To amend the Internal Revenue Code of 1986 to provide that tips shall not be subject to income or employment taxes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2024

Mr. Massie introduced the following bill;

A BILL

To amend the Internal Revenue Code of 1986 to provide that tips shall not be subject to income or employment taxes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the “Tax Free Tips Act of 2024”.

(b) AMENDMENT OF 1986 CODE.—Except as other-
wise expressly provided, whenever in this Act an amend-
ment or repeal is expressed in terms of an amendment
to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TIPS NOT SUBJECT TO INCOME OR EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 102 (relating to gifts and inheritances) is amended by adding at the end the following new subsection:

“(d) TIPS.—For purposes of subsection (a), tips shall be treated as property transferred by gift.”.

(b) EXCLUSION FROM SOCIAL SECURITY TAXES.—

(1) Social security taxes.—

(A) Paragraph (12) of section 3121(a) is amended to read as follows:

“(12) tips;”.

(B) Section 3121 is amended by striking subsection (q) (relating to tips included for both employee and employer taxes).

(C) Subsection (a) of section 3102 is amended by striking “; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (ex-
exclusive of tips) under his control, even though
at the time such statement is furnished the
total amount of the tips included in statements
furnished to the employer as having been re-
ceived by the employee in such calendar month
in the course of his employment by such em-
ployer is less than $20”.

(D) Section 3102 is amended by striking
subsection (c) (relating to special rule for tips).

(E) Subsection (a) of section 3202 is
amended by striking the second sentence.

(2) TIER 1 RAILROAD RETIREMENT.—

(A) Section 3202 is amended by striking
subsection (c).

(B) Paragraph (3) of section 3231(e) is
amended to read as follows:

“(3) Solely for purposes of the taxes imposed
by section 3201 and other provisions of this chapter
insofar as they relate to such taxes, the term ‘com-
pensation’ shall not include tips.”.

(C) Section 3231 is amended by striking
subsection (h).

(e) EXCLUSION FROM UNEMPLOYMENT COMPENSA-
TION TAXES.—Subsection (s) of section 3306 is amended
to read as follows:
“(s) Tips Not Treated as Wages.—For purposes of this chapter, the term ‘wages’ shall not include tips.”.

(d) Exclusion From Wage Withholding.—

(1) Paragraph (16) of section 3401(a) is amended to read as follows:

“(16) tips;”.

(2) Section 3401 is amended by striking subsection (f).

(3) Section 3402 is amended by striking subsection (k).

(e) Tips Defined.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end the following new paragraph:

“(51) Tips.—The term ‘tips’ includes any gratuity provided to a salaried employee by a customer or client of the employer’s business.”.

(f) Conforming Amendments.—

(1) Clause (i) of section 32(c)(2)(A) (defining earned income) is amended by striking “tips,”.

(2)(A) Section 45B (relating to credit for portion of employer social security taxes paid with respect to employee cash tips) is hereby repealed.

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 45B.
(C) Subsection (b) of section 38 is amended by striking paragraph (11) and by redesignating the succeeding paragraphs accordingly.

(D) Subsection (e) of section 196 is amended by striking paragraph (8) and by redesignating the succeeding paragraphs accordingly.

(E) Subsection (m) of section 6501 is amended by striking “45B,”.

(3) Section 220(b)(4)(A) is amended by striking “tips,”.

(4) Section 451 is amended by striking subsection (c).

(5) Section 6001 is amended by striking the last sentence.

(6) Section 6041 is amended by striking subsection (e).

(7) Subsection (e) of section 6041A is amended by striking “, 6052, or 6053” and inserting “or 6052”.

(8) Subsection (a) of section 6051 is amended by striking “In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in state-
ments furnished to the employer pursuant to section 6053(a).”.

(9) Section 6053 (relating to tip reporting) is hereby repealed.

(10) The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6053.

(11) Section 6652 is amended by striking subsection (b) (relating to failure to report tips).

(12) Section 6674 (relating to fraudulent statement or failure to furnish statement to employee) is amended by striking “or 6053(b)” each place it appears.

(13) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xvi) and redesignating the succeeding clauses accordingly.

(14) Paragraph (2) of section 6724(d) is amended by striking subparagraph (X) and redesignating the succeeding subparagraphs accordingly.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to tips received in calendar months beginning after the date of the enactment of this Act.