

HOUSE BILL NO. 841

INTRODUCED BY DRISCOLL, DOZIER, WILLIAMS, C. SMITH,
MCBRIDE, J. JENSEN, HEMSTAD, DARKO, HARRINGTON, BRAND,
ADDY, NEUMAN, FARRIS, SEIFERT, O'CONNELL, MILLER, HANSEN,
BERGENE, CONNELLY, ELLERD, J. BROWN, THOFT, HOWE, HAND,
MCCORMICK, J. HAMMOND, REAM, VINCENT, SHONTZ, KEENAN, PAVLOVICH,
CHRISTIAENS, SPAETH, MENAHAN, NISBET, DAILY,
JACOBSON, SAUNDERS, ROUSH, HART, SCHYE, BENGTSON,
ZABROCKI, KENNERLY, HARP, VELEBER, HANSON,
METCALF, KEMMIS, KITSELMAN, IVERSON

BY REQUEST OF THE HOUSE LABOR AND EMPLOYMENT COMMITTEE

IN THE HOUSE

February 15, 1983	Introduced and referred to Committee on Taxation.
March 23, 1983	Committee recommend bill do pass as amended. Report adopted.
March 24, 1983	Bill printed and placed on members' desks.
March 26, 1983	Second reading, do pass.
March 28, 1983	Considered correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

April 5, 1983	Introduced and referred to Committee on Taxation.
April 12, 1983	On motion ordered placed on second reading.
April 14, 1983	Second reading, concurred in as amended.

April 15, 1983

Third reading, concurred in.
Ayes, 39; Noes, 9.

IN THE HOUSE

April 15, 1983

Returned to House with
amendments.

April 16, 1983

Second reading, amendments
concurred in.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *J. Jensen* *House* BILL NO. *841* *McBride*
 2 INTRODUCED BY *Donnell DOB* *William Smith*
 3 BY REQUEST OF THE HOUSE LABOR AND EMPLOYMENT COMMITTEE
 4 *Donnell Hansen Connelly J. Brown Lord McNeill*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT THE FROM
 6 MONTANA INCOME TAX LIABILITY; AMENDING SECTION 15-30-111,
 7 MCA." *Spaeth Daily Saunders Schy Bergman*
 8 *Menahan J. Jackson ROUSH J. Schick*
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 15-30-111, MCA, is amended to read:
 11 "15-30-111. Adjusted gross income. (1) Adjusted gross
 12 income shall be the taxpayer's federal income tax adjusted
 13 gross income as defined in section 62 of the Internal
 14 Revenue Code of 1954 or as that section may be labeled or
 15 amended and in addition shall include the following:
 16 (a) interest received on obligations of another state
 17 or territory or county, municipality, district, or other
 18 political subdivision thereof;
 19 (b) refunds received of federal income tax, to the
 20 extent the deduction of such tax resulted in a reduction of
 21 Montana income tax liability.
 22 (2) Notwithstanding the provisions of the federal
 23 Internal Revenue Code of 1954 as labeled or amended,
 24 adjusted gross income does not include the following which
 25 are exempt from taxation under this chapter:

1 (a) all interest income from obligations of the United
 2 States government, the state of Montana, county,
 3 municipality, district, or other political subdivision
 4 thereof;
 5 (b) interest income earned by a taxpayer age 65 or
 6 older in a taxable year up to and including \$800 for a
 7 taxpayer filing a separate return and \$1,600 for each joint
 8 return;
 9 (c) all benefits received under the Federal Employees'
 10 Retirement Act not in excess of \$3,600;
 11 (d) all benefits, not in excess of \$360, received as
 12 an annuity, pension, or endowment under any private or
 13 corporate retirement plan or system;
 14 (e) all benefits paid under the teachers' retirement
 15 law which are specified as exempt from taxation by 19-4-706;
 16 (f) all benefits paid under The Public Employees'
 17 Retirement System Act which are specified as exempt from
 18 taxation by 19-3-105;
 19 (g) all benefits paid under the highway patrol
 20 retirement law which are specified as exempt from taxation
 21 by 19-6-705;
 22 (h) all Montana income tax refunds or credits thereof;
 23 (i) all benefits paid under 19-11-602, 19-11-604, and
 24 19-11-605 to retired and disabled firefighters, their
 25 surviving spouses and orphans;

1 (j) all benefits paid by first- or second-class cities
2 for the policemen's retirement system provided for by Title
3 19, chapter 9;

4 (k) gain required to be recognized by a liquidating
5 corporation under 15-31-113(1)(a)(ii);

6 ~~(l) all tips covered by section 3402(k) of the~~
7 ~~Internal Revenue Code of 1954, as amended and applicable on~~
8 ~~January 1, 1983.~~

9 (3) In the case of a shareholder of a corporation with
10 respect to which the election provided for under subchapter
11 S. of the Internal Revenue Code of 1954, as amended, is in
12 effect but with respect to which the election provided for
13 under 15-31-202, as amended, is not in effect, adjusted
14 gross income does not include any part of the corporation's
15 undistributed taxable income, net operating loss, capital
16 gains or other gains, profits, or losses required to be
17 included in the shareholder's federal income tax adjusted
18 gross income by reason of the said election under subchapter
19 S. However, the shareholder's adjusted gross income shall
20 include actual distributions from the corporation to the
21 extent they would be treated as taxable dividends if the
22 subchapter S. election were not in effect.

23 (4) A shareholder of a DISC that is exempt from the
24 corporation license tax under 15-31-102(1)(1) shall include
25 in his adjusted gross income the earnings and profits of the

1 DISC in the same manner as provided by federal law (section
2 995, Internal Revenue Code) for all periods for which the
3 DISC election is effective."

-End-

STATE OF MONTANA

REQUEST NO. 444-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 83, there is hereby submitted a Fiscal Note for House Bill 841 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

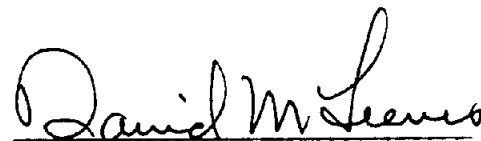
House Bill 841 exempts tips from Montana income tax liability.

ASSUMPTIONS:

- 1) National estimates of per capita retail sales at eating and drinking establishments are \$414 in 1981. Using an estimated Montana population of 806,200 implies \$334.3 million of retail sales in Montana for 1981. This sales level is assumed constant for the biennium.
- 2) The IRS estimated that 55% of these expenditures are made at establishments where tips are customary.
- 3) It is assumed that the new IRS withholding of tip income will result in the reporting of 8% of the retail sales. The IRS estimates an average tip of 14% for the mountain states. The difference is assumed unreported to the Department.
- 4) A 5% average marginal tax rate is assumed.
- 5) All tips collected in the past have been reported and taxed. If this is not true, the fiscal impact of the bill is less. For example, if only 25% of tips were reported for tax purposes in previous years, the revenue loss caused by the bill would be only \$183,850 per year.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Individual Income Tax		
Under Current Law	\$168,317,188	\$179,746,875
Under Proposed Law	<u>167,581,788</u>	<u>179,011,475</u>
Estimated Decrease	<u>(735,400)</u>	<u>(735,400)</u>
General Fund		
Under Current Law	107,723,000	115,038,000
Under Proposed Law	<u>107,252,344</u>	<u>114,567,344</u>
Estimated Decrease	<u>(470,656)</u>	<u>(470,656)</u>

(Continued)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

School Equalization Account

Under Current Law	42,079,297	44,936,719
Under Proposed Law	41,895,447	44,752,869
Estimated Decrease	<u>(183,850)</u>	<u>(183,850)</u>

Sinking Fund

	<u>FY84</u>	<u>FY85</u>
Under Current Law	\$18,514,891	\$19,772,156
Under Proposed Law	18,433,997	16,691,262
Estimated Decrease	<u>(80,894)</u>	<u>(80,894)</u>

FISCAL NOTE 16: L/2

HB 841

Approved by committee
on Taxation

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BY REQUEST OF THE HOUSE LABOR AND EMPLOYMENT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT TIPS FROM
MONTANA INCOME TAX LIABILITY ~~AND WITHHOLDING TAX~~; AMENDING
~~SOME SECTIONS 15-30-111 AND 15-30-201, MCA, AND PROVIDING~~
~~A CONTINGENT TERMINATION DATE."~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross
income shall be the taxpayer's federal income tax adjusted
gross income as defined in section 62 of the Internal
Revenue Code of 1954 or as that section may be labeled or
amended and in addition shall include the following:

(a) interest received on obligations of another state

or territory or county, municipality, district, or other
political subdivision thereof;

(b) refunds received of federal income tax, to the
extent the deduction of such tax resulted in a reduction of
Montana income tax liability.

(2) Notwithstanding the provisions of the federal
Internal Revenue Code of 1954 as labeled or amended,
adjusted gross income does not include the following which
are exempt from taxation under this chapter:

(a) all interest income from obligations of the United
States government, the state of Montana, county,
municipality, district, or other political subdivision
thereof;

(b) interest income earned by a taxpayer age 65 or
older in a taxable year up to and including \$800 for a
taxpayer filing a separate return and \$1,600 for each joint
return;

(c) all benefits received under the Federal Employees'
Retirement Act not in excess of \$3,600;

(d) all benefits, not in excess of \$360, received as
an annuity, pension, or endowment under any private or
corporate retirement plan or system;

(e) all benefits paid under the teachers' retirement
law which are specified as exempt from taxation by 19-4-706;

(f) all benefits paid under The Public Employees'

1 Retirement System Act which are specified as exempt from
2 taxation by 19-3-105;

3 (g) all benefits paid under the highway patrol
4 retirement law which are specified as exempt from taxation
5 by 19-6-705;

6 (h) all Montana income tax refunds or credits thereof;

7 (i) all benefits paid under 19-11-602, 19-11-604, and
8 19-11-605 to retired and disabled firefighters, their
9 surviving spouses and orphans;

10 (j) all benefits paid by first- or second-class cities
11 for the policemen's retirement system provided for by Title
12 19, chapter 9;

13 (k) gain required to be recognized by a liquidating
14 corporation under 15-31-113(1)(a)(ii);

15 ~~(l) all tips covered by section 1402(k) of the~~
16 ~~Internal Revenue Code of 1954, as amended and applicable on~~
17 ~~January 1, 1983.~~

18 (3) In the case of a shareholder of a corporation with
19 respect to which the election provided for under subchapter
20 S. of the Internal Revenue Code of 1954, as amended, is in
21 effect but with respect to which the election provided for
22 under 15-31-202, as amended, is not in effect, adjusted
23 gross income does not include any part of the corporation's
24 undistributed taxable income, net operating loss, capital
25 gains or other gains, profits, or losses required to be

1 included in the shareholder's federal income tax adjusted
2 gross income by reason of the said election under subchapter
3 S. However, the shareholder's adjusted gross income shall
4 include actual distributions from the corporation to the
5 extent they would be treated as taxable dividends if the
6 subchapter S. election were not in effect.

7 (4) A shareholder of a DISC that is exempt from the
8 corporation license tax under 15-31-102(1)(i) shall include
9 in his adjusted gross income the earnings and profits of the
10 DISC in the same manner as provided by federal law (section
11 995, Internal Revenue Code) for all periods for which the
12 DISC election is effective."

13 ~~SECTION 2. SECTION 15-30-201, MCA, IS AMENDED TO READ:~~

14 "15-30-201. Definitions. When used in 15-30-201
15 through 15-30-209, the following definitions apply:

16 (1) "Agricultural labor" includes all services
17 performed on a farm or ranch in connection with cultivating
18 the soil or in connection with raising or harvesting any
19 agricultural or horticultural commodity, including the
20 raising, shearing, feeding, caring for, training, and
21 management of livestock, bees, poultry, and fur-bearing
22 animals and wildlife.

23 (2) "Employee" includes an officer, employee, or
24 elected public official of the United States, the state of
25 Montana, or any political subdivision thereof or any agency

1 or instrumentality of any one or more of the foregoing. The
2 term "employee" also includes an officer of a corporation.

3 (3) "Employer" means the person for whom an individual
4 performs or performed any service, of whatever nature, as
5 the employee of such person; except that if the person for
6 whom the individual performs or performed the service does
7 not have control of the payment of the wages for such
8 service, the term "employer" means the person having control
9 of the payment of such wages.

10 (4) "Wages" means all remuneration (other than fees
11 paid to a public official) for services performed by an
12 employee for his employer, including the cash value of all
13 remuneration paid in any medium other than cash, except that
14 such term shall not include remuneration paid:

15 (a) for active service as a member of the armed forces
16 of the United States;

17 (b) for agricultural labor as defined in subsection
18 (1);

19 (c) for domestic service in a private home, a local
20 college club, or local chapter of a college fraternity or
21 sorority;

22 (d) for casual labor not in the course of the
23 employer's trade or business performed in any calendar
24 quarter by an employee unless the cash remuneration paid for
25 such service is \$50 or more and such service is performed by

1 an individual who is regularly employed by such employer to
2 perform such service. For purposes of this subsection
3 (4)(d), an individual is considered to be regularly employed
4 by an employer during a calendar quarter only if:

5 (i) on each of some 24 days during such quarter such
6 individual performs for such employer for some portion of
7 the day service not in the course of the employer's trade or
8 business;

9 (ii) such individual was regularly employed (as
10 determined under subsection (4)(d)(i)) by such employer in
11 the performance of such service during the preceding
12 calendar quarter;

13 (e) for services by a citizen or resident of the
14 United States for a foreign government or an international
15 organization;

16 (f) for services performed by a duly ordained,
17 commissioned, or licensed minister of a church in the
18 exercise of his ministry or by a member of a religious order
19 in the exercise of duties required by such order;

20 (g) (i) for services performed by an individual under
21 the age of 18 in the delivery or distribution of newspapers
22 or shopping news, not including delivery or distribution to
23 any point for subsequent delivery or distribution; or

24 (ii) for services performed by an individual in and at
25 the time of the sale of newspapers or magazines to ultimate

1 consumers under an arrangement under which the newspapers or
 2 magazines are to be sold by him at a fixed price, his
 3 compensation being based on the retention of the excess of
 4 such price over the amount at which the newspapers or
 5 magazines are charged to him, whether or not he is
 6 guaranteed a minimum amount of compensation for such service
 7 or is entitled to be credited with the unsold newspapers or
 8 magazines turned back;

9 (h) for services not in the course of the employer's
 10 trade or business to the extent paid in any medium other
 11 than cash when such payments are in the form of lodgings or
 12 meals and such services are received by the employee at the
 13 request of and for the convenience of the employer;

14 (i) to or for an employee as a payment for or a
 15 contribution toward the cost of any group plan or program
 16 which benefits the employee, including but not limited to
 17 life insurance, hospitalization insurance for the employee
 18 or dependents, and employees' club activities;

19 (j) as tips, in accordance with section 3402(k) of the
 20 Internal Revenue Code of 1954, as amended and applicable on
 21 January 1, 1983."

22 SECTION 3. CONTINGENT TERMINATION DATE. THIS ACT
 23 TERMINATES IF CONGRESS PASSES AND THE PRESIDENT APPROVES
 24 LEGISLATION THAT REMOVES THE PROVISION IN SECTION 6053(c)(3)
 25 OF THE INTERNAL REVENUE CODE OF 1954 THAT REQUIRES AN

1 EMPLOYEE ALLOCATION FOR TAX PURPOSES OF 8% OF GROSS RECEIPTS
 2 OF THE BUSINESS FOR WHICH THE EMPLOYEE WORKS. IF THIS ACT
 3 TERMINATES, IT DOES SO ON THE DATE OF THE FINAL APPROVAL OF
 4 THE CONGRESSIONAL LEGISLATION.

-End-

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17 commissioned, or licensed minister of a church in the
18 exercise of his ministry or by a member of a religious order
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 3 compensation being based on the retention of the excess of
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 10 trade or business to the extent paid in any medium other
 11 than cash when such payments are in the form of lodgings or
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 13 request of and for the convenience of the employer;

14 (i) to or for an employee as a payment for or a
 15 contribution toward the cost of any group plan or program
 16 which benefits the employee, including but not limited to
 17 life insurance, hospitalization insurance for the employee
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-End-

April 14, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 841 be amended as follows:

1. Page 1, line 13.
Following: "EXEMPT"
Insert: "CERTAIN"
2. Page 3, line 17.
Following: "1983"
Insert: "received by persons for services rendered by them to patrons of premises licensed to provide food, beverage or lodging"
3. Page 7, line 21.
Following: "1983"
Insert: "received by persons for services rendered by them to patrons of premises licensed to provide food, beverage or lodging"

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7 PAVLOVICH, CHRISTIAENS, SPAETH, MENAHAN, NISBET, DAILY,

8 JACOBSON, SAUNDERS, ROUSH, HART, SCHYE, BENGTSON,

9 ZABROCKI, KENNERLY, HARP, VELEDER, HANSON,

10 METCALF, KEMMIS, KITSELMAN, IVERSON

11 BY REQUEST OF THE HOUSE LABOR AND EMPLOYMENT COMMITTEE

12
13 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN TIPS
14 FROM MONTANA INCOME TAX LIABILITY AND WITHHOLDING TAX;
15 AMENDING ~~SECTION~~ SECTIONS 15-30-111 AND 15-30-201, MCA; AND
16 PROVIDING A CONTINGENT TERMINATION DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 15-30-111, MCA, is amended to read:

20 "15-30-111. Adjusted gross income. (1) Adjusted gross
21 income shall be the taxpayer's federal income tax adjusted
22 gross income as defined in section 62 of the Internal
23 Revenue Code of 1954 or as that section may be labeled or
24 amended and in addition shall include the following:

25 (a) interest received on obligations of another state

1 or territory or county, municipality, district, or other
2 political subdivision thereof;

3 (b) refunds received of federal income tax, to the
4 extent the deduction of such tax resulted in a reduction of
5 Montana income tax liability.

6 (2) Notwithstanding the provisions of the federal
7 Internal Revenue Code of 1954 as labeled or amended,
8 adjusted gross income does not include the following which
9 are exempt from taxation under this chapter:

10 (a) all interest income from obligations of the United
11 States government, the state of Montana, county,
12 municipality, district, or other political subdivision
13 thereof;

14 (b) interest income earned by a taxpayer age 65 or
15 older in a taxable year up to and including \$800 for a
16 taxpayer filing a separate return and \$1,600 for each joint
17 return;

18 (c) all benefits received under the Federal Employees'
19 Retirement Act not in excess of \$3,600;

20 (d) all benefits, not in excess of \$360, received as
21 an annuity, pension, or endowment under any private or
22 corporate retirement plan or system;

23 (e) all benefits paid under the teachers' retirement
24 law which are specified as exempt from taxation by 19-4-706;

25 (f) all benefits paid under The Public Employees'

1 Retirement System Act which are specified as exempt from
2 taxation by 19-3-105;

3 (g) all benefits paid under the highway patrol
4 retirement law which are specified as exempt from taxation
5 by 19-6-705;

6 (h) all Montana income tax refunds or credits thereof;

7 (i) all benefits paid under 19-11-602, 19-11-604, and
8 19-11-605 to retired and disabled firefighters, their
9 surviving spouses and orphans;

10 (j) all benefits paid by first- or second-class cities
11 for the policemen's retirement system provided for by Title
12 19, chapter 9;

13 (k) gain required to be recognized by a liquidating
14 corporation under 15-31-113(1)(a)(ii);

15 ~~(l) all tips covered by section 3602(k) of the~~
16 ~~Internal Revenue Code of 1954, as amended and applicable on~~
17 ~~January 1, 1983, received by persons for services rendered~~
18 ~~by them to patrons of premises licensed to provide food,~~
19 ~~beverage, or lodging.~~

20 (3) In the case of a shareholder of a corporation with
21 respect to which the election provided for under subchapter
22 S. of the Internal Revenue Code of 1954, as amended, is in
23 effect but with respect to which the election provided for
24 under 15-31-202, as amended, is not in effect, adjusted
25 gross income does not include any part of the corporation's

1 undistributed taxable income, net operating loss, capital
2 gains or other gains, profits, or losses required to be
3 included in the shareholder's federal income tax adjusted
4 gross income by reason of the said election under subchapter
5 S. However, the shareholder's adjusted gross income shall
6 include actual distributions from the corporation to the
7 extent they would be treated as taxable dividends if the
8 subchapter S. election were not in effect.

9 (4) A shareholder of a DISC that is exempt from the
10 corporation license tax under 15-31-102(1)(1) shall include
11 in his adjusted gross income the earnings and profits of the
12 DISC in the same manner as provided by federal law (section
13 995, Internal Revenue Code) for all periods for which the
14 DISC election is effective."

15 ~~SECTION 2. SECTION 15-30-201, MCA, IS AMENDED TO READ:~~
16 "15-30-201. Definitions. When used in 15-30-201
17 through 15-30-209, the following definitions apply:

18 (1) "Agricultural labor" includes all services
19 performed on a farm or ranch in connection with cultivating
20 the soil or in connection with raising or harvesting any
21 agricultural or horticultural commodity, including the
22 raising, shearing, feeding, caring for, training, and
23 management of livestock, bees, poultry, and fur-bearing
24 animals and wildlife.

25 (2) "Employee" includes an officer, employee, or

1 elected public official of the United States, the state of
2 Montana, or any political subdivision thereof or any agency
3 or instrumentality of any one or more of the foregoing. The
4 term "employee" also includes an officer of a corporation.

5 (3) "Employer" means the person for whom an individual
6 performs or performed any service, of whatever nature, as
7 the employee of such person; except that if the person for
8 whom the individual performs or performed the service does
9 not have control of the payment of the wages for such
10 service, the term "employer" means the person having control
11 of the payment of such wages.

12 (4) "Wages" means all remuneration (other than fees
13 paid to a public official) for services performed by an
14 employee for his employer, including the cash value of all
15 remuneration paid in any medium other than cash, except that
16 such term shall not include remuneration paid:

17 (a) for active service as a member of the armed forces
18 of the United States;

19 (b) for agricultural labor as defined in subsection
20 (1);

21 (c) for domestic service in a private home, a local
22 college club, or local chapter of a college fraternity or
23 sorority;

24 (d) for casual labor not in the course of the
25 employer's trade or business performed in any calendar

1 quarter by an employee unless the cash remuneration paid for
2 such service is \$50 or more and such service is performed by
3 an individual who is regularly employed by such employer to
4 perform such service. For purposes of this subsection
5 (4)(d), an individual is considered to be regularly employed
6 by an employer during a calendar quarter only if:

7 (i) on each of some 24 days during such quarter such
8 individual performs for such employer for some portion of
9 the day service not in the course of the employer's trade or
10 business;

11 (ii) such individual was regularly employed (as
12 determined under subsection (4)(d)(i)) by such employer in
13 the performance of such service during the preceding
14 calendar quarter;

15 (e) for services by a citizen or resident of the
16 United States for a foreign government or an international
17 organization;

18 (f) for services performed by a duly ordained,
19 commissioned, or licensed minister of a church in the
20 exercise of his ministry or by a member of a religious order
21 in the exercise of duties required by such order;

22 (g) (i) for services performed by an individual under
23 the age of 18 in the delivery or distribution of newspapers
24 or shopping news, not including delivery or distribution to
25 any point for subsequent delivery or distribution; or

1 (ii) for services performed by an individual in and at
 2 the time of the sale of newspapers or magazines to ultimate
 3 consumers under an arrangement under which the newspapers or
 4 magazines are to be sold by him at a fixed price, his
 5 compensation being based on the retention of the excess of
 6 such price over the amount at which the newspapers or
 7 magazines are charged to him, whether or not he is
 8 guaranteed a minimum amount of compensation for such service
 9 or is entitled to be credited with the unsold newspapers or
 10 magazines turned back;

11 (h) for services not in the course of the employer's
 12 trade or business to the extent paid in any medium other
 13 than cash when such payments are in the form of lodgings or
 14 meals and such services are received by the employee at the
 15 request of and for the convenience of the employer;

16 (i) to or for an employee as a payment for or a
 17 contribution toward the cost of any group plan or program
 18 which benefits the employee, including but not limited to
 19 life insurance, hospitalization insurance for the employee
 20 or dependents, and employees' club activities;

21 (j) as tips, in accordance with section 3402(k) of the
 22 Internal Revenue Code of 1954, as amended and applicable on
 23 January 1, 1983, RECEIVED BY PERSONS FOR SERVICES RENDERED
 24 BY THEM TO PATRONS OF PREMISES LICENSED TO PROVIDE FOOD,
 25 BEVERAGE, OR LODGING."

1 SECTION 3. CONTINGENT TERMINATION DATE. THIS ACT
 2 TERMINATES IF CONGRESS PASSES AND THE PRESIDENT APPROVES
 3 LEGISLATION THAT REMOVES THE PROVISION IN SECTION 6053(C)(2)
 4 OF THE INTERNAL REVENUE CODE OF 1954 THAT REQUIRES AN
 5 EMPLOYEE ALLOCATION FOR TAX PURPOSES OF 8% OF GROSS RECEIPTS
 6 OF THE BUSINESS FOR WHICH THE EMPLOYEE WORKS. IF THIS ACT
 7 TERMINATES, IT DOES SO ON THE DATE OF THE FINAL APPROVAL OF
 8 THE CONGRESSIONAL LEGISLATION.

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