



REPEAL WITHHOLDING ON GOVERNMENT CONTRACTS

POSITION:

Congress should repeal **Section 511** of the **Tax Reconciliation Act (P.L. 109-222: H.R. 4297)** as soon as possible.

ISSUE:

A new tax law contains requirements that federal, state, and local governments withhold 3-percent from payments for goods and services as a guard against possible business tax evasion. The law:

- Requires tax withholdings at a rate of 3% on all government payments for products and services made by the federal government, state governments, and local governments with total expenditures of \$100 million or more
- Affects payments for goods and services under government contracts as well as payments to any person for a service or product provided to a government entity (e.g. Medicare, certain grants)
- Imposes significant administrative costs and information reporting requirements on governments and companies
- Applies to all payments beginning with the year 2011
- Estimated to "increase" revenue by \$7 billion from 2011 to 2015, but raises \$6 billion of that amount in 2011 solely due to accelerated tax receipts and not an actual revenue increase from improved tax compliance
- Generates only \$215 million in 2012 and with projections of slight increases in each of the next three years thereafter

This far-reaching new requirement was inserted as a last-minute revenue raiser into the *Tax Reconciliation Act of 2005* that was signed by the President in May 2006. Though different versions of this provision have been discussed the last few years, no committee hearings were ever held.

Supporters of this law argue that imposing withholding on non-wage payments made by Federal, State and local governments would improve taxpayer compliance, reduce the tax gap, and promote fairness in the tax system. However,

this provision focuses only on payments made by governments and is unrelated to any actual tax liability.

STATUS:

NECA is a leading member of the **Construction Organizations for Sensible Taxation (COST)** coalition and the **Government Withholding Relief Coalition (GWRC)**, working to repeal **Section 511** of the **Tax Reconciliation Act (P.L. 109-222: H.R. 4297)** as soon as possible.

NECA is working with **Sen. Larry Craig (R-ID)**, sponsor of **S. 2821**, the **Withholding Tax Relief Act**, which repeals the imposition of this withholding. **Rep. Wally Herger (R-2-CA)** is sponsoring a similar bill in the House

KEY POINTS:

There will be many harmful consequences if the provision is not repealed.

- The provision hurts multitudes of honest taxpaying businesses in attempting to halt the few tax delinquents by forcing companies to provide the federal government with an interest-free loan on moneys that may not even be due them.
- The 3% withholding significantly affects company cash flow, especially in construction where pre-tax profit margins rarely meet or exceed 3%. This new requirement is based on revenues from government payments with no relationship to a companies' taxable income. This is especially damaging since construction contractors already often face a withheld percentage of progress payments due them of up to an additional 10%.
- Construction companies will lose vital funds needed to operate day-to-day activities and finance new jobs.
- The costs to Federal, State, and local governments to administer the program will be substantial and the process complicated to implement.
- The withholding provision is an unfunded mandate on state and local governments.