



Executive Memorandum

No. 645

January 28, 2000

TIME TO SUNSET THE TAX CODE

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The tax code gets more complicated and unfair with each passing year, and there is plenty of blame to go around. Both Republicans and Democrats—as well as hundreds of interest groups—are constantly manipulating the Internal Revenue Code. Some of the changes to the tax code are the result of back-room deal-making, while others are straightforward attempts to reward “good” behavior and punish “bad” behavior.

The final result, however, is an irrational tax system that defies understanding. What began in 1913 as a single two-page form backed up by 14 pages of law, has become a 17,000-page disgrace that requires 703 different forms. More than seven times longer than the Bible, the tax code’s 5.5 million words have created a nightmare of complexity that saps the economy’s strength by punishing work, saving, investment, risk-taking, and entrepreneurship.

This is why the tax code should be sunset—meaning that it would officially expire as of a certain date. While this may sound dramatic, “sunset” actually is a common feature of major government spending programs, including those for highways, agriculture, and education. Requiring programs to be reauthorized presumably ensures that lawmakers periodically review whether programs are fulfilling their intended tasks and make what changes are necessary.

Representative Steve Largent (R-OK) and Senator Tim Hutchinson (R-AR) have introduced a bill (H.R. 1041, S. 627) that would obligate lawmakers

to undertake a fundamental review of the tax code. Known as the Tax Code Termination Act, their legislation would require lawmakers to implement a new tax code—or reauthorize the same tax code we have now—by July 4, 2002. And to ensure that future lawmakers would act on this requirement, the current tax code would be sunset on December 31, 2002.

Some critics argue that sunseting would create uncertainty, particularly for the business community. Yet what could be more uncertain than the current system? Since 1986, for instance, there have been more than 6,000 changes to the tax code. The 1997 tax bill alone added 285 new sections to the tax code and amended 824 others. A sunset provision at least holds out the hope that lawmakers will replace today’s constantly changing mess with a new, stable tax system.

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

Produced by
The Thomas A. Roe Institute
for Economic Policy Studies

Published by
The Heritage Foundation
214 Massachusetts Ave., N.E.
Washington, D.C.
20002-4999
(202) 546-4400
<http://www.heritage.org>



This paper, in its entirety, can be found at: www.heritage.org/library/execmemo/em645.html

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income, how a taxpayer spends income, or the level of income.

- **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.
- **The current system is biased against saving and investment.** Between capital gains taxes, corporate income taxes, personal income taxes, and the death tax, today's Internal Revenue Code taxes income that is saved and invested as many as four times.
- **The current system is impossibly complex.** *Money Magazine* in 1997 reported that not one of 45 professional tax preparers could calculate a hypothetical family's tax return successfully. A similar exercise in 1998 resulted in 46 responses—each of them wrong and no two the same.
- **The current system takes too much money from taxpayers.** Federal taxes now consume more than 20 percent of annual economic output, a peacetime record.

Repealing the current federal income tax code by a fixed date would put an end to gridlock, especially since failure to act 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 be judged on a level playing field.

Sunset Proposals Work. Critics contend that eliminating one system without agreeing before-

hand 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.

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.

Ideally, the Tax Code Termination Act would be a precursor to the flat tax. Such a system would address growth and equity concerns by taxing income, but only one time and at one low rate. The legislation, however, does not bias the decision. Voters and policymakers may prefer a national sales tax, and there even may be defenders of the status quo—like accountants and tax lawyers—who would argue that the current tax code should be reauthorized.

Regardless of the final decision, sunseting today's tax code would allow lawmakers to look at the big picture and create an opportunity to design a simple and fair system rather than engage in the usual yearly exercise of special-interest tax changes.

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