

114TH CONGRESS
2D SESSION

H. R. 5008

To direct the Secretary of the Treasury to improve tax compliance in the construction industry, including clarifying the employment status of service providers in the construction industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2016

Mr. MACARTHUR (for himself and Mr. KIND) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To direct the Secretary of the Treasury to improve tax compliance in the construction industry, including clarifying the employment status of service providers in the construction industry, and for other purposes.

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; FINDINGS; PURPOSES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Clarify Workers Misclassification in the Construction In-
6 dustry Act”.

7 (b) **FINDINGS.**—Congress makes the following find-
8 ings:

1 (1) Worker misclassification in the construction
2 industry has reached epidemic proportions. Studies
3 from California, Tennessee, Florida, Texas, New
4 Jersey, and other States detail hundreds of millions
5 of dollars in lost employment and income taxes be-
6 cause of improper classification of workers for tax-
7 ation in the construction industry. New Jersey rev-
8 enue collection officials have indicated that \$535
9 million in taxes in the State are lost due to worker
10 misclassification.

11 (2) Worker misclassification takes place at con-
12 struction projects involving military bases, hospitals,
13 universities, convention centers, and major hotels.

14 (3) There is significant anecdotal evidence that
15 a large number of workers in the construction indus-
16 try are currently being misclassified as independent
17 contractors in order to avoid tax withholding and
18 other employer responsibilities, but the Internal Rev-
19 enue Service is barred from issuing rules or guid-
20 ance to reclassify these workers by section 530 of
21 the Revenue Act of 1978.

22 (4) Legitimate construction contractors are un-
23 able to compete with contractors who avoid employ-
24 ment and income taxes through misclassification.
25 This creates competitive pressure on other contrac-

1 tors to also misclassify employees to remain competi-
2 tive. States, leading contractors, and construction
3 labor leaders agree that government action is needed
4 to reverse this spiral.

5 (5) According to the Internal Revenue Service,
6 a dollar spent on tax enforcement typically yields an
7 additional six dollars in revenue to the Treasury.
8 This figure does not include revenue gained from de-
9 terring misclassification which would increase tax
10 revenue significantly beyond the level projected.

11 (c) PURPOSES.—The purposes of this Act are to in-
12 crease efforts to identify and reduce misclassification, to
13 prosecute tax evasion in the construction industry, and
14 provide the Secretary of the Treasury the resources nec-
15 essary to accomplish these objectives.

16 **SEC. 2. DIRECTIVES AND AUTHORITIES TO IMPROVE TAX**
17 **COMPLIANCE IN THE CONSTRUCTION INDUS-**
18 **TRY.**

19 (a) ENFORCEMENT ACTIONS.—The Secretary of the
20 Treasury shall initiate an enforcement initiative aimed at
21 increasing tax compliance in the construction industry.
22 Measures taken to implement this initiative shall include:

23 (1) Consultations with industry experts and
24 leaders on the scope and priorities of this initiative,
25 including the Secretary of Labor, State government

1 officials, the General Accountability Office, leading
2 private sector construction organizations, and labor
3 organizations involved in the construction industry.

4 (2) Targeted tax audits of major construction
5 contractors that the Secretary finds reason to believe
6 may not be in compliance with applicable Federal
7 tax laws.

8 (3) Civil and criminal tax enforcement actions
9 under existing legal authorities.

10 (4) Educational efforts aimed at entities in the
11 construction industry to increase voluntary tax com-
12 pliance.

13 (b) AUTHORITY TO ISSUE GUIDANCE CLARIFYING
14 EMPLOYMENT STATUS FOR PURPOSES OF EMPLOYMENT
15 TAXES.—

16 (1) IN GENERAL.—Notwithstanding any other
17 provision of law including section 530 of the Rev-
18 enue Act of 1978, the Secretary shall promulgate
19 rules and issue guidance to reclassify individuals
20 who are not currently being treated as employees
21 consistent with the proper classification of employees
22 under common law standards within the construc-
23 tion industry.

24 (2) RESTRICTION TO CONSTRUCTION INDUS-
25 TRY.—Any rules or guidance under paragraph (1)

1 shall apply only with respect to services provided
2 within the construction industry.

3 (3) EFFECTIVE DATE.—Any rules or guidance
4 under paragraph (1) shall not take effect before the
5 date which is 180 days after the date of the enact-
6 ment of this Act.

7 (c) RESOURCES.—The Secretary shall reassign per-
8 sonnel and resources from other activities to carry out this
9 Act.

10 (d) OVERSIGHT AND REVIEW.—

11 (1) ANNUAL REPORTS BY TREASURY.—The
12 Secretary shall submit an annual written report to
13 the Committee on Ways and Means of the House of
14 Representatives and the Committee on Finance of
15 the Senate regarding the implementation of this Act
16 together with any recommendations for further ac-
17 tion by Congress which would be consistent with the
18 purposes of this Act.

19 (2) STUDY AND REPORT BY COMPTROLLER
20 GENERAL.—The Comptroller General of the United
21 States shall conduct a comprehensive study of the
22 various forms of tax fraud, including employee
23 misclassification, in the construction industry, ef-
24 forts to combat such fraud, and recommendations
25 for further action. Not later than June 30, 2017,

1 the Comptroller General shall submit a written re-
2 port to the Committee on Ways and Means of the
3 House of Representatives and the Committee on Fi-
4 nance of the Senate detailing the results of such
5 study.

6 (e) DEFINITIONS.—For purposes of this section—

7 (1) CONSTRUCTION INDUSTRY.—The term
8 “construction industry” means all general contrac-
9 tors and operative builders primarily engaged in the
10 remodeling, addition, or construction of residential,
11 farm, industrial, commercial, or other buildings in-
12 cluding wharves or other structures attached to land.

13 (2) SECRETARY OF THE TREASURY.—The
14 terms “Secretary of the Treasury” and “Secretary”
15 mean the Secretary of the Treasury or the Sec-
16 retary’s designee.

17 (f) TERMINATION.—This section, and any rules pro-
18 mulgated or guidance issued under subsection (b), shall
19 cease to have any force or effect after September 30,
20 2021.

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