taxes, 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 “Save Social Security  
5 Act of 2021”.

1 **SEC. 2. DETERMINATION OF WAGES AND SELF-EMPLOY-**  
2 **MENT INCOME ABOVE CONTRIBUTION AND**  
3 **BENEFIT BASE AFTER 2021.**

4 (a) DETERMINATION OF WAGES ABOVE CONTRIBU-  
5 TION AND BENEFIT BASE AFTER 2021.—

6 (1) AMENDMENTS TO THE INTERNAL REVENUE  
7 CODE.—

8 (A) IN GENERAL.—Section 3121(a)(1) of  
9 the Internal Revenue Code of 1986 is amended  
10 by inserting after “such calendar year.” the fol-  
11 lowing: “The preceding sentence shall apply  
12 only to calendar years for which the contribu-  
13 tion and benefit base (as so determined) is less  
14 than \$400,000, and, for such calendar years,  
15 only to so much of the remuneration paid to  
16 such employee by such employer with respect to  
17 employment as does not exceed \$400,000.”.

18 (B) CONFORMING AMENDMENT.—Section  
19 3121(a)(1) of such Code is amended by striking  
20 “Act) to” and inserting “Act), or in excess of  
21 \$400,000, to”.

22 (2) AMENDMENT TO THE SOCIAL SECURITY  
23 ACT.—Section 209(a)(1)(I) of the Social Security  
24 Act (42 U.S.C. 409(a)(1)(I)) is amended by insert-  
25 ing before the semicolon at the end the following:  
26 “except that this subparagraph shall apply only to

1       calendar years for which the contribution and ben-  
2       efit base (as so determined) is less than \$400,000,  
3       and, for such calendar years, only to the extent re-  
4       muneration paid to such employee by such employer  
5       with respect to employment does not exceed  
6       \$400,000”.

7               (3) EFFECTIVE DATE.—The amendments made  
8       by this subsection shall apply with respect to remu-  
9       neration paid in calendar years after 2021.

10       (b) DETERMINATION OF SELF-EMPLOYMENT IN-  
11       COME ABOVE CONTRIBUTION AND BENEFIT BASE AFTER  
12       2021.—

13               (1) AMENDMENTS TO THE INTERNAL REVENUE  
14       CODE.—

15               (A) IN GENERAL.—Section 1402(b)(1) of  
16       the Internal Revenue Code of 1986 is amended  
17       to read as follows:

18               “(1) in the case of the tax imposed by section  
19       1401(a)—

20               “(A) in the case of a taxpayer with wages  
21       (as determined under section 3121(a) without  
22       regard to paragraph (1) of such section) less  
23       than \$400,000 and more than the contribution  
24       and benefit base (as determined under section  
25       230 of the Social Security Act) which is effec-

1           tive for the calendar year in which such taxable  
2           year begins, the lesser of—

3                   “(i) the excess of \$400,000 over the  
4                   wages (as so determined) paid to such in-  
5                   dividual during such taxable year, or

6                   “(ii) the net earnings from self-em-  
7                   ployment for the taxable year, and

8                   “(B) in the case of a taxpayer with wages  
9                   (as so determined) less than or equal to such  
10                  contribution and benefit base and for whom the  
11                  sum, for the taxable year, of net earnings from  
12                  self-employment and wages (as so determined)  
13                  paid to such individual is greater than such  
14                  contribution and benefit base, the lesser of—

15                   “(i) the excess of such sum over such  
16                   contribution and benefit base, or

17                   “(ii) the excess of \$400,000 over such  
18                   contribution and benefit base.”.

19                  (B) PHASEOUT.—Section 1402(b) of such  
20                  Code is amended by adding at the end the fol-  
21                  lowing: “Paragraph (1) shall apply only to tax-  
22                  able years beginning in calendar years for which  
23                  the contribution and benefit base (as deter-  
24                  mined under section 230 of the Social Security  
25                  Act) is less than \$400,000.”.

1           (2) AMENDMENTS TO THE SOCIAL SECURITY  
2     ACT.—

3           (A) IN GENERAL.—Section 211(b)(1) of  
4     the Social Security Act (42 U.S.C. 411(b)) is  
5     amended—

6           (i) in subparagraph (I)—

7                   (I) by inserting “and before  
8                   2022” after “1974”; and

9                   (II) by striking “or” at the end;  
10           and

11           (ii) by adding at the end the fol-  
12     lowing:

13           “(J) For any taxable year beginning in any  
14     calendar year after 2021, an amount equal to—

15                   “(i) in the case of an individual with  
16                   wages (as determined under section 209(a)  
17                   without regard to paragraph (1) of such  
18                   section) less than \$400,000 and more than  
19                   the contribution and benefit base (as deter-  
20                   mined under section 230 of the Social Se-  
21                   curity Act) which is effective for the cal-  
22                   endar year in which such taxable year be-  
23                   gins, the lesser of—

24                           “(I) the excess of \$400,000 over  
25                           the wages (as so determined) paid to

1 such individual during such taxable  
2 year, or

3 “(II) the net earnings from self-  
4 employment for the taxable year, and

5 “(ii) in the case of a taxpayer with  
6 wages (as so determined) less than or  
7 equal to such contribution and benefit base  
8 and for whom the sum, for the taxable  
9 year, of net earnings from self-employment  
10 and wages (as so determined) paid to such  
11 individual is greater than such contribution  
12 and benefit base, the lesser of—

13 “(I) the excess of such sum over  
14 such contribution and benefit base, or

15 “(II) the excess of \$400,000 over  
16 such contribution and benefit base.”.

17 (B) PHASEOUT.—Section 211(b) of the  
18 Social Security Act (42 U.S.C. 411(b)) is  
19 amended by adding at the end the following:  
20 “Paragraph (1) shall apply only to taxable  
21 years beginning in calendar years for which the  
22 contribution and benefit base (as determined  
23 under section 230) is less than \$400,000.”.

24 (3) EFFECTIVE DATE.—The amendments made  
25 by this subsection shall apply to net earnings from

1 self-employment derived, and remuneration paid, in  
2 calendar years after 2021.

3 **SEC. 3. INCLUSION OF EARNINGS OVER \$400,000 IN SOCIAL**  
4 **SECURITY BENEFIT FORMULA.**

5 (a) INCLUSION OF EARNINGS OVER \$400,000 IN DE-  
6 TERMINATION OF PRIMARY INSURANCE AMOUNTS.—Sec-  
7 tion 215(a)(1)(A) of the Social Security Act (42 U.S.C.  
8 415(a)(1)(A)) is amended—

9 (1) in clause (ii), by striking “and” at the end;

10 (2) in clause (iii), by inserting “and” at the  
11 end; and

12 (3) by inserting after clause (iii) the following:

13 “(iv) 3 percent of the individual’s excess aver-  
14 age indexed monthly earnings (as defined in sub-  
15 section (b)(5)(A)).”.

16 (b) DEFINITION OF EXCESS AVERAGE INDEXED  
17 MONTHLY EARNINGS.—Section 215(b) of the Social Secu-  
18 rity Act (42 U.S.C. 415(b)) is amended—

19 (1) by striking “wages” and “self-employment  
20 income” each place such terms appear and inserting  
21 “basic wages” and “basic self-employment income”,  
22 respectively; and

23 (2) by adding at the end the following:

24 “(5)(A) An individual’s excess average indexed  
25 monthly earnings shall be equal to the amount of the indi-

1 individual’s average indexed monthly earnings that would be  
2 determined under this subsection by substituting ‘excess  
3 wages’ for ‘basic wages’ and ‘excess self-employment in-  
4 come’ for ‘basic self-employment income’ each place such  
5 terms appear in this subsection (except in this paragraph).

6 “(B) For purposes of this subsection—

7 “(i) the term ‘basic wages’ means that portion  
8 of the wages of an individual paid in a year that  
9 does not exceed the contribution and benefit base for  
10 the year;

11 “(ii) the term ‘basic self-employment income’  
12 means that portion of the self-employment income of  
13 an individual credited to a year that does not exceed  
14 an amount equal to the contribution and benefit  
15 base for the year minus the amount of the wages  
16 paid to the individual in the year;

17 “(iii) the term ‘excess wages’ means that por-  
18 tion of the wages of an individual paid in a year  
19 after 2021 in excess of the higher of \$400,000 or  
20 the contribution and benefit base for the year; and

21 “(iv) the term ‘excess self-employment income’  
22 means that portion of the self-employment income of  
23 an individual credited to a year after 2021 in excess  
24 of the higher of \$400,000 or such contribution and  
25 benefit base.”.



1 (c) CONFORMING AMENDMENT.—Section 215(e)(1)  
2 of the Social Security Act (42 U.S.C. 415(e)(1)) is amend-  
3 ed by inserting “and before 2022” after “1974”.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply with respect to individuals who ini-  
6 tially become eligible (within the meaning of section  
7 215(a)(3)(B) of the Social Security Act) for old-age or dis-  
8 ability insurance benefits under title II of the Social Secu-  
9 rity Act, or who die (before becoming eligible for such ben-  
10 efits), in any calendar year after 2021.

11 **SEC. 4. MODIFICATION OF AMOUNT OF SOCIAL SECURITY**  
12 **BENEFITS INCLUDED IN GROSS INCOME.**

13 (a) IN GENERAL.—Section 86 of the Internal Rev-  
14 enue Code of 1986 is amended by striking subsections (a),  
15 (b), and (c) and inserting the following:

16 “(a) IN GENERAL.—Gross income for the taxable  
17 year of any taxpayer described in subsection (b) (notwith-  
18 standing section 207 of the Social Security Act) includes  
19 social security benefits in an amount equal to the lesser  
20 of—

21 “(1) 85 percent of the social security benefits  
22 received during the taxable year, or

23 “(2) 85 percent of the excess described in sub-  
24 section (b).

1       “(b) TAXPAYERS TO WHOM SUBSECTION (a) AP-  
2 PLIES.—A taxpayer is described in this subsection if—

3               “(1) the sum of—

4                       “(A) the modified adjusted gross income of  
5 the taxpayer for the taxable year, plus

6                       “(B) 85 percent of the social security bene-  
7 fits received during the taxable year, exceeds

8               “(2) \$100,000.

9       “(c) MODIFIED ADJUSTED GROSS INCOME.—For  
10 purposes of this section, the term ‘modified adjusted gross  
11 income’ means adjusted gross income—

12               “(1) determined without regard to this section  
13 and sections 135, 137, 199, 221, 222, 911, 931, and  
14 933, and

15               “(2) increased by the amount of interest re-  
16 ceived or accrued by the taxpayer during the taxable  
17 year which is exempt from tax.”.

18       (b) SOCIAL SECURITY TRUST FUNDS HELD HARM-  
19 LESS.—There are hereby appropriated (out of any money  
20 in the Treasury not otherwise appropriated) for each fiscal  
21 year to each fund under the Social Security Act or the  
22 Railroad Retirement Act of 1974 an amount equal to the  
23 reduction in the transfers to such fund for such fiscal year  
24 by reason of the amendments made by subsection (a).

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after the  
3 date of the enactment of this Act.

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