111TH CONGRESS
1ST SESSION

H. R. 1919

To amend the Internal Revenue Code of 1986 to repeal the withholding
of income and social security taxes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Ms. Foxx (for herself, Mr. Paul, Mr. Burton of Indiana, Mr. Franks of
Arizona, Mr. Duncan, Mr. Garrett of New Jersey, Mr. Bartlett,
Mrs. Myrick, Mrs. Blackburn, Mr. Pence, Mr. Kingston, and Mr.
Wilson of South Carolina) introduced the following bill; which was re-
ferred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to repeal
the withholding of income and social security 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.

This Act may be cited as the “Federal Withholding
Tax Repeal Act of 2009”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) At the onset of the Civil War, Congress
passed the Revenue Act of 1861, which imposed a
tax on personal incomes and to assure timely collection, taxes were “withheld at the source” by employers.

(2) The need for Federal revenue declined sharply after the war and in 1872, the income tax was abolished and along with it, the Federal withholding mandate.

(3) With passage of the 16th amendment to the Constitution, Congress swiftly passed legislation creating a Federal income tax, withheld before employee salaries were paid.

(4) In response to growing taxpayer criticism of the withholding mandate, Treasury Secretary William G. McAdoo stated that “it would be very advantageous to . . . do away with the withholding of income tax at the source” because it would “eliminate a great deal of criticism which has been directed against the law”; a statement reflecting the sentiment which ultimately led to the repeal of Federal withholding authority in 1917.

(5) In the 1920s and 1930s, income taxes were due on March 15 following the end of the tax year and could be paid either in one lump sum on that date or in quarterly installments.
(6) With the onset of World War II, fearing that taxpayers might refuse to pay the higher tax rates and surcharges associated with funding the war effort, Federal officials, lawmakers, and political leaders such as President Franklin D. Roosevelt used the military crisis to draw on Americans' sense of patriotism and resurrect the Federal withholding authority as a “temporary wartime measure”.

(7) The campaign to reinstitute a permanent system of withholding overcame public hostility with the passage of the Withholding Tax Act of 1943 which incorporated suggestions proffered by Beardsley Ruml to eliminate individuals' 1942 tax liabilities by counting amounts paid or withheld in 1943 as tax payments for that year.

(8) Since that time, Congress has stubbornly refused to repeal the Federal withholdings mandate contained in the Withholding Tax Act.

(9) In fiscal year 2007, the Internal Revenue Service refunded overpayments amounting to over $248,625,001,000 more than actual individual income tax liabilities, effectively denying interest payments otherwise owed to taxpayers and amounting to a hidden tax.
These overpayments are returned annually in the form of tax refunds to taxpayers who often confuse the payments as a reward.

According to an April 2007 report released by the Joint Economic Committee, millions of families, many in the bottom fifth income percentile, have either zero tax liability or receive a net transfer from the Government due to the refundable portion of the Earned Income Tax Credit or the Child Tax Credit. Those without Federal tax liability would benefit the most from keeping their entire paycheck, rather than temporarily surrendering portions to the Government.

The absence of the Federal withholdings mandate leaves employers and employees free to negotiate alternative, private means of collecting and paying Federal income taxes, thereby allowing individuals to voluntarily earn interest on their withholdings.

The Federal withholdings mandate allows the Federal Government to disguise tax increases and hampers Federal accountability and transparency by requiring the assistance of an intermediary tax collector.
(14) Complying with the Federal withholdings mandate imposes costly burdens and legal liabilities on employers forced to act as de facto IRS agents, without compensation for lost time and resources.

(15) Referring to the Federal withholding mandate in his work Public Finance in Democratic Process: Fiscal Institutions and Individual Choice, 1986 Nobel Prize winning economist James Buchanan stated that “The individual who does not have possession of income before paying it out cannot” sense “the real cost of public services in a manner comparable to that experienced in a genuine act of outpayment.”.

(16) In CATO Institute study, Charlotte Twight has noted that “[W]ithholding is the paramount administrative mechanism enabling the Federal Government to collect, without significant protest, sufficient private resources to fund a vastly expanded welfare state.”

(17) The Federal tax withholding mandate was listed by Human Events in 2005 as the fourth “Most Harmful Government Program” and seventh “Worst Tax Law” in 2006.

(18) The National Taxpayers Union notes that the incremental nature of withholding masks the
true cost of Federal income taxes, which would be much more apparent if individuals had to write monthly, quarterly, or annual checks to the Federal Government.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to increase transparency and accountability in the Federal tax system by providing the public with a more accurate account of—

(A) the annual tax burden; and

(B) the Federal budget deficit;

(2) to decrease the overall tax burden and increase the personal wealth of taxpayers by allowing for the personal collection of interest during the fiscal year on overpayments that are otherwise used by the Federal Government to partly avoid interest payments;

(3) to decrease the burden on employers by freeing them from the task of collecting income tax withholdings from their employees; and

(4) to end the deceptive practice of masking higher tax rates from taxpayers.
SEC. 4. REPEAL OF FEDERAL INCOME AND SOCIAL SECURITY TAX WITHHOLDING MANDATE.

(a) In General.—The following sections of the Internal Revenue Code of 1986 are hereby repealed:

(1) Section 3102 (relating to deduction of social security tax from wages).

(2) Section 3202 (relating to deduction of railroad retirement tax from compensation).

(3) Chapter 24 (relating to income tax withholding).

(b) Requirement of Estimated Tax Payments for Employee Social Security Taxes.—Subsection (f) of section 6654 of such Code is amended by striking “minus” at the end of paragraph (2) and inserting “plus”, by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

“(3) the taxes imposed by section 3101(a) and 3201(a), minus”.

(c) Effective Date.—The amendments made by this section shall apply to amounts paid on or after the first January 1 occurring after 1 year after the date of the enactment of this Act.

SEC. 5. CONTINUED VOLUNTARY TAX WITHHOLDING.

(a) Authority of the IRS.—Nothing in this Act may be construed to limit the authority of the Internal Revenue Service to accept voluntary tax payments from
employers electing to continue collecting Federal income
taxes from employees.

(b) Voluntary Employer Participation.—Nothing in this Act shall be construed to prevent voluntary em-
ployer sponsored withholding of Federal income taxes on
behalf of employees.

(c) Voluntary Employee Participation.—Nothing in this Act shall be construed—

(1) to require any employee to participate in an
employer Federal income tax withholding system, or

(2) to prevent any election of an employee to
opt in to an employer Federal income tax with-
holding system, with all terms and conditions for
participation being negotiable between the employee
and employer.