

111TH CONGRESS
1ST SESSION

H. R. 3724

To amend the Internal Revenue Code of 1986 to expand the tip tax credit to employers of cosmetologists and to promote tax compliance in the cosmetology sector.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2009

Ms. BERKLEY (for herself, Mr. ABERCROMBIE, Mr. BRADY of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Georgia, Ms. ZOE LOFGREN of California, Ms. SCHWARTZ, Mr. SENSENBRENNER, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to expand the tip tax credit to employers of cosmetologists and to promote tax compliance in the cosmetology sector.

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 “Small Business Tax
5 Equalization and Compliance Act of 2009”.

1 **SEC. 2. EXPANSION OF CREDIT FOR PORTION OF SOCIAL**
 2 **SECURITY TAXES PAID WITH RESPECT TO**
 3 **EMPLOYEE TIPS.**

4 (a) EXPANSION OF CREDIT TO OTHER LINES OF
 5 BUSINESS.—Paragraph (2) of section 45B(b) of the Inter-
 6 nal Revenue Code of 1986 is amended to read as follows:

7 “(2) APPLICATION ONLY TO CERTAIN LINES OF
 8 BUSINESS.—In applying paragraph (1), there shall
 9 be taken into account only tips received from cus-
 10 tomers or clients in connection with—

11 “(A) the providing, delivering, or serving
 12 of food or beverages for consumption if the tip-
 13 ping of employees delivering or serving food or
 14 beverages by customers is customary, or

15 “(B) the providing of any cosmetology
 16 service for customers or clients at a facility li-
 17 censed to provide such service if the tipping of
 18 employees providing such service is customary.”

19 (b) DEFINITION OF COSMETOLOGY SERVICE.—Sec-
 20 tion 45B of such Code is amended by redesignating sub-
 21 sections (c) and (d) as subsections (d) and (e), respec-
 22 tively, and by inserting after subsection (b) the following
 23 new subsection:

24 “(c) COSMETOLOGY SERVICE.—For purposes of this
 25 section, the term ‘cosmetology service’ means—

26 “(1) hairdressing,

1 “(2) haircutting,
 2 “(3) manicures and pedicures,
 3 “(4) body waxing, facials, mud packs, wraps,
 4 and other similar skin treatments, and
 5 “(5) any other beauty-related service provided
 6 at a facility at which a majority of the services pro-
 7 vided (as determined on the basis of gross revenue)
 8 are described in paragraphs (1) through (4).”

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to tips received for services per-
 11 formed after December 31, 2008.

12 **SEC. 3. INFORMATION REPORTING AND TAXPAYER EDU-**
 13 **CATION FOR PROVIDERS OF COSMETOLOGY**
 14 **SERVICES.**

15 (a) IN GENERAL.—Subpart B of part III of sub-
 16 chapter A of chapter 61 of the Internal Revenue Code of
 17 1986 is amended by inserting after section 6050W the fol-
 18 lowing new section:

19 **“SEC. 6050X. RETURNS RELATING TO COSMETOLOGY SERV-**
 20 **ICES AND INFORMATION TO BE PROVIDED TO**
 21 **COSMETOLOGISTS.**

22 “(a) IN GENERAL.—Every person (referred to in this
 23 section as a ‘reporting person’) who—

24 “(1) employs 1 or more cosmetologists to pro-
 25 vide any cosmetology service,

1 “(2) rents a chair to 1 or more cosmetologists
2 to provide any cosmetology service on at least 5 cal-
3 endar days during a calendar year, or

4 “(3) in connection with its trade or business or
5 rental activity, otherwise receives compensation
6 from, or pays compensation to, 1 or more cosmetolo-
7 gists for the right to provide cosmetology services to,
8 or for cosmetology services provided to, third-party
9 patrons,

10 shall comply with the return requirements of subsection
11 (b) and the taxpayer education requirements of subsection
12 (c).

13 “(b) RETURN REQUIREMENTS.—The return require-
14 ments of this subsection are met by a reporting person
15 if the requirements of each of the following paragraphs
16 applicable to such person are met.

17 “(1) EMPLOYEES.—In the case of a reporting
18 person who employs 1 or more cosmetologists to pro-
19 vide cosmetology services, the requirements of this
20 paragraph are met if such person meets the require-
21 ments of sections 6051 (relating to receipts for em-
22 ployees) and 6053(b) (relating to tip reporting) with
23 respect to each such employee.

24 “(2) INDEPENDENT CONTRACTORS.—In the
25 case of a reporting person who pays compensation to

1 1 or more cosmetologists (other than as employees)
2 for cosmetology services provided to third-party pa-
3 trons, the requirements of this paragraph are met if
4 such person meets the applicable requirements of
5 section 6041 (relating to returns filed by persons
6 making payments of \$600 or more in the course of
7 a trade or business), section 6041A (relating to re-
8 turns to be filed by service-recipients who pay more
9 than \$600 in a calendar year for services from a
10 service provider), and each other provision of this
11 subpart that may be applicable to such compensa-
12 tion.

13 “(3) CHAIR RENTERS.—

14 “(A) IN GENERAL.—In the case of a re-
15 porting person who receives rent or other fees
16 or compensation from 1 or more cosmetologists
17 for use of a chair or for rights to provide any
18 cosmetology service at a salon or other similar
19 facility for more than 5 days in a calendar year,
20 the requirements of this paragraph are met if
21 such person—

22 “(i) makes a return, according to the
23 forms or regulations prescribed by the Sec-
24 retary, setting forth the name, address,
25 and TIN of each such cosmetologist and

1 the amount received from each such cos-
2 metologist, and

3 “(ii) furnishes to each cosmetologist
4 whose name is required to be set forth on
5 such return a written statement showing—

6 “(I) the name, address, and
7 phone number of the information con-
8 tact of the reporting person,

9 “(II) the amount received from
10 such cosmetologist, and

11 “(III) a statement informing
12 such cosmetologist that (as required
13 by this section), the reporting person
14 has advised the Internal Revenue
15 Service that the cosmetologist pro-
16 vided cosmetology services during the
17 calendar year to which the statement
18 relates.

19 “(B) METHOD AND TIME FOR PROVIDING
20 STATEMENT.—The written statement required
21 by clause (ii) of subparagraph (A) shall be fur-
22 nished (either in person or by first-class mail
23 which includes adequate notice that the state-
24 ment or information is enclosed) to the person
25 on or before January 31 of the year following

1 the calendar year for which the return under
2 clause (i) of subparagraph (A) is to be made.

3 “(c) TAXPAYER EDUCATION REQUIREMENTS.—In
4 the case of a reporting person who is required to provide
5 a statement pursuant to subsection (b), the requirements
6 of this subsection are met if such person provides to each
7 such cosmetologist annually a publication, as designated
8 by the Secretary, describing—

9 “(1) in the case of an employee, the tax and tip
10 reporting obligations of employees, and

11 “(2) in the case of a cosmetologist who is not
12 an employee of the reporting person, the tax obliga-
13 tions of independent contractors or proprietorships.
14 The publications shall be furnished either in person or by
15 first-class mail which includes adequate notice that the
16 publication is enclosed.

17 “(d) DEFINITIONS.—For purposes of this section—

18 “(1) COSMETOLOGIST.—

19 “(A) IN GENERAL.—The term ‘cosmetolo-
20 gist’ means an individual who provides any cos-
21 metology service.

22 “(B) ANTI-AVOIDANCE RULE.—The Sec-
23 retary may by regulation or ruling expand the
24 term ‘cosmetologist’ to include any entity or ar-
25 rangement if the Secretary determines that en-

1 ties are being formed to circumvent the re-
2 porting requirements of this section.

3 “(2) COSMETOLOGY SERVICE.—The term ‘cos-
4 metology service’ has the meaning given to such
5 term by section 45B(c).

6 “(3) CHAIR.—The term ‘chair’ includes a chair,
7 booth, or other furniture or equipment from which
8 an individual provides a cosmetology service (deter-
9 mined without regard to whether the cosmetologist
10 is entitled to use a specific chair, booth, or other
11 similar furniture or equipment or has an exclusive
12 right to use any such chair, booth, or other similar
13 furniture or equipment).

14 “(e) EXCEPTIONS FOR CERTAIN EMPLOYEES.—Sub-
15 section (c) shall not apply to a reporting person with re-
16 spect to an employee who is employed in a capacity for
17 which tipping (or sharing tips) is not customary.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 6724(d)(1)(B) of such Code (relat-
20 ing to the definition of information returns) is
21 amended by redesignating clause (xvi) and all that
22 follows as clauses (xvii) through (xxiv), respectively,
23 and by inserting after clause (xiv) the following new
24 clause:

1 “(xvi) section 6050X(a) (relating to
2 returns by cosmetology service pro-
3 viders).”.

4 (2) Section 6724(d)(2) of such Code is amend-
5 ed by striking the period at the end of subparagraph
6 (FF) and inserting “, or”, and by inserting after
7 subparagraph (FF) the following new subparagraph:

8 “(GG) subsections (b)(3)(A)(ii) and (c) of
9 section 6050X (relating to cosmetology service
10 providers) even if the recipient is not a payee.”.

11 (3) The table of sections for subpart B of part
12 III of subchapter A of chapter 61 of the Internal
13 Revenue Code of 1986 is amended by adding after
14 the item relating to section 6050W the following new
15 item:

“Sec. 6050X. Returns relating to cosmetology services and information to be
provided to cosmetologists.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to calendar years after 2008.

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