

3% Withholding Tax is Bad for Business

By Rep. Wally Herger

Albert Einstein once said of preparing his tax return, “This is too difficult for a mathematician. It takes a philosopher.” And that was back when the tax code was only a tenth of its current length.

In 2005, according to the Tax Foundation, the U.S. income tax code and associated regulations contained more than seven million words. All of this complexity has made it more difficult for taxpayers to comply with the law. In response, Congress and the IRS too often have adopted the wrong philosophy: imposing onerous new burdens on the vast majority of law-abiding taxpayers in an effort to catch a handful of tax cheats.

One high-profile recent example of this is the requirement included in last year’s health care overhaul for businesses to file a Form 1099 with the IRS for everyone from whom they purchase more than \$600 of goods and services in a year. Recognizing that the cost of filing hundreds of new tax forms is far greater than any revenue gain to the Treasury, both the House and Senate voted to repeal the 1099 rule.

However, there has been less attention to another costly and burdensome tax regulation that is just around the corner. Beginning in 2012, government agencies at the federal, state, and local level will be required to withhold 3% of all payments they make to contractors or vendors. One study found that the cost of implementing this provision for the Defense Department alone will exceed the revenue gained from reducing tax evasion.

If the 3% withholding rule goes into effect as scheduled, it will create serious cash-flow problems for countless businesses, including for-profit hospitals that receive payments from Medicare and Medicaid. This tax would apply to Medicare providers despite the fact that the Centers for Medicare & Medicaid Services (CMS) already has the authority to reduce Medicare payments to providers who have unpaid federal tax liability. Furthermore, in a departure from long-standing inpatient prospective payment system policies, the 3% withholding rule effectively would result in Medicare rates varying based solely on a hospital’s tax-filing status.

I have introduced legislation in the House of Representatives (H.R. 674) to repeal the ill-considered 3% withholding tax once and for all. In an economy that is struggling to get back on its feet, job creation and small business growth must be at the top of our priority list. In order to accomplish these goals, our first order of business should be to eliminate the harmful taxes and regulations that stand in the way. It will take dedicated effort from all those committed to ensuring that government does not stand in the way of our economic recovery, and I am grateful for the efforts of the Federation of American Hospitals and other members of the Government Withholding Relief Coalition to raise awareness of this burdensome requirement.

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Rep. Herger (R-CA) is a member of the House Committee on Ways and Means and is Chairman of its Subcommittee on Health.