

105TH CONGRESS
1ST SESSION

H. R. 2642

To amend the Internal Revenue Code of 1986 to clarify the standards for determining whether an employer-employee relationship exists.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1997

Mr. VISCLOSKY (for himself, Mr. LIPINSKI, Mr. JACKSON of Illinois, and Mr. SANDERS) 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 standards for determining whether an employer-employee relationship exists.

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. STANDARDS FOR DETERMINING EMPLOYER-**
4 **EMPLOYEE RELATIONSHIP.**

5 (a) IN GENERAL.—Chapter 25 of the Internal Reve-
6 nue Code of 1986 (relating to general provisions relating
7 to employment taxes) is amended by adding at the end
8 the following new section:

1 **“SEC. 3511. STANDARDS FOR DETERMINING EMPLOYER-EM-**
2 **PLOYEE RELATIONSHIP.**

3 “An individual who performs services for any person
4 (in this section referred to as the ‘service recipient’) shall
5 be presumed for purposes of this title to be an employee
6 of such person unless all of the following requirements are
7 met:

8 “(1) The individual makes comparable services
9 available to the general public on a regular and con-
10 sistent basis and represents himself as an independ-
11 ent contractor with respect to such services.

12 “(2) The individual has performed, or is avail-
13 able to perform, services for more than 1 recipient
14 at the same time.

15 “(3) The service recipient does not have the
16 right (and does not attempt) to control the manner
17 or means of the individual’s performance of such
18 services.

19 “(4) The individual controls the means of per-
20 forming the services, including setting the sequence
21 and hours of work.

22 “(5) The individual operates under contracts to
23 perform specific services for specific amounts of
24 money, the rate of which is negotiated for every
25 service performed.

