

111TH CONGRESS  
1ST SESSION

# H. R. 2286

To amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide that an employee whose employment for an employer is not otherwise covered for social security benefit purposes may irrevocably elect to have his or her employment with such employer treated as so covered and subject to social security taxes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2009

Mr. ROHRBACHER 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 provide that an employee whose employment for an employer is not otherwise covered for social security benefit purposes may irrevocably elect to have his or her employment with such employer treated as so covered and subject to social security taxes.

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 “Social Security Exemp-  
5       tion Relief Act of 2009”.

1 **SEC. 2. ELECTION OF COVERAGE FOR CERTAIN NON-**  
2 **COVERED EMPLOYEES.**

3 (a) IN GENERAL.—Section 210 of the Social Security  
4 Act (42 U.S.C. 410)) is amended by adding at the end  
5 the following new subsection:

6 “Inclusion of Service Under Elections Made by Certain  
7 Noncovered Employees

8 “(s) Notwithstanding any other provision of this sec-  
9 tion, the term ‘employment’ shall include any service with  
10 respect to which an election under section 3121(k)(2) of  
11 the Internal Revenue Code of 1986 applies.”.

12 (b) ELECTION.—Section 3121 of the Internal Rev-  
13 enue Code of 1986 (definitions applicable to tax under  
14 Federal Insurance Contributions Act) is amended by in-  
15 serting after subsection (j) the following new subsection:

16 “(k) OPTIONAL INCLUSION OF COVERAGE OF SERV-  
17 ICE OF CERTAIN NONCOVERED EMPLOYEES.—

18 “(1) INCLUSION OF SERVICE AS EMPLOY-  
19 MENT.—Notwithstanding any other provision of this  
20 section, the term ‘employment’ shall for purposes of  
21 this chapter include any service with respect to  
22 which an election under paragraph (2) applies.

23 “(2) ELECTION OF INCLUSION.—

24 “(A) IN GENERAL.—Any individual whose  
25 service for any employer is excluded from ‘em-

1           employment’ under subsection (b) may, at his op-  
2           tion, elect—

3                   “(i) to have any such service per-  
4                   formed by him, during pay periods com-  
5                   mencing after 30 days after the date of  
6                   such election, included as ‘employment’,

7                   “(ii) to be subject to the taxes im-  
8                   posed by section 3101 for such taxable  
9                   year with respect to such service, and

10                   “(iii) to have the employer subject to  
11                   the tax under section 3111 for such tax-  
12                   able year with respect to such service.

13                   “(B) APPLICABILITY OF ELECTION.—An  
14                   election made by an individual under this para-  
15                   graph—

16                   “(i) shall apply with respect to all  
17                   service performed by such individual for  
18                   the employer described in subparagraph  
19                   (A) during pay periods described in sub-  
20                   paragraph (A)(i) to the extent that such  
21                   service would not constitute ‘employment’  
22                   for purposes of this chapter but for this  
23                   subsection, and

24                   “(ii) shall be irrevocable.

1           “(C) REQUIREMENT OF MINIMUM ANNUAL  
2 REMUNERATION.—An election made by an indi-  
3 vidual under this paragraph shall take effect  
4 only if such individual has received remunera-  
5 tion in the amount of at least \$400 for service  
6 of the type to which the election applies which  
7 was performed by such individual for the em-  
8 ployer described in subparagraph (A) during  
9 the taxable year in which the election is made.

10           “(D) MANNER OF ELECTION.—

11           “(i) IN GENERAL.—An election by an  
12 individual under this paragraph may be  
13 made only in such form and manner as  
14 shall be prescribed by the Secretary, in  
15 consultation with the Commissioner of So-  
16 cial Security, including timely written no-  
17 tice of the election provided by the em-  
18 ployee to the employer.

19           “(ii) DECLARATION OF MINIMUM AN-  
20 NUAL REMUNERATION.—An election shall  
21 not be treated as made in accordance with  
22 clause (i) unless the election includes a  
23 written declaration by the employee, in  
24 such form as shall be prescribed by the  
25 Secretary, that the requirements of sub-

1 paragraph (C) have been met in connection  
2 with the election.

3 “(3) REGULATIONS.—The Secretary, in con-  
4 sultation with the Commissioner of Social Security,  
5 shall prescribe such regulations as may be necessary  
6 or appropriate to carry out this subsection. Such  
7 regulations shall—

8 “(A) establish procedures to deal with any  
9 administrative or other problems which may re-  
10 sult from elections made under this subsection;

11 “(B) provide for the interchange of infor-  
12 mation between the Secretary and the Commis-  
13 sioner; and

14 “(C) include such other provisions, condi-  
15 tions, and requirements as may be necessary or  
16 appropriate for the administration of this sub-  
17 section and the related provisions of title II of  
18 the Social Security Act.”.

19 **SEC. 3. EFFECTIVE DATE.**

20 The amendments made by this Act shall apply only  
21 with respect to service performed in taxable years begin-  
22 ning after 90 days after the date of the enactment of this  
23 Act.

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