



THE “3% WITHHOLDING REPEAL AND JOB CREATION ACT” (H.R. 674)

Background:

- In 2006, Congress enacted a 3% withholding requirement on certain payments made to contractors doing business with federal, state, and local governments. This provision – which was originally enacted as part of a larger package featuring numerous other significant tax changes – was purportedly intended to improve tax compliance.
- The 3% withholding rule was originally scheduled to take effect on January 1, 2011, but because of strong concerns raised by employers and government entities alike about the potentially significant burdens it could create, the rule’s effective date has subsequently been delayed until January 1, 2013.

Proposal:

- Reps. Wally Herger (R-CA) and Earl Blumenauer (D-OR) have introduced legislation (H.R. 674) that would permanently repeal the 3% withholding rule. This bill has received strong, bipartisan support from 269 cosponsors as well as from the [Government Withholding Relief Coalition](#), a 143-member coalition featuring many well-known trade associations and groups representing various state and local governments.
- Much like the costly “Form 1099” requirements that Congress repealed earlier this year, the 3% withholding rule would impose substantial new burdens on cash-strapped employers, impeding cash flows and further undermining job creation. The looming imposition of this rule is contributing to the severe uncertainty facing employers during this challenging economic time.
- President Obama has recently acknowledged the need to address this issue, calling the 3% withholding rules “[burdensome withholding requirements that keep capital out of the hands of job creators](#)”. While he has formally proposed only another one-year delay of the implementation of the 3% withholding rule (until January 1, 2014), his Statement of Administration Policy (SAP) on H.R. 674 clearly states that “[t]he Administration supports passage of H.R. 674.” The SAP goes on to state that “H.R. 674 would reduce a burden on government contractors who otherwise comply with their tax obligations, particularly small businesses” and that “[t]he effect of the repeal of the withholding requirement would be to avoid a decrease in cash flow to these contractors, which would allow them to retain these funds and use them to create jobs and pay suppliers.”
- Repealing the 3% withholding requirement would also relieve federal, state, and local governments of the need to comply with the significant, unfunded administrative burdens that the rule would impose.
- According to the Joint Committee on Taxation (JCT), repealing this requirement would reduce federal revenues by \$11.2 billion over 2011-2021. According to CBO, it would also (subject to appropriations actions consistent with the bill’s intent) reduce the Federal government’s discretionary costs by \$7 billion over that period by allowing agencies to avoid expensive updates to their accounting systems and to avoid the price increases that contractors would charge if the 3% withholding rule were allowed to go into effect
- While Chairman Camp and the Ways and Means Committee continue to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, permanently repealing the 3% withholding rule is a common-sense, bipartisan step that Congress and the President can take right away.