

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.

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## 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 referred to the Committee on Ways and Means

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## A BILL

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

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. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) At the onset of the Civil War, Congress  
9 passed the Revenue Act of 1861, which imposed a

1 tax on personal incomes and to assure timely collec-  
2 tion, taxes were “withheld at the source” by employ-  
3 ers.

4 (2) The need for Federal revenue declined  
5 sharply after the war and in 1872, the income tax  
6 was abolished and along with it, the Federal with-  
7 holding mandate.

8 (3) With passage of the 16th amendment to the  
9 Constitution, Congress swiftly passed legislation cre-  
10 ating a Federal income tax, withheld before em-  
11 ployee salaries were paid.

12 (4) In response to growing taxpayer criticism of  
13 the withholding mandate, Treasury Secretary Wil-  
14 liam G. McAdoo stated that “it would be very ad-  
15 vantageous to . . . do away with the withholding of  
16 income tax at the source” because it would “elimi-  
17 nate a great deal of criticism which has been di-  
18 rected against the law”; a statement reflecting the  
19 sentiment which ultimately led to the repeal of Fed-  
20 eral withholding authority in 1917.

21 (5) In the 1920s and 1930s, income taxes were  
22 due on March 15 following the end of the tax year  
23 and could be paid either in one lump sum on that  
24 date or in quarterly installments.

1           (6) With the onset of World War II, fearing  
2           that taxpayers might refuse to pay the higher tax  
3           rates and surcharges associated with funding the  
4           war effort, Federal officials, lawmakers, and political  
5           leaders such as President Franklin D. Roosevelt  
6           used the military crisis to draw on Americans' sense  
7           of patriotism and resurrect the Federal withholding  
8           authority as a "temporary wartime measure".

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

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

19          (9) In fiscal year 2007, the Internal Revenue  
20          Service refunded overpayments amounting to over  
21          \$248,625,001,000 more than actual individual in-  
22          come tax liabilities, effectively denying interest pay-  
23          ments otherwise owed to taxpayers and amounting  
24          to a hidden tax.

1           (10) These overpayments are returned annually  
2           in the form of tax refunds to taxpayers who often  
3           confuse the payments as a reward.

4           (11) According to an April 2007 report released  
5           by the Joint Economic Committee, millions of fami-  
6           lies, many in the bottom fifth income percentile,  
7           have either zero tax liability or receive a net transfer  
8           from the Government due to the refundable portion  
9           of the Earned Income Tax Credit or the Child Tax  
10          Credit. Those without Federal tax liability would  
11          benefit the most from keeping their entire paycheck,  
12          rather than temporarily surrendering portions to the  
13          Government.

14          (12) The absence of the Federal withholdings  
15          mandate leaves employers and employees free to ne-  
16          gotiate alternative, private means of collecting and  
17          paying Federal income taxes, thereby allowing indi-  
18          viduals to voluntarily earn interest on their  
19          withhholdings.

20          (13) The Federal withholdings mandate allows  
21          the Federal Government to disguise tax increases  
22          and hampers Federal accountability and trans-  
23          parency by requiring the assistance of an inter-  
24          mediary tax collector.

1           (14) Complying with the Federal withholdings  
2           mandate imposes costly burdens and legal liabilities  
3           on employers forced to act as de facto IRS agents,  
4           without compensation for lost time and resources.

5           (15) Referring to the Federal withholding man-  
6           date in his work Public Finance in Democratic Proc-  
7           ess: Fiscal Institutions and Individual Choice, 1986  
8           Nobel Prize winning economist James Buchanan  
9           stated that “The individual who does not have pos-  
10          session of income before paying it out cannot” sense  
11          “the real cost of public services in a manner com-  
12          parable to that experienced in a genuine act of  
13          outpayment.”.

14          (16) In CATO Institute study, Charlotte  
15          Twight has noted that “[W]ithholding is the para-  
16          mount administrative mechanism enabling the Fed-  
17          eral Government to collect, without significant pro-  
18          test, sufficient private resources to fund a vastly ex-  
19          panded welfare state.”

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

24          (18) The National Taxpayers Union notes that  
25          the incremental nature of withholding masks the

1 true cost of Federal income taxes, which would be  
2 much more apparent if individuals had to write  
3 monthly, quarterly, or annual checks to the Federal  
4 Government.

5 **SEC. 3. PURPOSE.**

6 The purposes of this Act are—

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

10 (A) the annual tax burden; and

11 (B) the Federal budget deficit;

12 (2) to decrease the overall tax burden and in-  
13 crease the personal wealth of taxpayers by allowing  
14 for the personal collection of interest during the fis-  
15 cal year on overpayments that are otherwise used by  
16 the Federal Government to partly avoid interest pay-  
17 ments;

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

21 (4) to end the deceptive practice of masking  
22 higher tax rates from taxpayers.

1 **SEC. 4. REPEAL OF FEDERAL INCOME AND SOCIAL SECUR-**  
2 **ITY TAX WITHHOLDING MANDATE.**

3 (a) IN GENERAL.—The following sections of the In-  
4 ternal Revenue Code of 1986 are hereby repealed:

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

7 (2) Section 3202 (relating to deduction of rail-  
8 road retirement tax from compensation).

9 (3) Chapter 24 (relating to income tax with-  
10 holding).

11 (b) REQUIREMENT OF ESTIMATED TAX PAYMENTS  
12 FOR EMPLOYEE SOCIAL SECURITY TAXES.—Subsection  
13 (f) of section 6654 of such Code is amended by striking  
14 “minus” at the end of paragraph (2) and inserting “plus”,  
15 by redesignating paragraph (3) as paragraph (4), and by  
16 inserting after paragraph (2) the following new paragraph:

17 “(3) the taxes imposed by section 3101(a) and  
18 3201(a), minus”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to amounts paid on or after the  
21 first January 1 occurring after 1 year after the date of  
22 the enactment of this Act.

23 **SEC. 5. CONTINUED VOLUNTARY TAX WITHHOLDING.**

24 (a) AUTHORITY OF THE IRS.—Nothing in this Act  
25 may be construed to limit the authority of the Internal  
26 Revenue Service to accept voluntary tax payments from

1 employers electing to continue collecting Federal income  
2 taxes from employees.

3 (b) VOLUNTARY EMPLOYER PARTICIPATION.—Noth-  
4 ing in this Act shall be construed to prevent voluntary em-  
5 ployer sponsored withholding of Federal income taxes on  
6 behalf of employees.

7 (c) VOLUNTARY EMPLOYEE PARTICIPATION.—Noth-  
8 ing in this Act shall be construed—

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

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

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