

103D CONGRESS
1ST SESSION

S. 96

To amend the Internal Revenue Code of 1986 to clarify the employment status of certain fishermen.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. KENNEDY (for himself and Mr. KERRY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to clarify
the employment status of certain fishermen.

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 nation—

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, 1993.

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, 1994, 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.

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