

103^D CONGRESS
2^D SESSION

H. R. 4465

To amend the Internal Revenue Code of 1986 to clarify the employment status of certain fishermen, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1994

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

A BILL

To amend the Internal Revenue Code of 1986 to clarify the employment status of certain fishermen, 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. CLARIFICATION OF EMPLOYMENT TAX STATUS**
4 **OF CERTAIN FISHERMEN.**

5 (a) AMENDMENTS OF INTERNAL REVENUE CODE OF
6 1986.—

7 (1) DETERMINATION OF SIZE OF CREW.—Sub-
8 section (b) of section 3121 of the Internal Revenue
9 Code of 1986 (defining employment) is amended by

1 adding at the end thereof the following new sen-
2 tence:

3 “For purposes of paragraph (20), the operating crew of
4 a boat shall be treated as normally made up of fewer than
5 10 individuals if the average size of the operating crew
6 on trips made during the preceding 4 calendar quarters
7 consisted of fewer than 10 individuals.”

8 (2) CERTAIN CASH REMUNERATION PER-
9 MITTED.—Subparagraph (A) of section 3121(b)(20)
10 of such Code is amended to read as follows:

11 “(A) such individual does not receive any
12 cash remuneration other than as provided in
13 subparagraph (B) and other than cash remu-
14 nation—

15 “(i) which does not exceed \$100 per
16 trip;

17 “(ii) which is contingent on a mini-
18 mum catch; and

19 “(iii) which is paid solely for addi-
20 tional duties (such as mate, engineer, or
21 cook) for which additional cash remunera-
22 tion is traditional in the industry,”.

23 (3) CONFORMING AMENDMENT.—Section
24 6050A(a) of such Code is amended by striking
25 “and” at the end of paragraph (3), by striking the

1 period at the end of paragraph (4) and inserting “;
2 and”, and by adding at the end thereof the following
3 new paragraph:

4 “(5) any cash remuneration described in section
5 3121(b)(20)(A).”

6 (b) AMENDMENT OF SOCIAL SECURITY ACT.—

7 (1) DETERMINATION OF SIZE OF CREW.—Sub-
8 section (a) of section 210 of the Social Security Act
9 is amended by adding at the end thereof the follow-
10 ing new sentence:

11 “For purposes of paragraph (20), the operating crew of
12 a boat shall be treated as normally made up of fewer than
13 10 individuals if the average size of the operating crew
14 on trips made during the preceding 4 calendar quarters
15 consisted of fewer than 10 individuals.”

16 (2) CERTAIN CASH REMUNERATION PER-
17 MITTED.—Subparagraph (A) of section 210(a)(20)
18 of such Act is amended to read as follows:

19 “(A) such individual does not receive any
20 additional compensation other than as provided
21 in subparagraph (B) and other than cash remu-
22 neration—

23 “(i) which does not exceed \$100 per
24 trip;

1 “(ii) which is contingent on a mini-
2 mum catch; and

3 “(iii) which is paid solely for addi-
4 tional duties (such as mate, engineer, or
5 cook) for which additional cash remunera-
6 tion is traditional in the industry,”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to remuneration paid after
10 December 31, 1994.

11 (2) SPECIAL RULE.—The amendments made by
12 this section (other than subsection (a)(3)) shall also
13 apply to remuneration paid after December 31,
14 1984, and before January 1, 1995, unless the payor
15 treated such remuneration (when paid) as being sub-
16 ject to tax under chapter 21 of the Internal Revenue
17 Code of 1986.

18 **SEC. 2. INFORMATION REPORTING.**

19 (a) IN GENERAL.—Subpart B of part III of sub-
20 chapter A of chapter 68 of the Internal Revenue Code of
21 1986 (relating to information concerning transactions
22 with other persons) is amended by adding at the end the
23 following new section:

1 **“SEC. 6050Q. RETURNS RELATING TO CERTAIN PURCHASES**
2 **OF FISH.**

3 “(a) REQUIREMENT OF REPORTING.—Every per-
4 son—

5 “(1) who is engaged in the trade or business of
6 purchasing fish for resale from any person engaged
7 in the trade or business of catching fish; and

8 “(2) who makes payments in cash in the course
9 of such trade or business to such a person of \$1,000
10 or more during any calendar year for the purchase
11 of fish,

12 shall make a return (at such times as the Secretary may
13 prescribe) described in subsection (b) with respect to each
14 person to whom such a payment was made during such
15 calendar year.

16 “(b) RETURN.—A return is described in this sub-
17 section if such return—

18 “(1) is in such form as the Secretary may pre-
19 scribe, and

20 “(2) contains—

21 “(A) the name, address, and TIN of each
22 person to whom a payment described in sub-
23 section (a)(2) was made during the calendar
24 year;

25 “(B) the aggregate amount of such pay-
26 ments made to such person during such cal-

1 endar year and the date and amount of each
2 such payment, and

3 “(C) such other information as the Sec-
4 retary may require.

5 “(c) STATEMENT TO BE FURNISHED WITH RE-
6 SPECT TO WHOM INFORMATION IS REQUIRED.—Every
7 person required to make a return under subsection (a)
8 shall furnish to each person whose name is required to
9 be set forth in such return a written statement showing—

10 “(1) the name and address of the person re-
11 quired to make such a return, and

12 “(2) the aggregate amount of payments to the
13 person required to be shown on the return.

14 The written statement required under the preceding sen-
15 tence shall be furnished to the person on or before Janu-
16 ary 31 of the year following the calendar year for which
17 the return under subsection (a) is required to be made.

18 “(d) DEFINITIONS.—For purposes of this section:

19 “(1) CASH.—The term ‘cash’ has the meaning
20 given such term by section 6050I(d).

21 “(2) FISH.—The term ‘fish’ includes other
22 forms of aquatic life.”.

23 (b) TECHNICAL AMENDMENTS.—

24 (1) Subparagraph (A) of section 6724(d)(1) of
25 such Code is amended by striking “or” at the end

1 of clause (vi), by striking “and” at the end of clause
2 (vii) and inserting “or”, and by adding at the end
3 the following new clause:

4 “(viii) section 6050Q (relating to re-
5 turns relating to certain purchases of fish),
6 and”.

7 (2) Paragraph (2) of section 6724(d) of such
8 Code is amended by redesignating subparagraphs
9 (Q) through (T) as subparagraphs (R) through (U),
10 respectively, and by inserting after subparagraph (P)
11 the following new subparagraph:

12 “(Q) section 6050Q(c) (relating to returns
13 relating to certain purchases of fish),”.

14 (3) The table of sections for subpart B of part
15 III of subchapter A of chapter 68 of such Code is
16 amended by adding at the end the following new
17 item:

“Sec. 6050Q. Returns relating to certain purchases of fish.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to payments made after December
20 31, 1994.

○