

111TH CONGRESS
1ST SESSION

H. R. 1040

To amend the Internal Revenue Code of 1986 to provide taxpayers a flat tax alternative to the current income tax system.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. BURGESS introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide taxpayers a flat tax alternative to the current income tax system.

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 “Freedom Flat Tax
5 Act”.

1 **SEC. 2. FREEDOM FLAT TAX.**

2 (a) IN GENERAL.—Subchapter A of chapter 1 of the
3 Internal Revenue Code of 1986 is amended by inserting
4 after part VII the following new part:

5 **“PART VIII—FREEDOM FLAT TAX**

“Sec. 60. Irrevocable election to be subject to flat tax.

“Sec. 60A. Tax imposed on individuals.

“Sec. 60B. Tax imposed on business activities.

“Sec. 60C. Tax on noncash compensation provided to employees not engaged in
business activity.

6 **“SEC. 60. IRREVOCABLE ELECTION TO BE SUBJECT TO**
7 **FLAT TAX.**

8 “(a) INDIVIDUAL.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), in lieu of the tax imposed by sections 1
11 (relating to tax imposed) and 55 (relating to alter-
12 native minimum tax imposed), under regulations
13 prescribed by the Secretary, an individual may make
14 an irrevocable election to be subject to the tax im-
15 posed by this part.

16 “(2) INNOCENT SPOUSE EXCEPTION.—An indi-
17 vidual who has made an election under paragraph
18 (1) and who subsequently obtains relief of liability
19 for tax under section 6015(b) may, not later than 1
20 year after the date such relief is granted, revoke the
21 election made under paragraph (1).

22 “(b) PERSON ENGAGED IN BUSINESS ACTIVITY.—In
23 lieu of the tax imposed by sections 11 (relating to tax im-

1 posed) and 55 (relating to alternative minimum tax im-
 2 posed), under regulations prescribed by the Secretary, a
 3 person engaged in business activity may make an irrev-
 4 ocable election to be subject to the tax imposed by this
 5 part.

6 “(c) DISALLOWANCE OF CREDITS.—No credit shall
 7 be allowed under this chapter for any taxable year to any
 8 person with respect to whom an election under subsection
 9 (a) or (b) is in effect.

10 **“SEC. 60A. TAX IMPOSED ON INDIVIDUALS.**

11 “(a) IN GENERAL.—There is hereby imposed on the
 12 taxable income of every individual who makes an election
 13 to be subject to this part a tax equal to—

14 “(1) 19 percent of the taxable income of such
 15 individual for such taxable year in the case of the
 16 first 2 taxable years of the individual beginning with
 17 the taxable year for which the election is made, and

18 “(2) 17 percent of the taxable income of such
 19 individual for such taxable year in the case of all
 20 taxable years subsequent to the taxable years de-
 21 scribed in paragraph (1).

22 “(b) TAXABLE INCOME.—For purposes of this part,
 23 the term ‘taxable income’ means the excess of—

24 “(1) the sum of—

1 “(A) wages (as defined in section 3121(a)
2 without regard to paragraph (1) thereof) which
3 are paid in cash and which are received during
4 the taxable year for services performed in the
5 United States,

6 “(B) retirement distributions which are in-
7 cludible in gross income for such taxable year,
8 plus

9 “(C) amounts received under any law of
10 the United States or of any State which is in
11 the nature of unemployment compensation, over
12 “(2) the standard deduction.

13 “(c) STANDARD DEDUCTION.—For purposes of this
14 part—

15 “(1) IN GENERAL.—The term ‘standard deduc-
16 tion’ means the sum of—

17 “(A) the basic standard deduction, plus

18 “(B) the additional standard deduction.

19 “(2) BASIC STANDARD DEDUCTION.—For pur-
20 poses of paragraph (1), the basic standard deduction
21 is—

22 “(A) \$25,580 in the case of—

23 “(i) a joint return, or

24 “(ii) a surviving spouse (as defined in
25 section 2(a)),

1 “(B) \$16,330 in the case of a head of
2 household (as defined in section 2(b)), and

3 “(C) \$12,790 in the case of an indi-
4 vidual—

5 “(i) who is not married and who is
6 not a surviving spouse or head of house-
7 hold, or

8 “(ii) who is a married individual filing
9 a separate return.

10 “(3) ADDITIONAL STANDARD DEDUCTION.—For
11 purposes of paragraph (1), the additional standard
12 deduction is \$5,510 for each dependent (as defined
13 in section 152) who is described in section 151(c)(1)
14 for the taxable year and who is not required to file
15 a return for such taxable year.

16 “(d) RETIREMENT DISTRIBUTIONS.—For purposes
17 of this section, the term ‘retirement distribution’ means
18 any distribution from—

19 “(1) a plan described in section 401(a) which
20 includes a trust exempt from tax under section
21 501(a),

22 “(2) an annuity plan described in section
23 403(a),

24 “(3) an annuity contract described in section
25 403(b),

1 “(4) an individual retirement account described
2 in section 408(a),

3 “(5) an individual retirement annuity described
4 in section 408(b),

5 “(6) an eligible deferred compensation plan (as
6 defined in section 457),

7 “(7) a governmental plan (as defined in section
8 414(d)), or

9 “(8) a trust described in section 501(c)(18).

10 Such term includes any plan, contract, account, annuity,
11 or trust which, at any time, has been determined by the
12 Secretary to be such a plan, contract, account, annuity,
13 or trust.

14 “(e) INCOME OF CERTAIN CHILDREN.—For purposes
15 of this part—

16 “(1) an individual’s taxable income shall include
17 the taxable income of each dependent child of such
18 individual who has not attained age 14 as of the
19 close of such taxable year, and

20 “(2) such dependent child shall have no liability
21 for tax imposed by this section with respect to such
22 income and shall not be required to file a return for
23 such taxable year.

24 “(f) INFLATION ADJUSTMENT.—

1 “(1) IN GENERAL.—In the case of any taxable
2 year beginning in a calendar year after 2010, each
3 dollar amount contained in subsection (c) shall be
4 increased by an amount determined by the Secretary
5 to be equal to—

6 “(A) such dollar amount, multiplied by

7 “(B) the cost-of-living adjustment for such
8 calendar year.

9 “(2) COST-OF-LIVING ADJUSTMENT.—For pur-
10 poses of paragraph (1), the cost-of-living adjustment
11 for any calendar year is the percentage (if any) by
12 which—

13 “(A) the CPI for the preceding calendar
14 year, exceeds

15 “(B) the CPI for the calendar year 2009.

16 “(3) CPI FOR ANY CALENDAR YEAR.—For pur-
17 poses of paragraph (2), the CPI for any calendar
18 year is the average of the Consumer Price Index as
19 of the close of the 12-month period ending on Au-
20 gust 31 of such calendar year.

21 “(4) CONSUMER PRICE INDEX.—For purposes
22 of paragraph (3), the term ‘Consumer Price Index’
23 means the last Consumer Price Index for all-urban
24 consumers published by the Department of Labor.
25 For purposes of the preceding sentence, the revision

1 of the Consumer Price Index which is most con-
2 sistent with the Consumer Price Index for calendar
3 year 1986 shall be used.

4 “(5) ROUNDING.—If any increase determined
5 under paragraph (1) is not a multiple of \$10, such
6 increase shall be rounded to the next highest mul-
7 tiple of \$10.

8 “(g) MARITAL STATUS.—For purposes of this sec-
9 tion, marital status shall be determined under section
10 7703.

11 **“SEC. 60B. TAX IMPOSED ON BUSINESS ACTIVITIES.**

12 “(a) TAX IMPOSED.—There is hereby imposed on
13 every person engaged in a business activity who makes an
14 election to be taxed under this part a tax equal to—

15 “(1) 19 percent of the business taxable income
16 of such person for such taxable year in the case of
17 the first 2 taxable years of the individual beginning
18 with the taxable year for which the election is made,
19 and

20 “(2) 17 percent of the business taxable income
21 of such person for such taxable year in the case of
22 all taxable years subsequent to the taxable years de-
23 scribed in paragraph (1).

24 “(b) LIABILITY FOR TAX.—The tax imposed by this
25 section shall be paid by the person engaged in the business

1 activity, whether such person is an individual, partnership,
2 corporation, or otherwise.

3 “(c) BUSINESS TAXABLE INCOME.—For purposes of
4 this section—

5 “(1) IN GENERAL.—The term ‘business taxable
6 income’ means gross active income reduced by the
7 deductions specified in subsection (d).

8 “(2) GROSS ACTIVE INCOME.—

9 “(A) IN GENERAL.—For purposes of para-
10 graph (1), the term ‘gross active income’ means
11 gross receipts from—

12 “(i) the sale or exchange of property
13 or services in the United States by any
14 person in connection with a business activ-
15 ity, and

16 “(ii) the export of property or services
17 from the United States in connection with
18 a business activity.

19 “(B) EXCHANGES.—For purposes of this
20 section, the amount treated as gross receipts
21 from the exchange of property or services is the
22 fair market value of the property or services re-
23 ceived, plus any money received.

1 “(C) COORDINATION WITH SPECIAL RULES
2 FOR FINANCIAL SERVICES, ETC.—Except as
3 provided in subsection (e)—

4 “(i) the term ‘property’ does not in-
5 clude money or any financial instrument,
6 and

7 “(ii) the term ‘services’ does not in-
8 clude financial services.

9 “(3) EXEMPTION FROM TAX FOR ACTIVITIES OF
10 GOVERNMENTAL ENTITIES AND TAX-EXEMPT ORGA-
11 NIZATIONS.—For purposes of this section, the term
12 ‘business activity’ does not include any activity of a
13 governmental entity or of any other organization
14 which is exempt from tax under this chapter.

15 “(d) DEDUCTIONS.—

16 “(1) IN GENERAL.—The deductions specified in
17 this subsection are—

18 “(A) the cost of business inputs for the
19 business activity,

20 “(B) wages (as defined in section 3121(a)
21 without regard to paragraph (1) thereof) which
22 are paid in cash for services performed in the
23 United States as an employee, and

24 “(C) retirement contributions to or under
25 any plan or arrangement which makes retire-

1 ment distributions (as defined in section 63(c))
2 for the benefit of such employees to the extent
3 such contributions are allowed as a deduction
4 under section 404.

5 “(2) BUSINESS INPUTS.—

6 “(A) IN GENERAL.—For purposes of para-
7 graph (1), the term ‘cost of business inputs’
8 means—

9 “(i) the amount paid for property sold
10 or used in connection with a business ac-
11 tivity,

12 “(ii) the amount paid for services
13 (other than for the services of employees,
14 including fringe benefits paid by reason of
15 such services) in connection with a busi-
16 ness activity, and

17 “(iii) any excise tax, sales tax, cus-
18 toms duty, or other separately stated levy
19 imposed by a Federal, State, or local gov-
20 ernment on the purchase of property or
21 services which are for use in connection
22 with a business activity.

23 Such term shall not include any tax imposed by
24 chapter 2 or 21.

1 “(B) EXCEPTIONS.—Such term shall not
2 include—

3 “(i) items described in subparagraphs
4 (B) and (C) of paragraph (1), and

5 “(ii) items for personal use not in
6 connection with any business activity.

7 “(C) EXCHANGES.—For purposes of this
8 section, the amount treated as paid in connec-
9 tion with the exchange of property or services
10 is the fair market value of the property or serv-
11 ices exchanged, plus any money paid.

12 “(e) SPECIAL RULES FOR FINANCIAL INTER-MEDI-
13 ATION SERVICE ACTIVITIES.—In the case of the business
14 activity of providing financial intermediation services, the
15 taxable income from such activity shall be equal to the
16 value of the intermediation services provided in such activ-
17 ity.

18 “(f) EXCEPTION FOR SERVICES PERFORMED AS EM-
19 PLOYEE.—For purposes of this section, the term ‘business
20 activity’ does not include the performance of services by
21 an employee for the employee’s employer.

22 “(g) CARRYOVER OF CREDIT-EQUIVALENT OF EX-
23 CESS DEDUCTIONS.—

24 “(1) IN GENERAL.—If the aggregate deductions
25 for any taxable year exceed the gross active income

1 for such taxable year, the credit-equivalent of such
2 excess shall be allowed as a credit against the tax
3 imposed by this section for the following taxable
4 year.

5 “(2) CREDIT-EQUIVALENT OF EXCESS DEDUC-
6 TIONS.—For purposes of paragraph (1), the credit-
7 equivalent of the excess described in paragraph (1)
8 for any taxable year is an amount equal to—

9 “(A) the sum of—

10 “(i) such excess, plus

11 “(ii) the product of such excess and
12 the 3-month Treasury rate for the last
13 month of such taxable year, multiplied by

14 “(B) the rate of the tax imposed by sub-
15 section (a) for such taxable year.

16 “(3) CARRYOVER OF UNUSED CREDIT.—If the
17 credit allowable for any taxable year by reason of
18 this subsection exceeds the tax imposed by this sec-
19 tion for such year, then (in lieu of treating such ex-
20 cess as an overpayment) the sum of—

21 “(A) such excess, plus

22 “(B) the product of such excess and the 3-
23 month Treasury rate for the last month of such
24 taxable year,

1 shall be allowed as a credit against the tax imposed
2 by this section for the following taxable year.

3 “(4) 3-MONTH TREASURY RATE.—For purposes
4 of this subsection, the 3-month Treasury rate is the
5 rate determined by the Secretary based on the aver-
6 age market yield (during any 1-month period se-
7 lected by the Secretary and ending in the calendar
8 month in which the determination is made) on out-
9 standing marketable obligations of the United States
10 with remaining periods to maturity of 3 months or
11 less.

12 **“SEC. 60C. TAX ON NONCASH COMPENSATION PROVIDED**
13 **TO EMPLOYEES NOT ENGAGED IN BUSINESS**
14 **ACTIVITY.**

15 “(a) IMPOSITION OF TAX.—There is hereby imposed
16 on every employer of an employee to whom this section
17 applies and who makes an election to be taxed under this
18 part a tax equal to—

19 “(1) 19 percent of the value of excludable com-
20 pensation provided during the calendar year by the
21 employer for the benefit of employees to whom this
22 section applies in the case of the first 2 calendar
23 years beginning with the calendar year for which the
24 election under section 60 is made, and

1 “(2) 17 percent of such excludable compensa-
2 tion during the calendar year in the case of all cal-
3 endar years subsequent to the calendar years de-
4 scribed in paragraph (1).

5 “(b) LIABILITY FOR TAX.—The tax imposed by this
6 section shall be paid by the employer.

7 “(c) EXCLUDABLE COMPENSATION.—For purposes
8 of subsection (a), the term ‘excludable compensation’
9 means any remuneration for services performed as an em-
10 ployee other than—

11 “(1) wages (as defined in section 3121(a) with-
12 out regard to paragraph (1) thereof) which are paid
13 in cash,

14 “(2) remuneration for services performed out-
15 side the United States, and

16 “(3) retirement contributions to or under any
17 plan or arrangement which makes retirement dis-
18 tributions (as defined in section 63(c)).

19 “(d) EMPLOYEES TO WHOM SECTION APPLIES.—
20 This section shall apply to an employee who is employed
21 in any activity by—

22 “(1) any organization which is exempt from
23 taxation under this chapter, or

1 “(2) any agency or instrumentality of the
2 United States, any State or political subdivision of
3 a State, or the District of Columbia.”.

4 (b) CLERICAL AMENDMENT.—The table of parts for
5 subchapter A of chapter 1 of such Code is amended by
6 adding at the end the following new item:

“PART VIII. FREEDOM FLAT TAX.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this title shall apply to taxable years beginning after De-
9 cember 31, 2009.

10 **SEC. 3. REPEAL OF ESTATE AND GIFT TAXES.**

11 (a) IN GENERAL.—Subtitle B of the Internal Rev-
12 enue Code of 1986 is hereby repealed.

13 (b) EFFECTIVE DATE.—The repeal made by sub-
14 section (a) shall apply to the estates of decedents dying,
15 and gifts and generation-skipping transfers made, after
16 December 31, 2009.

17 **SEC. 4. SUPERMAJORITY REQUIRED TO CONSIDER REV-**
18 **ENUE MEASURE.**

19 A bill, joint resolution, amendment to a bill or joint
20 resolution, or conference report that—

21 (1) includes an increase in the rates of tax
22 specified in section 60A(a) or 60B(a) of the Internal
23 Revenue Code of 1986 (as amended by this Act), or

24 (2) reduces the standard deduction, as defined
25 in section 60A(c) of such Code (as so amended), or

1 the deductions specified in section 60B(d) of such
2 Code (as so amended),
3 may not be considered as passed or agreed to by the
4 House of Representatives or the Senate unless so deter-
5 mined by a vote of not less than two-thirds of the Members
6 of the House of Representatives or the Senate (as the case
7 may be) voting, a quorum being present.

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