

[DISCUSSION DRAFT]

FEBRUARY 17, 2011

112TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to exempt the defense commissary system and military exchanges and other nonappropriated fund instrumentalities of the armed forces from withholding requirements on payments made by government entities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. WILSON of South Carolina introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to exempt the defense commissary system and military exchanges and other nonappropriated fund instrumentalities of the armed forces from withholding requirements on payments made by government entities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXEMPTION OF DEFENSE COMMISSARY SYS-**
2 **TEM AND MILITARY EXCHANGES AND OTHER**
3 **NONAPPROPRIATED FUND INSTRUMENTAL-**
4 **ITIES OF THE ARMED FORCES FROM WITH-**
5 **HOLDING REQUIREMENTS ON PAYMENTS**
6 **MADE BY GOVERNMENT ENTITIES.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) members of the armed forces and their fam-
9 ilies endure many financial hardships as a result of
10 the intense operations tempo required to support on-
11 going military operations in Iraq and Afghanistan,

12 (2) military families benefit from the savings
13 provided by the defense commissary system and mili-
14 tary exchanges and other nonappropriated fund in-
15 strumentalities of the armed forces,

16 (3) the implementation of section 3402(t) of the
17 Internal Revenue Code of 1986 requires a 3 percent
18 withholding tax to be collected from contractors
19 doing business with the Government,

20 (4) the implementation of such section will
21 cause manufacturers to charge higher prices for
22 goods sold to the defense commissary system and
23 military exchanges and other nonappropriated fund
24 instrumentalities of the armed forces to help offset
25 the 3 percent withholding tax, and

1 (5) the Secretary of the Treasury through the
2 resources of the Internal Revenue Service has the
3 ability to certify that manufacturers are not delin-
4 quent in paying taxes.

5 (b) EXEMPTION FROM WITHHOLDING REQUIRE-
6 MENTS.—Subsection (t) of section 3402 of the Internal
7 Revenue Code of 1986 is amended by redesignating para-
8 graph (3) as paragraph (4) and by inserting after para-
9 graph (2) the following new paragraph:

10 “(3) EXCEPTION FOR DEFENSE COMMISSARY
11 SYSTEM AND MILITARY EXCHANGES AND OTHER
12 NONAPPROPRIATED FUND INSTRUMENTALITIES OF
13 THE ARMED FORCES.—

14 “(A) IN GENERAL.—Paragraph (1) shall
15 not apply to any qualified payment.

16 “(B) QUALIFIED PAYMENT.—For purposes
17 of subparagraph (A), the term ‘qualified pay-
18 ment’ means a payment by the Defense Com-
19 missary Agency, an element of the defense com-
20 missary system, or military exchange or other
21 nonappropriated fund instrumentality of the
22 armed forces to a person who has in effect a
23 tax compliance certification from the Secretary.

24 “(C) TAX COMPLIANCE CERTIFICATION.—
25 For purposes of this paragraph, a tax compli-

1 ance certification is a certification by the Sec-
2 retary that the taxpayer is not delinquent in
3 paying taxes.

4 “(D) MILITARY EXCHANGE OR OTHER
5 NONAPPROPRIATED FUND INSTRUMEN-
6 TALITY.—For purposes of this paragraph, the
7 term ‘military exchange or other non-
8 appropriated fund instrumentality’ means the
9 Army and Air Force Exchange Service, the
10 Navy Exchange Service Command, the Marine
11 Corps Exchange, the Veterans Canteen Service,
12 the Coast Guard Exchange Service, or any
13 other instrumentality of the United States
14 under the jurisdiction of the armed forces which
15 is a morale, welfare, and recreation or other
16 nonappropriated fund instrumentality con-
17 ducted for the comfort, pleasure, contentment,
18 or physical or mental improvement of members
19 of the armed forces.

20 “(E) REGULATIONS.—The Secretary,
21 under such regulations or other guidance as the
22 Secretary shall prescribe, shall provide tax
23 compliance certifications for purposes of this
24 paragraph.”.

1 (c) REPORT RELATING TO TAX COMPLIANCE CER-
2 TIFICATION PROCEDURES.—Not later than September 1,
3 2011, the Secretary of the Treasury shall submit to the
4 Committee on Ways and Means and the Committee on
5 Armed Services in the House of Representatives and the
6 Committee on Finance and the Committee on Armed Serv-
7 ices of the Senate a report on the procedures to be used
8 under paragraph (3) of section 3402(t) of the Internal
9 Revenue Code of 1986, as added by subsection (b), to re-
10 ceive applications from contractors requesting tax compli-
11 ance certification, verify with the Internal Revenue Service
12 that the contractor is not delinquent in paying taxes, and
13 provide certification that the contractor is not delinquent
14 in paying taxes.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to payments made after December
17 31, 2011.