

111TH CONGRESS
1ST SESSION

H. R. 132

To amend title II of the Social Security Act to restrict totalization agreements between the United States and other countries to providing for appropriate exchange of Social Security taxes or contributions between the parties to such agreements, and to prohibit crediting of individuals under such title with earnings from employment or self-employment in the United States performed while such individuals are not citizens, nationals, or lawful permanent residents of the United States and are not authorized by law to be employed in the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. GALLEGLY introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to restrict totalization agreements between the United States and other countries to providing for appropriate exchange of Social Security taxes or contributions between the parties to such agreements, and to prohibit crediting of individuals under such title with earnings from employment or self-employment in the United States performed while such individuals are not citizens, nationals, or lawful permanent residents of the United States and are not authorized by law to be employed in the United States.

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 “Total Overhaul of To-
5 talization Agreements Law of 2009”.

6 **SEC. 2. RESTRICTION OF TOTALIZATION AGREEMENTS TO**
7 **PROVIDING FOR APPROPRIATE EXCHANGE**
8 **OF SOCIAL SECURITY TAXES OR CONTRIBU-**
9 **TIONS.**

10 (a) IN GENERAL.—Section 233 of the Social Security
11 Act (42 U.S.C. 433) is amended—

12 (1) in subsection (a), by striking “for the pur-
13 poses of” and all that follows and inserting the fol-
14 lowing: “for the purposes of providing appropriate
15 exchange between the parties to such agreements of
16 taxes or contributions paid under their respective so-
17 cial security systems, as provided in subsection
18 (c)(1).”; and

19 (2) by striking subsection (c)(1) and inserting
20 the following:

21 “(c)(1) Any agreement establishing a totalization ar-
22 rangement pursuant to this section between the United
23 States and another country shall provide that—

24 “(A) in any case in which—

1 “(i) an individual who is a citizen or na-
2 tional of the other country or lawfully admitted
3 to the other country for permanent residence in
4 the other country becomes entitled to cash ben-
5 efits under the Social Security system of the
6 other country, and

7 “(ii) such individual (or, in the case of a
8 survivor or derivative benefit, the individual on
9 whose contributions such benefits are based)
10 has been credited with at least 6 quarters of
11 coverage as defined in section 213 based on
12 wages paid for services performed in the United
13 States or self-employment income derived in the
14 United States,

15 the Secretary of the Treasury shall transfer from the
16 Federal Old-Age and Survivors Insurance Trust
17 Fund and the Federal Disability Insurance Trust
18 Fund to the other country amounts appropriated to
19 each such Trust Fund under section 201 in connec-
20 tion with taxes under chapters 2 and 21 of the In-
21 ternal Revenue Code of 1986 paid in connection with
22 such wages and self-employment income, and

23 “(B) in any case in which—

24 “(i) an individual who is a citizen or na-
25 tional of the United States or lawfully admitted

1 for permanent residence in the United States
2 becomes entitled to cash benefits under this
3 title, and

4 “(ii) such individual (or, in the case of a
5 survivor or derivative benefit, the individual on
6 whose wages and self-employment income such
7 benefits are based) has been credited with a pe-
8 riod of coverage under the Social Security sys-
9 tem of the other country, based on service per-
10 formed, or earnings derived, in the other coun-
11 try, equivalent (under the terms of the agree-
12 ment) to 6 quarters of coverage as defined in
13 section 213,

14 the other country shall pay to the United States an
15 amount equivalent to any taxes or other contribu-
16 tions paid by the credited individual described in
17 clause (ii) or such individual’s employer to the Social
18 Security system of the other country, based on such
19 service or earnings, as required under the Social Se-
20 curity system of the other country.”.

21 (b) CONFORMING AMENDMENT.—Section 233(c)(3)
22 of such Act (42 U.S.C. 433(c)(3)) is amended to read as
23 follows:

24 “(3) Any such agreement shall provide for the ex-
25 change of such information between the parties to the

1 agreement as is necessary to provide for the transfers be-
2 tween the parties under paragraph (1). The Secretary of
3 the Treasury and the Commissioner of Social Security
4 shall exchange such information as is necessary to enable
5 the Secretary of the Treasury to carry out any transfers
6 referred to in paragraph (1)(A).”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to agreements becom-
9 ing effective on or after January 1, 2009.

10 **SEC. 3. LIMITATIONS ON COVERAGE OF INDIVIDUALS**
11 **BASED ON EARNINGS BY INDIVIDUALS IN**
12 **THE UNITED STATES WHILE SUCH INDIVID-**
13 **UALS WERE NOT CITIZENS, NATIONALS, OR**
14 **LAWFUL PERMANENT RESIDENTS OF THE**
15 **UNITED STATES AND WERE NOT AUTHOR-**
16 **IZED TO BE EMPLOYED IN THE UNITED**
17 **STATES.**

18 (a) IN GENERAL.—Section 215(e) of the Social Secu-
19 rity Act (42 U.S.C. 415(e)) is amended—

20 (1) by redesignating paragraphs (1) and (2) as
21 subparagraphs (A) and (B), respectively;

22 (2) by inserting “(1)” after “(e)”; and

23 (3) by adding at the end the following new
24 paragraph:

1 “(2) For purposes of subsections (b) and (d), in com-
2 puting an individual’s average indexed monthly earnings
3 (or in the case of an individual whose primary insurance
4 amount is computed under section 215(a) as in effect
5 prior to January 1979, average monthly wage), such indi-
6 vidual shall not be credited with any wages paid to such
7 individual for services performed in the United States, or
8 any self-employment income derived by such individual in
9 the United States, if such services were performed, or such
10 self-employment income was derived, while such individual
11 was neither a citizen or national of the United States nor
12 lawfully admitted for permanent residence in the United
13 States and was not authorized to be employed in the
14 United States.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall apply with respect to wages paid, and
17 self-employment income derived, before, on, or after the
18 date of the enactment of this Act. Notwithstanding section
19 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1)),
20 as soon as practicable after the date of the enactment of
21 this Act, the Commissioner of Social Security shall recom-
22 pute all primary insurance amounts to the extent nec-
23 essary to carry out such amendments. Such amendments

1 shall affect benefits only for months after the date of the
2 enactment of this Act.

○