

112TH CONGRESS  
1ST SESSION

# H. R. 918

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

MARCH 3, 2011

Ms. FOXX 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 2011”.

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  
10 tax on personal incomes and to assure timely collec-

1       tion, taxes were “withheld at the source” by employ-  
2       ers.

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

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

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

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

24          (6) With the onset of World War II, fearing  
25      that taxpayers might refuse to pay the higher tax

1 rates and surcharges associated with funding the  
2 war effort, Federal officials, lawmakers, and political  
3 leaders such as President Franklin D. Roosevelt  
4 used the military crisis to draw on Americans' sense  
5 of patriotism and resurrect the Federal withholding  
6 authority as a "temporary wartime measure".

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

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

17 (9) In fiscal year 2009, the Internal Revenue  
18 Service refunded overpayments amounting to over  
19 \$332,875,709,000 more than actual individual in-  
20 come tax liabilities, effectively denying interest pay-  
21 ments otherwise owed to taxpayers and amounting  
22 to a hidden tax.

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

1           (11) According to the Tax Foundation, “nearly  
2           one-third of the 143 million federal income tax re-  
3           turns filed in 2007 resulted in no tax payment,”  
4           meaning that “the tax filers got back every dollar  
5           that had been withheld from their paychecks, and  
6           often more. Roughly 46.6 million tax returns, or  
7           32.6 percent, are filed by such ‘nonpayers,’ people  
8           whose exemptions, deductions and credits wiped out  
9           any federal income tax due.”.

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

16           (13) The Federal withholding mandate allows  
17           the Federal Government to disguise tax increases  
18           and hampers Federal accountability and trans-  
19           parency by requiring the assistance of an inter-  
20           mediary tax collector.

21           (14) Complying with the Federal withholding  
22           mandate imposes costly burdens and legal liabilities  
23           on employers forced to act as de facto IRS agents,  
24           without compensation for lost time and resources.

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

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

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

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

1 **SEC. 3. PURPOSE.**

2 The purposes of this Act are—

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

6 (A) the annual tax burden; and

7 (B) the Federal budget deficit;

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

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

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

19 **SEC. 4. REPEAL OF FEDERAL INCOME AND SOCIAL SECU-**  
20 **RITY TAX WITHHOLDING MANDATE.**

21 (a) IN GENERAL.—The following provisions of the In-  
22 ternal Revenue Code of 1986 are hereby repealed:

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

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

1           (3) Chapter 24 (relating to income tax with-  
2           holding).

3           (b) REQUIREMENT OF ESTIMATED TAX PAYMENTS  
4 FOR EMPLOYEE SOCIAL SECURITY TAXES.—Subsection  
5 (f) of section 6654 of such Code is amended by redesignig-  
6 nating paragraphs (3) and (4) as paragraphs (4) and (5),  
7 respectively, and by inserting after paragraph (2) the fol-  
8 lowing new paragraph:

9           “(3) the taxes imposed by section 3101(a) and  
10          3201(a), plus”.

11          (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to amounts paid on or after the  
13 first January 1 occurring after 1 year after the date of  
14 the enactment of this Act.

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

16          (a) AUTHORITY OF THE IRS.—Nothing in this Act  
17 may be construed to limit the authority of the Internal  
18 Revenue Service to accept voluntary tax payments from  
19 employers electing to continue collecting Federal income  
20 taxes from employees.

21          (b) VOLUNTARY EMPLOYER PARTICIPATION.—Noth-  
22 ing in this Act shall be construed to prevent voluntary em-  
23 ployer sponsored withholding of Federal income taxes on  
24 behalf of employees.

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

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

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

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