

105TH CONGRESS  
1ST SESSION

# H. R. 2642

To amend the Internal Revenue Code of 1986 to clarify the standards for determining whether an employer-employee relationship exists.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1997

Mr. VISCLOSKY (for himself, Mr. LIPINSKI, Mr. JACKSON of Illinois, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to clarify the standards for determining whether an employer-employee relationship exists.

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. STANDARDS FOR DETERMINING EMPLOYER-**  
4 **EMPLOYEE RELATIONSHIP.**

5 (a) IN GENERAL.—Chapter 25 of the Internal Reve-  
6 nue Code of 1986 (relating to general provisions relating  
7 to employment taxes) is amended by adding at the end  
8 the following new section:

1 **“SEC. 3511. STANDARDS FOR DETERMINING EMPLOYER-EM-**  
2 **PLOYEE RELATIONSHIP.**

3 “An individual who performs services for any person  
4 (in this section referred to as the ‘service recipient’) shall  
5 be presumed for purposes of this title to be an employee  
6 of such person unless all of the following requirements are  
7 met:

8 “(1) The individual makes comparable services  
9 available to the general public on a regular and con-  
10 sistent basis and represents himself as an independ-  
11 ent contractor with respect to such services.

12 “(2) The individual has performed, or is avail-  
13 able to perform, services for more than 1 recipient  
14 at the same time.

15 “(3) The service recipient does not have the  
16 right (and does not attempt) to control the manner  
17 or means of the individual’s performance of such  
18 services.

19 “(4) The individual controls the means of per-  
20 forming the services, including setting the sequence  
21 and hours of work.

22 “(5) The individual operates under contracts to  
23 perform specific services for specific amounts of  
24 money, the rate of which is negotiated for every  
25 service performed.

1           “(6) The individual may realize a profit or suf-  
2           fer a loss under contracts to perform services.

3           “(7) The individual is responsible for the satis-  
4           factory completion of the work that the individual  
5           contracts to perform and is liable for a failure to  
6           complete the work.

7           “(8) The individual incurs significant unreim-  
8           bursed capital expenses (not typically incurred by  
9           employees) in carrying on the business activity in  
10          which such services are performed.”.

11          (b) CLERICAL AMENDMENT.—The table of sections  
12          for chapter 25 of such Code is amended by adding at the  
13          end the following new item:

                  “Sec. 3511. Standards for determining employer-employee rela-  
                  tionship.”.

14          (c) EFFECTIVE DATE.—The amendments made by  
15          this section shall apply to services performed after Decem-  
16          ber 31, 1997.

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