

107TH CONGRESS
2^D SESSION

S. 2129

To amend the Internal Revenue Code of 1986 to clarify that any home-based service worker is an employee of the administrator of home-based service worker program funding.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2002

Mr. BINGAMAN 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 any home-based service worker is an employee of the administrator of home-based service worker program funding.

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. CLARIFICATION OF EMPLOYEE STATUS OF**
4 **HOME-BASED SERVICE WORKERS.**

5 (a) IN GENERAL.—Section 3121(d)(3) of the Inter-
6 nal Revenue Code of 1986 (defining employee) is amended
7 by striking “and” at the end of subparagraph (C), by add-

1 ing “or” at the end of subparagraph (D), and by inserting
 2 after subparagraph (D) the following new subparagraph:

3 “(E) any qualified home-based service
 4 worker;”.

5 (b) DEFINITION.—Section 3121(d) of the Internal
 6 Revenue Code of 1986 is amended by adding at the end
 7 the following new flush sentence:

8 “For purposes of paragraph (3)(E), the term ‘qualified
 9 home-based service worker’ means an individual providing
 10 in-home household or personal care services for disabled
 11 and elderly individuals under a program the funding of
 12 which is administered by a State, State agency, or an in-
 13 termediate services organization.”.

14 (c) PROGRAM AGENT TREATED AS EMPLOYER OF
 15 QUALIFIED HOME-BASED SERVICE WORKER.—Section
 16 3504 of the Internal Revenue Code of 1986 (relating to
 17 acts to be performed by agents) is amended—

18 (1) by striking “In case a fiduciary” and insert-
 19 ing:

20 “(a) IN GENERAL.—In case of a fiduciary”, and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(b) HOME-BASED SERVICE WORKER PROGRAMS.—

24 For purposes of subsection (a), in the case of any program
 25 under which is provided funding for the employment of

1 qualified home-based service workers (as defined in section
2 3121(d)), the administrator of such funding shall be treat-
3 ed as the agent for any employer of such worker and such
4 employer shall not remain subject to the provisions of law
5 (including penalties) applicable in respect of such an em-
6 ployer.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to services performed after Decem-
9 ber 31, 2002.

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