

117TH CONGRESS  
2D SESSION

# H. R. 8717

To amend the Internal Revenue Code of 1986 to repeal the inclusion in gross income of social security benefits, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 16, 2022

Ms. CRAIG introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to repeal the inclusion in gross income of social security benefits, 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 “You Earned It, You  
5       Keep It Act”.

1 **SEC. 2. REPEAL OF INCLUSION IN GROSS INCOME OF SO-**  
2 **CIAL SECURITY BENEFITS.**

3 (a) IN GENERAL.—Section 86 of the Internal Rev-  
4 enue Code of 1986 (relating to social security benefits)  
5 is amended by adding at the end the following new sub-  
6 section:

7 “(g) TERMINATION.—This section shall not apply to  
8 any taxable year beginning after the date of the enactment  
9 of this subsection.”.

10 (b) SOCIAL SECURITY TRUST FUNDS HELD HARM-  
11 LESS.—There are hereby appropriated (out of any money  
12 in the Treasury not otherwise appropriated) for each fiscal  
13 year to each fund under the Social Security Act (including  
14 the Federal Hospital Insurance Trust Fund) or the Rail-  
15 road Retirement Act of 1974 an amount equal to the re-  
16 duction in the transfers to such fund for such fiscal year  
17 by reason of section 86(g) of the Internal Revenue Code  
18 of 1986.

19 **SEC. 3. DETERMINING WAGES AND SELF-EMPLOYMENT IN-**  
20 **COME ABOVE CONTRIBUTION AND BENEFIT**  
21 **BASE AFTER 2022.**

22 (a) DETERMINATION OF WAGES ABOVE CONTRIBU-  
23 TION AND BENEFIT BASE AFTER 2022.—

24 (1) AMENDMENTS TO THE INTERNAL REVENUE  
25 CODE OF 1986.—

1 (A) REPEAL OF PRESENT LAW LIMITA-  
2 TION.—Section 3121(a) of the Internal Revenue  
3 Code of 1986 is amended by striking paragraph  
4 (1).

5 (B) LIMITATION ON AMOUNT OF WAGES.—  
6 Section 3121 of the Internal Revenue Code of  
7 1986 is amended by adding at the end the fol-  
8 lowing:

9 “(aa) LIMITATION ON AMOUNT OF WAGES.—

10 “(1) IN GENERAL.—In the case of any calendar  
11 year in which the contribution and benefit base (as  
12 determined under section 230 of the Social Security  
13 Act) is less than \$250,000, for purposes of the taxes  
14 imposed by sections 3101(a) and 3111(a), the term  
15 ‘wages’ does not include that part of the remunera-  
16 tion which, after remuneration equal to such con-  
17 tribution and benefit base with respect to employ-  
18 ment has been paid to an individual by an employer  
19 during the calendar year with respect to which such  
20 contribution and benefit base is effective, is paid to  
21 such individual by such employer during the cal-  
22 endar year. The preceding sentence shall not apply  
23 to that part of the remuneration paid to an indi-  
24 vidual after remuneration of \$250,000 with respect  
25 to employment has been paid to such individual by

1 an employer (or any person related to, or acting on  
2 behalf of, such employer, as determined by the Sec-  
3 retary) during the calendar year.

4 “(2) SUCCESSOR EMPLOYER.—If an employer  
5 (hereinafter referred to as successor employer) dur-  
6 ing any calendar year, acquires substantially all the  
7 property used in a trade or business of another em-  
8 ployer (hereinafter referred to as a predecessor), or  
9 used in a separate unit of a trade or business of a  
10 predecessor, and immediately after the acquisition  
11 employs in his trade or business an individual who  
12 immediately prior to the acquisition was employed in  
13 the trade or business of such predecessor, then, for  
14 the purpose of determining whether the successor  
15 employer has paid remuneration with respect to em-  
16 ployment equal to the contribution and benefit base  
17 (as determined under section 230 of the Social Secu-  
18 rity Act) to such individual during such calendar  
19 year, any remuneration with respect to employment  
20 paid (or considered under this paragraph as having  
21 been paid) to such individual by such predecessor  
22 during such calendar year and prior to such acqui-  
23 sition shall be considered as having been paid by such  
24 successor employer.

1           “(3) REMUNERATION.—For purposes of this  
2 subsection, the term ‘remuneration’ does not include  
3 remuneration referred to in any paragraph of sub-  
4 section (a).”.

5           (C) APPLICATION TO RAILROAD RETIRE-  
6 MENT.—

7           (i) IN GENERAL.—Section  
8 3231(e)(2)(A) of the Internal Revenue  
9 Code of 1986 is amended by adding at the  
10 end the following new clause:

11           “(iv) LIMITATION ON EXCLUSION.—  
12 For purposes of so much of the taxes im-  
13 posed by sections 3201(a), 3211(a), and  
14 3221(a) as are determined by reference to  
15 the rate in effect under section 3101(a) or  
16 3111(a)—

17           “(I) in the case of any calendar  
18 year in which the contribution and  
19 benefit base (as determined under sec-  
20 tion 230 of the Social Security Act) is  
21 less than \$250,000, clause (i) shall  
22 not apply to that part of the remu-  
23 neration paid to an individual after  
24 remuneration of \$250,000 for services  
25 rendered as an employee has been

paid to such individual by an employer (or any person related to, or acting on behalf of, such employer, as determined by the Secretary) during the calendar year, and

“(II) in the case of any calendar year in which such contribution and benefit base equals or exceeds \$250,000, clause (i) shall not apply.”.

(ii) EXCLUSION OF REMUNERATION WHICH IS NOT TREATED AS COMPENSATION.—Section 3231(e)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended by inserting “or (iv)” after “under clause (i)”.

(D) CONFORMING AMENDMENT.—Section 3231(e)(2)(C) of the Internal Revenue Code of 1986 is amended by striking “the second sentence of section 3121(a)(1)” and inserting “section 3121(aa)(2)”.

(2) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 209(a)(1)(I) of the Social Security Act (42 U.S.C. 409(a)(1)(I)) is amended by inserting before the semicolon at the end the following: “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 \$250,000,  
 3       and, for such calendar years, only to the extent that  
 4       remuneration with respect to employment paid to  
 5       such employee does not exceed \$250,000”.

6       (b) DETERMINATION OF SELF-EMPLOYMENT IN-  
 7       COME ABOVE CONTRIBUTION AND BENEFIT BASE AFTER  
 8       2021.—

9               (1) AMENDMENTS TO INTERNAL REVENUE  
 10       CODE OF 1986.—

11               (A) IN GENERAL.—Section 1402(b) of the  
 12       Internal Revenue Code of 1986 is amended to  
 13       read as follows:

14       “(b) SELF-EMPLOYMENT INCOME.—

15               “(1) IN GENERAL.—The term ‘self-employment  
 16       income’ means the net earnings from self-employ-  
 17       ment derived by an individual, except that such term  
 18       shall not include net earnings from self-employment  
 19       if such net earnings for the taxable year are less  
 20       than \$400.

21               “(2) LIMITATION ON OASDI TAX.—For purposes  
 22       of section 1401(a), the term ‘self employment in-  
 23       come’ shall not exceed the sum of—

24               “(A) the total compensation not in excess  
 25       of the contribution and benefit base (as deter-

mined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, reduced by the amount of wages not in excess of such base paid to such individual during the taxable year, plus

“(B) the total compensation in excess of the greater of—

“(i) \$250,000, or

“(ii) the amount of wages paid to such individual during the taxable year.

“(3) DEFINITION AND SPECIAL RULES.—

“(A) TOTAL COMPENSATION.—For purposes of paragraph (2), the term ‘total compensation’ means the sum of the net earnings from self-employment and the amount of wages paid to such individual during the taxable year.

“(B) WAGES.—For purposes of this subsection, the term ‘wages’—

“(i) includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 3121(l) (relating to coverage of citizens of the United States who are employees of foreign affiliates of



1 American employers) as would be wages  
2 under section 3121(a) if such services con-  
3 stituted employment under section  
4 3121(b), and

5 “(ii) includes compensation which is  
6 subject to the tax imposed by section 3201  
7 or 3211 (or would be so subject but for  
8 paragraph (2) of section 3231(e)).

9 “(C) NONRESIDENT ALIENS.—A non-  
10 resident alien individual shall not be treated as  
11 an individual for purposes of paragraph (1), ex-  
12 cept as provided by an agreement under section  
13 233 of the Social Security Act. An individual  
14 who is not a citizen of the United States but  
15 who is a resident of the Commonwealth of  
16 Puerto Rico, the Virgin Islands, Guam, or  
17 American Samoa shall not, for purposes of this  
18 chapter, be considered to be a nonresident alien  
19 individual.

20 “(D) CHURCH EMPLOYEE.—In the case of  
21 church employee income, the special rules of  
22 subsection (j)(2) shall apply for purposes of  
23 paragraph (1).”.

24 (B) CONFORMING AMENDMENTS.—

1 (i) Section 1402(j)(2)(A) of the Inter-  
 2 nal Revenue Code of 1986 is amended by  
 3 striking all that precedes “shall be ap-  
 4 plied” and inserting:

5 “(A) SEPARATE APPLICATION OF DE MINI-  
 6 MIS RULE.—Subsection (b)(1)”.

7 (ii) Section 1402(j)(2)(B) of such  
 8 Code is amended by striking “paragraph  
 9 (2) of subsection (b)” and inserting “sub-  
 10 section (b)(1)”.

11 (2) AMENDMENTS TO THE SOCIAL SECURITY  
 12 ACT.—

13 (A) IN GENERAL.—Section 211(b)(1) of  
 14 the Social Security Act (42 U.S.C. 411(b)) is  
 15 amended—

16 (i) in subparagraph (I)—

17 (I) by inserting “and before  
 18 2023” after “1974”; and

19 (II) by striking “or” at the end;  
 20 and

21 (ii) by adding at the end the fol-  
 22 lowing:

23 “(J) For any taxable year beginning in any  
 24 calendar year after 2022, an amount equal to—

1 “(i) \$250,000, reduced (but not below  
2 zero) by

3 “(ii) the sum of—

4 “(I) the part of the net earnings  
5 from self-employment (if any) which is  
6 not in excess of—

7 “(aa) the amount equal to  
8 the contribution and benefit base  
9 (as determined under section  
10 230) which is effective for the  
11 calendar year in which such tax-  
12 able year begins, minus

13 “(bb) the amount of the  
14 wages paid to such individual  
15 during such taxable year, plus

16 “(II) the amount of the wages  
17 paid to such individual during such  
18 taxable year which is in excess of the  
19 amount in subclause (I)(aa); or”.

20 (B) PHASEOUT.—Section 211(b) of the  
21 Social Security Act (42 U.S.C. 411(b)) is  
22 amended by adding at the end the following:  
23 “Paragraph (1) shall apply only to taxable  
24 years beginning in calendar years for which the

1 contribution and benefit base (as determined  
2 under section 230) is less than \$250,000.”.

3 (c) SPECIAL RULE FOR WAGES FROM MULTIPLE  
4 EMPLOYERS WHICH TOTAL IN EXCESS OF \$250,000.—

5 (1) IN GENERAL.—Subchapter A of chapter 21  
6 of the Internal Revenue Code of 1986 is amended by  
7 adding at the end the following new section:

8 **“SEC. 3103. SPECIAL RULES FOR REMUNERATION FROM**  
9 **MULTIPLE EMPLOYERS.**

10 “(a) IN GENERAL.—In the case of an employee re-  
11 ceiving wages from more than one employer during a cal-  
12 endar year, there is hereby imposed a tax on such em-  
13 ployee (for the last taxable year beginning in the calendar  
14 year the wages are received) equal to the excess (if any)  
15 of—

16 “(1) the tax that would have been imposed by  
17 section 3101(a) if such wages had been received  
18 from one employer, over

19 “(2) the aggregate tax imposed by such section  
20 with respect to such wages.

21 “(b) COORDINATION WITH SPECIAL REFUND PROVI-  
22 SION.—No credit shall be determined under section 31(b)  
23 with respect to any employee for any taxable year unless  
24 the amount described in subsection (a)(1) with respect to  
25 wages received during the calendar year in which such tax-

1 able year begins exceeds the amount described in sub-  
 2 section (a)(2) with respect to such wages, and the amount  
 3 of such credit so determined shall not exceed such excess.

4 “(c) WAGES.—For purposes of this section, the term  
 5 ‘wages’ shall have the same meaning as when used in sec-  
 6 tion 1402(b).

7 “(d) APPLICATION TO TIER I RAILROAD RETIRE-  
 8 MENT TAX.—In the case of compensation (as defined in  
 9 section 3231(e)), for purposes of applying subsections (a)  
 10 and (b), the reference to the tax that would have been  
 11 imposed by section 3101(a) shall be treated as including  
 12 a reference to so much of the tax that would have been  
 13 imposed on such compensation under section 3201(a) or  
 14 3211(a) (or would have been so imposed but for paragraph  
 15 (2) of section 3231(e)) as is determined by reference to  
 16 the rate of tax in effect under section 3101(a).”.

17 (2) FAILURE BY INDIVIDUAL TO PAY ESTI-  
 18 MATED INCOME TAX.—Subsection (m) of section  
 19 6654 of the Internal Revenue Code of 1986 is  
 20 amended to read as follows:

21 “(m) SPECIAL RULE FOR CERTAIN EMPLOYMENT  
 22 TAXES.—For purposes of this section, the tax imposed by  
 23 sections 3101(b)(2) (to the extent not withheld) and the  
 24 tax imposed by section 3103 shall be treated as taxes im-  
 25 posed by chapter 2.”.

1           (3) CLERICAL AMENDMENT.—The table of sec-  
2           tions for subchapter A of chapter 21 of the Internal  
3           Revenue Code of 1986 is amended by adding at the  
4           end the following new item:

“Sec. 3103. Special rules for remuneration from multiple employers.”.

5           (d) CONFORMING CHANGE TO NATIONAL AVERAGE  
6           WAGE INDEX.—Section 209(k) of the Social Security Act  
7           (42 U.S.C. 409(k)) is amended—

8           (1) in paragraph (1), by inserting “and to para-  
9           graph (4)” after “paragraph (2)”; and

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

11          “(4) For each calendar year after 2022, the na-  
12          tional average wage index as defined in this section  
13          for such calendar year shall be deemed to be the na-  
14          tional average wage index determined under the pre-  
15          ceding paragraphs of this section increased by the  
16          following percentage:

17               “(A) For calendar years 2023 through  
18               2028, 0.7 percent.

19               “(B) For calendar years 2029 through  
20               2034, 0.8 percent.

21               “(C) For calendar years after 2035, 0.9  
22               percent.”.

23          (e) EFFECTIVE DATES.—

1           (1) IN GENERAL.—The amendments made by  
2           subsections (a) and (c) shall apply to remuneration  
3           paid in calendar years after 2022.

4           (2) SELF-EMPLOYMENT INCOME.—The amend-  
5           ments made by subsection (b) shall apply to taxable  
6           years beginning after December 31, 2022.

7   **SEC. 4. INCLUDING EARNINGS OVER \$250,000 IN SOCIAL SE-**  
8                           **CURITY BENEFIT FORMULA.**

9           (a) INCLUSION OF EARNINGS OVER \$250,000 IN DE-  
10          TERMINATION OF PRIMARY INSURANCE AMOUNTS.—Sec-  
11          tion 215(a)(1)(A) of the Social Security Act (42 U.S.C.  
12          415(a)(1)(A)) is amended—

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

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

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

17                          “(iv) 2 percent of the individual’s excess aver-  
18          age indexed monthly earnings (as defined in sub-  
19          section (b)(5)(A)).”.

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

23                  (1) by striking “wages” and “self-employment  
24          income” each place such terms appear and inserting

1 “basic wages” and “basic self-employment income”,  
2 respectively; and

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

4 “(5)(A) An individual’s excess average indexed  
5 monthly earnings shall be equal to the amount of the indi-  
6 vidual’s average indexed monthly earnings that would be  
7 determined under this subsection by substituting ‘excess  
8 wages’ for ‘basic wages’ and ‘excess self-employment in-  
9 come’ for ‘basic self-employment income’ each place such  
10 terms appear in this subsection (except in this paragraph).

11 “(B) For purposes of this subsection—

12 “(i) the term ‘basic wages’ means that portion  
13 of the wages of an individual paid in a year that  
14 does not exceed the contribution and benefit base for  
15 the year;

16 “(ii) the term ‘basic self-employment income’  
17 means that portion of the self-employment income of  
18 an individual credited to a year that does not exceed  
19 an amount equal to the contribution and benefit  
20 base for the year minus the amount of the wages  
21 paid to the individual in the year;

22 “(iii) the term ‘excess wages’ means that por-  
23 tion of the wages of an individual paid in a year  
24 after 2022 in excess of the higher of \$250,000 or  
25 the contribution and benefit base for the year; and



1           “(iv) the term ‘excess self-employment income’  
 2           means that portion of the self-employment income of  
 3           an individual credited to a year after 2022 in excess  
 4           of the higher of \$250,000 or such contribution and  
 5           benefit base for the year.”.

6           (c) CONFORMING AMENDMENTS.—Title II of the So-  
 7           cial Security Act is amended—

8           (1) in section 203(a)(6)(A) (42 U.S.C.  
 9           403(a)(6)(A)), by striking “85 percent of such indi-  
 10          vidual’s average indexed monthly earnings” and in-  
 11          serting “the sum of 85 percent of such individual’s  
 12          average indexed monthly earnings and 1 percent of  
 13          such individual’s excess average indexed monthly  
 14          earnings (as defined in section 215(b)(5)(A))”;

15          (2) in section 212 (42 U.S.C. 412), by inserting  
 16          “excess average indexed monthly earnings,” after  
 17          “average indexed monthly earnings,” each place it  
 18          appears; and

19          (3) in section 215(e)(1) (42 U.S.C. 415(e)(1)),  
 20          by inserting “and before 2023” after “after 1974”.

21          (d) EFFECTIVE DATE.—The amendments made by  
 22          this section shall apply with respect to individuals who ini-  
 23          tially become eligible (within the meaning of section  
 24          215(a)(3)(B) of the Social Security Act) for old-age or dis-  
 25          ability insurance benefits under title II of the Social Secu-

1 rity Act, or who die (before becoming eligible for such ben-  
2 efits), in any calendar year after 2022.

3 (e) HOLDING SSI, MEDICAID, AND CHIP BENE-  
4 FICIARIES HARMLESS.—For purposes of determining the  
5 income of an individual to establish eligibility for, and the  
6 amount of, benefits payable under title XVI of the Social  
7 Security Act, eligibility for medical assistance under the  
8 State plan under title XIX (or a waiver of such plan), or  
9 eligibility for child health assistance under the State child  
10 health plan under title XXI (or a waiver of the plan), the  
11 amount of any benefit to which the individual is entitled  
12 under title II of such Act shall be deemed not to exceed  
13 the amount of the benefit that would be determined for  
14 such individual under such title as in effect on the day  
15 before the date of the enactment of this Act.

○