

118TH CONGRESS
1ST SESSION

S. 1174

To amend the Internal Revenue Code of 1986 to increase funding for Social Security and Medicare.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2023

Mr. WHITEHOUSE 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 increase funding for Social Security and Medicare.

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 “Medicare and Social
5 Security Fair Share Act”.

6 **SEC. 2. MODIFICATION OF PAYROLL TAXES.**

7 (a) WAGE BASE FOR TAXES FUNDING SOCIAL SECU-
8 RITY.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 3121(a) of the Internal Revenue Code of 1986 is
3 amended to read as follows:

4 “(1) in the case of taxes imposed by sections
5 3101(a) and 3111(a), for any calendar year in which
6 the contribution and benefit base (as determined
7 under section 230 of the Social Security Act) is less
8 than \$400,000, so much of the remuneration (other
9 than remuneration referred to in the succeeding
10 paragraphs of this subsection) with respect to em-
11 ployment that has been paid to an individual by an
12 employer during the calendar year as exceeds such
13 contribution and benefit base but does not exceed
14 \$400,000;”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) SUCCESSOR EMPLOYERS.—Section
17 3121 of the Internal Revenue Code of 1986 is
18 amended by adding at the end the following
19 new subsection:

20 “(aa) SPECIAL RULES FOR SUCCESSOR EMPLOY-
21 ERS.—For purposes of subsection (a)(1), if an employer
22 (hereinafter referred to as successor employer) during any
23 calendar year acquires substantially all the property used
24 in a trade or business of another employer (hereinafter
25 referred to as a predecessor), or used in a separate unit

1 of a trade or business of a predecessor, and immediately
 2 after the acquisition employs in his trade or business an
 3 individual who immediately prior to the acquisition was
 4 employed in the trade or business of such predecessor,
 5 then, for the purpose of determining the amount of remuneration
 6 paid by the successor employer under such subsection,
 7 any remuneration (other than remuneration referred to in the
 8 paragraphs succeeding paragraph (1) of subsection (a)) with respect
 9 to employment paid (or considered under this subsection as
 10 having been paid) to such individual by such predecessor during
 11 such calendar year and prior to such acquisition shall be considered
 12 as having been paid by such successor employer.”.

14 (B) APPLICATION TO RAILROAD RETIREMENT TAXES.—Clause (i) of section
 15 3231(e)(2)(A) of such Code is amended to read
 16 as follows:
 17

18 “(i) IN GENERAL.—For any calendar
 19 year in which the applicable base is less
 20 than \$400,000, the term ‘compensation’
 21 does not include so much of the remuneration
 22 paid during any calendar year to an
 23 individual by an employer for services rendered
 24 as an employee to such employer as

1 exceeds the applicable base but does not
2 exceed \$400,000.”.

3 (b) FURTHER ADDITIONAL HOSPITAL INSURANCE
4 TAX ON VERY HIGH INCOME TAXPAYERS.—

5 (1) IN GENERAL.—Section 3101(b) of the In-
6 ternal Revenue Code of 1986 is amended by adding
7 at the end the following new paragraph:

8 “(3) FURTHER ADDITIONAL TAX.—In addition
9 to the tax imposed by paragraphs (1) and (2) and
10 the preceding subsection, there is hereby imposed on
11 every taxpayer (other than a corporation, estate, or
12 trust) a tax equal to 1.2 percent of wages which are
13 received with respect to employment (as defined in
14 section 3121(b)) during the taxable year which are
15 in excess of—

16 “(A) in the case of a joint return,
17 \$500,000,

18 “(B) in the case of a married taxpayer (as
19 defined in section 7703) filing a separate re-
20 turn, 1/2 of the dollar amount determined under
21 subparagraph (A), and

22 “(C) in any other case, \$400,000.”.

23 (2) COLLECTION OF TAX.—Section 3102 of
24 such Code is amended by adding at the end the fol-
25 lowing new subsection:

1 “(g) SPECIAL RULES FOR FURTHER ADDITIONAL
2 TAX.—

3 “(1) IN GENERAL.—In the case of any tax im-
4 posed by section 3101(b)(3), subsection (a) shall
5 only apply to the extent to which the taxpayer re-
6 ceives wages from the employer in excess of
7 \$400,000, and the employer may disregard the
8 amount of wages received by such taxpayer’s spouse.

9 “(2) COLLECTION OF AMOUNTS NOT WITH-
10 HELD.—To the extent that the amount of any tax
11 imposed by section 3101(b)(3) is not collected by the
12 employer, such tax shall be paid by the employee.

13 “(3) TAX PAID BY RECIPIENT.—If an employer,
14 in violation of this chapter, fails to deduct and with-
15 hold the tax imposed by section 3101(b)(3) and
16 thereafter the tax is paid by the employee, the tax
17 so required to be deducted and withheld shall not be
18 collected from the employer, but this paragraph shall
19 in no case relieve the employer from liability for any
20 penalties or additions to tax otherwise applicable in
21 respect of such failure to deduct and withhold.”.

22 “(c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to remuneration paid, and taxable
24 years beginning, on or after January 1 of the first cal-

1 endar year that begins after the date of enactment of this
2 Act.

3 **SEC. 3. MODIFICATION OF TAXES ON SELF-EMPLOYMENT**
4 **INCOME.**

5 (a) TAX ON NET EARNINGS FROM SELF-EMPLOY-
6 MENT UP TO CONTRIBUTION AND BENEFIT BASE AND
7 MORE THAN \$400,000.—Paragraph (1) of section
8 1402(b) of the Internal Revenue Code of 1986 is amended
9 to read as follows:

10 “(1) in the case of the tax imposed by section
11 1401(a) for any taxable year beginning in a calendar
12 year in which the contribution and benefit base (as
13 determined under section 230 of the Social Security
14 Act) is less than \$400,000, the excess (if any) of—

15 “(A) so much of the net earnings from
16 self-employment which is in excess of—

17 “(i) an amount equal to the contribu-
18 tion and benefit base (as determined under
19 section 230 of the Social Security Act)
20 which is effective for the calendar year in
21 which such taxable year begins, reduced
22 (but not below zero) by

23 “(ii) the amount of the wages paid to
24 such individual during such taxable year,
25 over

1 “(B) the sum of—

2 “(i) the excess (if any) of—

3 “(I) the net earnings from self-
4 employment reduced by the excess (if
5 any) of subparagraph (A)(i) over sub-
6 paragraph (A)(ii), over

7 “(II) \$400,000, reduced by such
8 contribution and benefit base, plus

9 “(ii) the amount of the wages paid to
10 such individual during such taxable year in
11 excess of such contribution and benefit
12 base and not in excess of \$400,000; or”.

13 (b) FURTHER ADDITIONAL HOSPITAL INSURANCE
14 TAX ON VERY HIGH INCOME TAXPAYERS.—

15 (1) IN GENERAL.—Section 1401(b) of the In-
16 ternal Revenue Code of 1986 is amended by adding
17 at the end the following new paragraph:

18 “(3) FURTHER ADDITIONAL TAX.—

19 “(A) IN GENERAL.—In addition to the tax
20 imposed by paragraphs (1) and (2) and the pre-
21 ceding subsection, there is hereby imposed on
22 every taxpayer (other than a corporation, es-
23 tate, or trust) for each taxable year a tax equal
24 to 1.2 percent of the self-employment income
25 for such taxable year which is in excess of—

1 “(i) in the case of a joint return,
2 \$500,000,

3 “(ii) in the case of a married taxpayer
4 (as defined in section 7703) filing a sepa-
5 rate return, 1/2 of the dollar amount deter-
6 mined under subparagraph (A), and

7 “(iii) in any other case, \$400,000.

8 “(B) COORDINATION WITH FICA.—The
9 amounts under clause (i), (ii), or (iii) (which-
10 ever is applicable) of subparagraph (A) shall be
11 reduced (but not below zero) by the amount of
12 wages taken into account in determining the
13 tax imposed under section 3101(b)(3) with re-
14 spect to the taxpayer.”.

15 (2) NO DEDUCTION FOR FURTHER ADDITIONAL
16 TAX.—

17 (A) IN GENERAL.—Section 164(f) of such
18 Code is amended by striking “section
19 1401(b)(2)” and inserting “paragraphs (2) and
20 (3) of section 1401(b)”.

21 (B) DEDUCTION FOR NET EARNINGS FROM
22 SELF-EMPLOYMENT.—Section 1402(a)(12)(B)
23 of such Code is amended by striking “the rate
24 imposed under paragraph (2) of section
25 1401(b)” and inserting “the rates imposed

1 under paragraphs (2) and (3) of section
2 1401(b)”.

3 (3) TECHNICAL AMENDMENT.—Section
4 1401(b)(2)(B) of such Code is amended by striking
5 “section 3121(b)(2)” and inserting “section
6 3101(b)(2)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to net earnings from self-employ-
9 ment derived, and taxable years beginning, on or after
10 January 1 of the first calendar year that begins after the
11 date of enactment of this Act.

12 **SEC. 4. TAXES ON UNEARNED INCOME.**

13 (a) MODIFICATIONS TO TAX ON NET INVESTMENT
14 INCOME.—

15 (1) IN GENERAL.—Section 1411 of the Internal
16 Revenue Code of 1986 is amended by adding at the
17 end the following new subsection:

18 “(f) ADDITIONAL AMOUNT FOR CERTAIN HIGH IN-
19 COME INDIVIDUALS.—

20 “(1) INCLUSION OF SPECIFIED NET INCOME.—

21 “(A) IN GENERAL.—In the case of any in-
22 dividual whose modified adjusted gross income
23 for the taxable year exceeds the high income
24 threshold amount, subsection (a)(1) shall be ap-
25 plied by substituting ‘the greater of specified

1 net income or net investment income' for 'net
2 investment income' in subparagraph (A) there-
3 of.

4 “(B) PHASE-IN OF INCREASE.—The in-
5 crease in the tax imposed under subsection
6 (a)(1) by reason of the application of subpara-
7 graph (A) (determined before application of
8 paragraph (2)) shall not exceed the amount
9 which bears the same ratio to the amount of
10 such increase (determined without regard to
11 this paragraph) as—

12 “(i) the excess described in subpara-
13 graph (A), bears to

14 “(ii) \$100,000 ($\frac{1}{2}$ such amount in the
15 case of a married taxpayer (as defined in
16 section 7703) filing a separate return).

17 “(2) ADDITIONAL RATE BRACKET.—In the case
18 of any individual whose modified adjusted gross in-
19 come for the taxable year exceeds the high income
20 threshold amount, the amount of tax imposed under
21 subsection (a)(1) shall be increased by an amount
22 equal to 13.6 percent of the lesser of—

23 “(A) the greater of the specified net in-
24 come or net investment income for the taxable
25 year, or

1 “(B) the excess (if any) of—

2 “(i) the modified adjusted gross in-
3 come for such taxable year, over

4 “(ii) the high income threshold
5 amount.

6 “(3) DEFINITIONS.—

7 “(A) HIGH INCOME THRESHOLD
8 AMOUNT.—For purposes of this subsection, the
9 term ‘high income threshold amount’ means—

10 “(i) except as provided in clause (ii)
11 or (iii), \$400,000,

12 “(ii) in the case of a taxpayer making
13 a joint return under section 6013 or a sur-
14 viving spouse (as defined in section 2(a)),
15 \$500,000, and

16 “(iii) in the case of a married tax-
17 payer (as defined in section 7703) filing a
18 separate return, $\frac{1}{2}$ of the dollar amount
19 determined under clause (ii).

20 “(B) SPECIFIED NET INCOME.—For pur-
21 poses of this section, the term ‘specified net in-
22 come’ means net investment income deter-
23 mined—

24 “(i) without regard to the phrase
25 ‘other than such income which is derived in

1 the ordinary course of a trade or business
2 not described in paragraph (2),’ in sub-
3 section (c)(1)(A)(i),

4 “(ii) without regard to the phrase ‘de-
5 scribed in paragraph (2)’ in subsection
6 (c)(1)(A)(ii),

7 “(iii) without regard to the phrase
8 ‘other than property held in a trade or
9 business not described in paragraph (2)’ in
10 subsection (c)(1)(A)(iii),

11 “(iv) without regard to paragraphs
12 (2), (3), and (4) of subsection (c), and

13 “(v) by treating paragraphs (5) and
14 (6) of section 469(c) (determined without
15 regard to the phrase ‘To the extent pro-
16 vided in regulations,’ in such paragraph
17 (6)) as applying for purposes of subsection
18 (c) of this section.”.

19 (b) APPLICATION TO TRUSTS AND ESTATES.—Sec-
20 tion 1411(a)(2) of the Internal Revenue Code of 1986 is
21 amended—

22 (1) by striking “3.8 percent” and inserting
23 “17.4 percent”, and

24 (2) in subparagraph (A) thereof, by striking
25 “undistributed net investment income” and inserting

1 “the greater of undistributed specified net income or
2 undistributed net investment income”.

3 (c) CLARIFICATIONS WITH RESPECT TO DETER-
4 MINATION OF NET INVESTMENT INCOME.—

5 (1) CERTAIN EXCEPTIONS.—Section 1411(c)(6)
6 of the Internal Revenue Code of 1986 is amended to
7 read as follows:

8 “(6) SPECIAL RULES.—Net investment income
9 shall not include—

10 “(A) any item taken into account in deter-
11 mining self-employment income for such taxable
12 year on which a tax is imposed by section
13 1401(b),

14 “(B) wages received with respect to em-
15 ployment on which a tax is imposed under sec-
16 tion 3101(b) (determined without regard to sec-
17 tion 3101(c)) or 3201(a) (including amounts
18 taken into account under section 3121(v)(2)),
19 and

20 “(C) wages received from the performance
21 of services earned outside the United States for
22 a foreign employer.”.

23 (2) NET OPERATING LOSSES NOT TAKEN INTO
24 ACCOUNT.—Section 1411(c)(1)(B) of such Code is

1 amended by inserting “(other than section 172)”
2 after “this subtitle”.

3 (3) INCLUSION OF CERTAIN FOREIGN IN-
4 COME.—

5 (A) IN GENERAL.—Section 1411(c)(1)(A)
6 of such Code is amended by striking “and” at
7 the end of clause (ii), by striking “over” at the
8 end of clause (iii) and inserting “and”, and by
9 adding at the end the following new clause:

10 “(iv) any amount includible in gross
11 income under section 951, 951A, 1293, or
12 1296, over”.

13 (B) PROPER TREATMENT OF CERTAIN
14 PREVIOUSLY TAXED EARNINGS AND PROFITS.—

15 Section 1411(c) of such Code is amended by
16 adding at the end the following new paragraph:

17 “(7) CERTAIN EARNINGS AND PROFITS OF FOR-
18 EIGN CORPORATIONS.—

19 “(A) IN GENERAL.—Except as otherwise
20 provided by the Secretary, a distribution of
21 earnings and profits that is not treated as a
22 dividend for purposes of chapter 1 by reason of
23 section 959(d) or section 1293(c) shall not be
24 treated as a dividend for purposes of this sec-
25 tion.

1 “(B) REGULATIONS AND OTHER GUID-
 2 ANCE.—The Secretary shall issue regulations or
 3 other guidance providing for the treatment of
 4 distributions by a foreign corporation after De-
 5 cember 31, 2023, of earnings and profits of
 6 such foreign corporation which accrued before
 7 such date, but which have not been previously
 8 subject to tax under this section.”.

9 (d) TRANSFERS OF REVENUES TO OLD-AGE AND
 10 SURVIVORS, DISABILITY INSURANCE, AND FEDERAL HOS-
 11 PITAL INSURANCE TRUST FUNDS.—

12 (1) FEDERAL OLD-AGE AND SURVIVORS TRUST
 13 FUND.—

14 (A) IN GENERAL.—Section 201(a) of the
 15 Social Security Act (42 U.S.C. 401(a)) is
 16 amended—

17 (i) by striking “100 per centum of”,

18 (ii) by inserting “100 percent of” be-
 19 fore “the taxes” each place it appears in
 20 paragraphs (1), (2), (3), and (4), and

21 (iii) by striking “and” at the end of
 22 paragraph (3), by striking the period at
 23 the end of paragraph (4) and inserting “;
 24 and”, and by inserting after paragraph (4)
 25 the following new paragraph:

1 “(5) 71.3 percent of the taxes imposed by sec-
2 tion 1411 of the Internal Revenue Code of 1986 for
3 any taxable year beginning after December 31,
4 2023, as determined by the Secretary of the Treas-
5 ury or the Secretary’s delegate based on tax returns
6 under subtitle F of such Code, less the amounts
7 specified in paragraph (3) of subsection (b).”.

8 (B) CONFORMING AMENDMENT.—The
9 fourth sentence of section 201(a) of such Act
10 (42 U.S.C. 401(a)) is amended by striking
11 “clauses (3) and (4)” each place it appears and
12 inserting “paragraphs (3), (4), and (5)”.

13 (2) FEDERAL DISABILITY INSURANCE TRUST
14 FUND.—Section 201(b) of the Social Security Act
15 (42 U.S.C. 401(b)) is amended—

16 (A) by striking “100 per centum of”, and

17 (B) by striking “and” at the end of para-
18 graph (1), by striking the period at the end of
19 paragraph (2) and inserting “; and”, and by in-
20 serting after paragraph (2) the following new
21 paragraph:

22 “(3) 10.3 percent of the taxes imposed by sec-
23 tion 1411 of the Internal Revenue Code of 1986 for
24 any taxable year beginning after December 31,
25 2023, as determined by the Secretary of the Treas-

1 ury or the Secretary’s delegate based on tax returns
2 under subtitle F of such Code.”.

3 (3) FEDERAL HOSPITAL INSURANCE TRUST
4 FUND.—Section 1817(a) of the Social Security Act
5 (42 U.S.C. 1395i(a)) is amended—

6 (A) by striking “100 per centum of”,

7 (B) by inserting “100 percent of” before
8 “the taxes” each place it appears in paragraphs
9 (1) and (2), and

10 (C) by striking “and” at the end of para-
11 graph (1), by striking the period at the end of
12 paragraph (2) and inserting “; and”, and by in-
13 serting after paragraph (2) the following new
14 paragraph:

15 “(3) 28.7 percent of the taxes imposed by sec-
16 tion 1411 of the Internal Revenue Code of 1986 for
17 any taxable year beginning after December 31,
18 2023, as determined by the Secretary of the Treas-
19 ury or the Secretary’s delegate based on tax returns
20 under subtitle F of such Code.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2023.

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