

108TH CONGRESS  
1ST SESSION

# S. 397

To amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2003

Mr. ENSIGN (for himself and Mrs. HUTCHISON) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, 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 “Payroll Tax Deduction  
5 Act”.

1 **SEC. 2. DEDUCTION FOR OLD-AGE, SURVIVORS, AND DIS-**  
 2 **ABILITY INSURANCE TAXES OF EMPLOYEES**  
 3 **AND SELF-EMPLOYED INDIVIDUALS.**

4 (a) TAXES OF EMPLOYEES.—

5 (1) DEDUCTION ALLOWED IN ARRIVING AT AD-  
 6 JUSTED GROSS INCOME.—Section 62(a) of the Inter-  
 7 nal Revenue Code of 1986 (defining adjusted gross  
 8 income) is amended by inserting after paragraph  
 9 (18) the following new paragraph:

10 “(19) EMPLOYEES’ OASDI TAXES.—The deduc-  
 11 tion allowed by section 164(g).”.

12 (2) DETERMINATION OF DEDUCTION.—Section  
 13 164 of such Code (relating to deduction for taxes)  
 14 is amended by redesignating subsection (g) as sub-  
 15 section (h) and by inserting after subsection (f) the  
 16 following new subsection:

17 “(g) EMPLOYEES’ OASDI TAXES.—

18 “(1) IN GENERAL.—In the case of an indi-  
 19 vidual, in addition to the taxes described in sub-  
 20 section (a), there shall be allowed as a deduction for  
 21 the taxable year an amount equal to the sum of—

22 “(A) the taxes imposed by section 3101(a)  
 23 for the taxable year, and

24 “(B) the taxes imposed by section 3201(a)  
 25 for the taxable year but only to the extent at-

1           tributable to the percentage in effect under sec-  
2           tion 3101(a).

3           “(2) SPECIAL RULE FOR CERTAIN AGREE-  
4           MENTS.—For purposes of paragraph (1), taxes im-  
5           posed by section 3101(a) shall include amounts  
6           equivalent to such taxes imposed with respect to re-  
7           muneration covered by—

8                   “(A) an agreement under section 218 of  
9                   the Social Security Act, or

10                   “(B) an agreement under section 3121(l)  
11                   (relating to agreements entered into by Amer-  
12                   ican employers with respect to foreign affili-  
13                   ates).

14           “(3) COORDINATION WITH SPECIAL REFUND OF  
15           SOCIAL SECURITY TAXES.—Taxes shall not be taken  
16           into account under paragraph (1) to the extent the  
17           taxpayer is entitled to a special refund of such taxes  
18           under section 6413(c).

19           “(4) COORDINATION WITH EARNED INCOME  
20           CREDIT.—No deduction shall be allowed under para-  
21           graph (1) for any taxable year if the individual  
22           elects to claim the earned income credit under sec-  
23           tion 32 for the taxable year.”.

24           (3) CONFORMING AMENDMENT.—Subsection (a)  
25           of section 275 of such Code is amended in the mat-

1 ter following paragraph (6) by inserting “or 164(g)”  
2 after “164(f)”.

3 (b) DEDUCTION FOR SELF-EMPLOYED INDIVID-  
4 UALS.—

5 (1) IN GENERAL.—Paragraph (1) of section  
6 164(f) of the Internal Revenue Code of 1986 (relat-  
7 ing to deduction for one-half of self-employment  
8 taxes) is amended to read as follows:

9 “(1) IN GENERAL.—In the case of an indi-  
10 vidual, in addition to the taxes described in sub-  
11 section (a), there shall be allowed as a deduction for  
12 the taxable year an amount equal to the sum of—

13 “(A) the taxes imposed by section 1401(a)  
14 for such taxable year, plus

15 “(B) 50 percent of the taxes imposed by  
16 section 1401(b) for such taxable year.

17 In the case of an individual who elects to claim the  
18 earned income credit under section 32 for the tax-  
19 able year, only 50 percent of the taxes described in  
20 subparagraph (A) shall be taken into account.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 32(a)(1) of such Code is  
23 amended by inserting “who elects the applica-  
24 tion of this section” after “eligible individual”.

1           (B) The heading for section 164(f) of such  
2 Code is amended by striking “ONE-HALF” and  
3 inserting “PORTION”.

4           (C) Section 1402(a)(12) of such Code is  
5 amended—

6                 (i) by striking “one-half” the first  
7 place it appears and inserting “portion”,  
8 and

9                 (ii) by striking subparagraph (B) and  
10 inserting:

11                 “(B) a percentage equal to the sum for  
12 such year of the rate of tax under section  
13 1401(a) and one-half of the rate of tax under  
14 section 1401(b);”.

15         (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2004.

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