

105TH CONGRESS
1ST SESSION

S. 1470

To amend the Internal Revenue Code of 1986 to clarify that certain school bus contractors and drivers are not employees.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1997

Ms. MIKULSKI 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 clarify that certain school bus contractors and drivers are not employees.

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. TREATMENT OF CERTAIN SCHOOL BUS CON-**
4 **TRACTORS AND DRIVERS.**

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

1 **“SEC. 3511. TREATMENT OF CERTAIN SCHOOL BUS CON-**
 2 **TRACTORS AND DRIVERS.**

3 “(a) IN GENERAL.—For purposes of this title, in the
 4 case of services performed as a qualified school bus con-
 5 tractor or as a qualified driver—

6 “(1) the qualified school bus contractor shall
 7 not be treated as an employee,

8 “(2) the person for whom services as a qualified
 9 bus contractor are performed shall not be treated as
 10 an employer, and

11 “(3) the qualified driver shall not be treated as
 12 an employee of any person (except that this para-
 13 graph shall not prevent such qualified driver from
 14 being treated as an employee of the qualified school
 15 bus contractor).

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) QUALIFIED SCHOOL BUS CONTRACTOR.—
 18 The term ‘qualified school bus contractor’ means
 19 any individual who—

20 “(A) owns 1 or more school buses,

21 “(B) enters into a written agreement with
 22 a public school board or district, or comparable
 23 entity, to provide school bus transportation
 24 services with respect to a public school using
 25 the bus or buses owned by such contractor, and

1 “(C) is not personally required to drive a
 2 bus as part of such transportation service (but
 3 is permitted to do so if qualified under applica-
 4 ble State and local law to do so).

5 “(2) QUALIFIED DRIVER.—The term ‘qualified
 6 driver’ means any individual who—

7 “(A) is qualified under applicable State
 8 and local requirements to drive a public school
 9 bus, and

10 “(B) is directly engaged by a qualified
 11 school bus contractor to provide school bus
 12 transportation services described in paragraph
 13 (1)(B).

14 “(3) PUBLIC SCHOOL.—The term ‘public
 15 school’ does not include any school above the second-
 16 ary school level.

17 “(c) COORDINATION WITH RETIREMENT PLANS FOR
 18 SELF-EMPLOYED.—This section shall not apply for pur-
 19 poses of subtitle A to the extent that the individual is
 20 treated as an employee under section 401(c)(1) (relating
 21 to self-employed individuals).”

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

“Sec. 3511. Treatment of certain school bus contractors and driv-
 ers.”

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to services performed by in-
4 dividuals after December 31, 1991, as qualified
5 school bus contractors and qualified drivers (as de-
6 fined in section 3511 of such Code, as added by this
7 section).

8 (2) SPECIAL RULE.—If refund or credit of any
9 overpayment of tax resulting from the application of
10 subsection (a) is prevented at any time before the
11 close of the 1-year period beginning on the date of
12 the enactment of this Act by the operation of any
13 law or rule of law (including res judicata or any
14 closing agreement between the Internal Revenue
15 Service and any taxpayer), refund or credit of such
16 overpayment (to the extent attributable to the appli-
17 cation of subsection (a)) may, nevertheless, be made
18 or allowed if claim therefor is filed before the close
19 of such 1-year period.

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