



Executive Memorandum

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WHY CONGRESS SHOULD REPEAL THE TAX CODE

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The federal tax code is a disgrace. Its 10,000 pages of laws and regulations sap the economy's strength by punishing work, saving, investment, risk-taking, and entrepreneurship. More than seven times longer than the Bible, the tax code's 5.5 million words have created a nightmare of complexity that defies the understanding of even the most proficient tax experts. Rather than try to fix a fundamentally broken system, Congress should repeal the entire internal revenue code and start over. Only when they are forced to start from scratch would lawmakers finally give serious consideration to a simple and fair plan like the flat tax.

Senators Tim Hutchinson (R-AR) and Sam Brownback (R-KS), along with Representatives Steve Largent (R-OK) and Bill Paxon (R-NY), have introduced a bill that would eliminate the internal revenue code on December 31, 2001. Among the compelling arguments for repealing the code are:

- **The current system is grossly unfair.** The government imposes special penalties or grants preferences depending on how a taxpayer earns income, how a taxpayer spends income, or the level of income. This discriminatory treatment violates the constitutional principle of having the law apply equally.
 - **The current system penalizes upward mobility.** By imposing more punitive tax rates as income rises, the current tax code makes it more difficult for people to realize the American dream of upward mobility. High tax rates punish those who contribute additional wealth to the U.S. economy.
 - **The current system is biased against saving and investment.** All economists agree that
- strong capital formation is necessary for higher wages and sustained growth. Yet between capital gains taxes, corporate income taxes, personal income taxes, and the death tax, today's internal revenue code taxes some income as many as four times.
 - **The current system is impossibly complex.** *Money Magazine* last year reported that not one of 45 professional tax preparers could calculate a hypothetical family's tax return successfully. Perhaps even more shocking, fewer than one in four even came within \$1,000 of the correct figure. And this took place before the enactment of the 250 new sections of tax law and more than 800 changes in existing law that were included in last year's tax bill.
 - **The current system takes too much money from taxpayers.** Federal taxes now consume more than 20 percent of annual economic output, a peacetime record. If the tax burden as a percent of gross domestic product simply were returned to its level in 1993, the average family would receive an annual tax cut of \$2,500.

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Legislation to repeal the current federal income tax code by a fixed date would help to eliminate the bias that favors the status quo. By 2001, elected officials would have to enact a new tax code, especially because failure to act by the date certain would result in an annual tax cut of well over \$1 trillion. Any tax system lawmakers chose—even if they decided to continue with today's tax system—would require an affirmative vote. All proposals would have to be judged on a level playing field.

Sunset Proposals Work. Critics contend that eliminating one system without agreeing beforehand on its replacement is reckless. Actually, it is a common practice. Many major federal government programs, such as spending on highways, education, and agriculture, are approved in five-year increments. Indeed, all annually appropriated programs, such as the defense budget, work on the same principle. Although lawmakers usually make only minor changes, they have the full authority to make any changes they want—and the programs presumably would disappear if they did not act. This is exactly how the legislation to eliminate the tax code would operate.

Perhaps the best evidence for sunseting the tax code comes from the states. Michigan voted to eliminate completely the property tax that was used for school funding without any agreement on the replacement. Lawmakers understood, however, that change would not occur unless they broke through the gridlock. Similarly, Wisconsin voted to sunset its welfare program. Once again, lawmakers realized that repeal of the status quo was a necessary prerequisite to real reform.

Choosing a replacement for the tax code would require a national debate over several years. Scraping the current tax code by a certain date would

help make tax reform part of national debate during 1998 mid-term elections and the presidential race in 2000. The American people should have a strong say in the type of tax system that would be created in 2001. And although the flat tax is the most popular of proposed replacement tax codes, the legislation does not bias the decision. Voters and policymakers may prefer a sales tax, and there even may be defenders of the status quo—like accountants and tax lawyers—who would argue for simply reauthorizing the current system.

Some skeptics argue that sunseting the current tax code would create too much uncertainty for businesses. Corporations have to consider the tax implications of investment decisions, they say, and would be hampered by not knowing the kind of tax code that will exist four years from now. The same degree of uncertainty, however, exists with today's tax system. Since the 1986 Tax Reform Act, lawmakers have made more than 6,000 changes to the tax code. Getting rid of the tax code and starting all over at least offers a promise that the constant tinkering finally would cease. Moreover, sunseting the code would not represent a venture into the unknown. In all likelihood, repeal would be a precursor to a single-rate, consumption-based system, such as the flat tax. Indeed, if the current code expired, corporations might actually have a better idea of what to expect than they would under the status quo.

Legislators and regulators have devoted 85 years to create today's mind-numbing code. The current tax code punishes productive behavior and makes a mockery of the constitutional principle of equal treatment under the law. Fundamental reform—moving to a single-rate, consumption-based tax—would solve these problems. Sunseting today's tax code would be a good first step in this direction.

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