



## **The Fair Tax Act of 2015 – HR 25 / S 155**

### **Plain English Summary**

The Act is called the “Fair Tax Act of 2015.” As of Dec. 31, 2016, it repeals all income taxes and payroll taxes, specifically:

- The individual income tax (including capital gains taxes and the alternative minimum tax)
- All individual and employer payroll taxes including Social Security, Medicare, and federal unemployment taxes
- The corporate income tax
- The self-employment tax (a self-employed person pays both the individual and the employer portions of Social Security and Medicare taxes)
- The estate and gift tax

Effective January 1, 2017 it replaces the above taxes with a national retail sales tax on all goods and services sold at retail. The tax rate is set to be revenue neutral – at the level necessary to replace the revenues generated by the repealed taxes.

A 23-percent (of the tax-inclusive sales price) sales tax is imposed on all retail sales for personal consumption of new goods and services. Exports and the purchase of inputs by businesses (i.e., intermediate sales) are not taxed, nor are used goods or any savings, investment, or education tuition expenses. The sales tax must be separately stated and charged on the sales receipt. This makes it clear to the consumer exactly how much they are paying in federal taxes.

There are no exemptions under the FairTax, meaning that no lobbyist, corporation, or individual can obtain tax advantages that are not available to the general public. Also, everyone pays the same rate, but those who spend more pay more total taxes than those who spend less.

The FairTax provides every American family with a rebate of the sales tax on spending up to the federal poverty level (plus an extra amount to prevent any marriage penalty). The rebate is paid monthly in advance. It allows a family of four to spend \$31,860 tax free each year. The rebate for a married couple with two children is \$611 per month (\$7,328 annually). Therefore, no family pays federal sales tax on essential goods and services and middle-class families are effectively exempted on a large part of their annual spending.

Funding for Social Security and Medicare benefits remains the same. The Social Security and Medicare trust funds receive the same amount of money as they do under current law. The source of the trust fund revenue is a dedicated portion of sales tax revenue instead of payroll tax revenue.

States can elect to collect the federal sales tax on behalf of the federal government in exchange for a fee of one-quarter of one percent of gross collections. Retail businesses collecting the tax also get the same administrative fee.

Strong taxpayer rights provisions are incorporated into the Act. The burden of persuasion in disputes is on the government. A strong, independent problem resolution office is created. Taxpayers are entitled to professional fees in disputes unless the government establishes that its position was substantially justified.



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## Section by section summary

### **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

The Act is named the “Fair Tax Act of 2015.” This section also contains a detailed table of contents. (See pages 2 and 3 of this document.)

### **SEC. 2. CONGRESSIONAL FINDINGS.**

This section sets forth substantive reasons why the Congress finds that a national sales tax should replace the present tax system.

## **TITLE I—REPEAL OF THE INCOME TAX, PAYROLL TAXES, AND ESTATE AND GIFT TAXES**

### **SEC. 101. INCOME TAXES REPEALED.**

This section repeals Subtitle A of the Internal Revenue Code, which includes individual and corporate income taxes, the alternative minimum tax, the self-employment tax, and the tax on business income of charitable and religious nonprofit organizations.

### **SEC. 102. PAYROLL TAXES REPEALED.**

This section repeals Subtitle C of the Internal Revenue Code, which includes Social Security, Medicare, federal unemployment payroll taxes, railroad retirement taxes, and the railroad employer unemployment repayment tax.

### **SEC. 103. ESTATE AND GIFT TAXES REPEALED.**

This section repeals Subtitle B of the Internal Revenue Code, which includes the estate tax, the gift tax, and the tax on generation skipping transfers of wealth.

### **SEC. 104. CONFORMING AMENDMENTS; EFFECTIVE DATE.**

This section repeals various other provisions relating to the income tax and renumbers the subtitles that remain in the Internal Revenue Code relating to excise taxes, the Joint Committee on Taxation, and various Trust Funds. It also establishes January 1, 2017 as the overall effective date.

**Implementation:** Sec. 101 through 104 are very specific in the repeal of the Internal Revenue Code of 1986 with regard to Income and Self-Employment Taxes, Estate and Gift Taxes and Payroll and Withholding Taxes, and the striking of Subtitle H (Financing the Presidential Election Campaigns). In the place of current subtitles A, B, and C there will be the one new Subtitle A – Sales Tax. There will be an immediate transition to the new sales tax on the "effective date". Those individuals owing taxes and or engaged in litigation under the current tax laws: however, will continue to owe those taxes and such litigation will continue in pursuit of those taxes, interests and penalties after the effective date. That would be approximately 35,000 outstanding tax cases and over \$21 billion in contested taxes, fees and penalties today.



## TITLE II—SALES TAX ENACTED

### SEC. 201. SALES TAX

This section amends the Internal Revenue Code by creating a new “Subtitle A – Sales Tax.”

### Subtitle A—Sales Tax

#### SEC. 1. PRINCIPLES OF INTERPRETATION.

This section establishes primary and secondary principles of interpretation to aid courts and tax administrators when interpreting the FairTax statute. Briefly stated, the primary principles are: To raise revenue by taxing all consumption in the U.S., once without exception; prevent multiple taxation; simplify tax law and reduce administration costs; administer tax law in a manner that respects privacy with the presumption of innocence in criminal proceedings and presumption of lawful behavior in civil proceedings; utilize state government expertise in sales tax administration; and enhance cooperation and coordination among federal and state tax administrators. Secondary principles are that any court or administering authority shall consider common law rules of law construction, the meaning and construction of concepts used in the Internal Revenue Code, and construe any ambiguities in favor of reserving powers to the states or to the people.

#### SEC. 2. DEFINITIONS.

This section defines various terms employed in the bill. Terms defined include affiliated firms, conforming state sales tax, designated commercial private courier service, education and training, gross payments, insurance payments, registered seller, sales tax administering authority, taxable employer, tax inclusive fair market value, taxable property or services, used property, and wages and salary. This section also includes cross references to other definitions elsewhere in the bill.

These definitions are key to understanding which transactions are taxable and which are not. The key definitions are listed below:

**Affiliated firms** – A firm is affiliated with another if one firm owns 50 percent or more of the voting shares in a corporation or 50 percent or more of the capital interests of a business firm that is not a corporation.

**Conforming state sales tax** – means a state sales tax that adopts the same definition of taxable property and services as the FairTax. This means that the state sales tax base (the definition of what is taxable and what is not) would be identical to the FairTax base in that state. To do this a state would have to amend their state sales tax laws.

**Education and training** – Tuition for primary, secondary, postsecondary education, and job-related training courses is not taxable. It is treated the same as services used to “produce, provide, render, or sell taxable property or services” which are also not taxable. This applies to both public schools and private schools. Generally, public schools at the primary and secondary level don’t charge tuition, however, the tuition charged by public postsecondary education institutions, such as state universities and community colleges, is exempt.



Tuition does not include charges for room and board, sports activities, recreational activities, hobbies, games, arts or crafts or cultural activities.

**Gross payments** – equals payments for the taxable good or service plus the FairTax. A retail business computes its national sales tax liability by multiplying the rate of 23 percent times the monthly gross payments received.

**Taxable property** – any property (including a leasehold of any term or rents for such property), but excluding intangible property and used property.

**Intangible property** – an asset that is not physical and not real property. It includes copyrights, trademarks, patents, goodwill, financial instruments, securities, commercial paper, debts, notes, and bonds.

**Used property** – defined as property on which the federal sales tax has been collected already, and property that was held for other than a business purpose on December 31, 2016 (the day before the sales tax became effective). This means that a business could sell a “used” computer to a private individual, but since the business had purchased the computer tax free, it does not meet the definition of used under the FairTax and the sale is taxable. The term “used” relates to whether or not the sales tax has been paid previously, and not just to whether or not the item has been sold previously.

Any property on which the business use conversion credit, the intermediate and export sales credit, or the bad debt credit has been claimed is not considered “used property” because the FairTax that was paid on it has been refunded. Thus it no longer meets the definition of used property. These credits are explained in Chapter 2 – Credits; Refunds.

**Person** – means any natural person, and unless the context clearly does not allow it, any corporation, partnership, limited liability company, trust, estate, government, agency, administration, organization, association, or other legal entity.

**Produce, provide, render or sell taxable property or services** – If a person or business buys taxable property or services for the purpose of using such property or service in the production, provision, rendering, or sale of other taxable property or services in the ordinary course of that business, then that purchase is not subject to the FairTax. This exempts intermediate sales to businesses and prevents the FairTax from cascading and being hidden in the retail price of the final consumption good or service produced by that person or business. Example: If a business were to pay sales tax on the purchase of “inputs,” then, in order to recover its costs, it would have to build the taxes paid on inputs into the retail price of what it sells. This would result in taxing a tax.

The purchases of property or services used for research, experimentation, testing, and development are included as non-taxable business purchases.

Taxable property or services purchased on behalf of an insured person (policyholder) are treated as purchases for business purposes and are not taxed if sales tax was paid on the premium for the insurance contract under which the claim was paid. If the premium for the insurance policy is



taxed, it would be double taxation to also charge tax on the benefits paid for by the insurance policy.

**Registered seller** – any person who is engaged in a trade or business, and who is liable to collect and remit the FairTax, must register as a seller with their state sales tax authority (see SEC. 502). *The use of the term “business” in the remainder of this document assumes that the business is a registered seller.*

**Sales tax administering authority** – is the agency designated to collect and administer the FairTax. In the 45 states that currently administer a state sales tax, it is expected that they will choose to administer the FairTax. The remaining five states that do not currently have a state sales tax may contract with another state to administer the FairTax within their state, they may contract with the federal government to do it, or they may do nothing and the federal government will administer the tax directly.

**Tax inclusive fair market value** – the fair market value of taxable property or services plus the FairTax.

**Taxable employer** – Generally, the term taxable employer includes (1) any household employing domestic services (nannies, housekeepers, gardeners, etc.), and (2) any government. Excluded from the definition of taxable employers are: (1) any employer engaged in a trade or business, (2) an employer that is a not-for-profit organization, or (3) a government enterprise (quasi business entity that charges a fee for their services, such as the U.S. Post Office and Amtrak).

**Taxable service** – any service (including financial intermediation services). It also includes any service performed by an employee for which the employee is paid *wages or salary* by a taxable employer (as defined above).

**Wages and salary** – means all compensation paid for employment service including cash compensation, employee benefits, disability insurance, or wage replacement insurance payments, unemployment compensation insurance, workers’ compensation insurance, and the fair market value of any other consideration paid by an employer to an employee in consideration for employment services rendered.

The definitions of *taxable employer* and *taxable service* operate together to require that wages paid by a government agency (as a taxable employer) are taxable and the tax must be remitted by the government agency to the state sales tax authority. They also require households that employ domestic servants to remit the tax on the price paid for the domestic employee’s services. The household is both the consumer of the services and the person liable for collecting and remitting the FairTax on those services. If the household purchases domestic services from a registered seller (e.g., “Nannies Are Us”), then the registered seller is responsible for collecting the FairTax on the sale of the nanny services to the household and remitting the tax.

Services performed by an employee who is employed by (1) an employer in the regular course of the employer’s trade or business, (2) a not-for-profit organization, (3) an employer that is a government enterprise, and (4) taxable employers (i.e., government school districts and



universities) directly providing education and training are not taxable. In other words, wages paid to employees by businesses, not-for-profit organizations, and government enterprises are not subject to the FairTax. These entities collect the FairTax on the sale of taxable goods or services to the consumer.

The above definitions of “taxable employer” and “taxable service” have the effect of taxing government consumption. Since governments generally provide services free to the public, the value of the consumption is the value of the services used to provide services to the public, i.e., the services of labor or compensation paid.

## **CHAPTER 1—INTERPRETATION; DEFINITIONS; IMPOSITION OF TAX; ETC.**

This chapter contains the provisions that impose the FairTax (a federal sales tax) on the use or consumption of taxable goods and services in the United States. It defines the tax rate, provides for the coordination of the tax with import duties, and defines the liability for the tax.

### **SEC. 101. IMPOSITION OF SALES TAX.**

The tax rate for calendar year 2017 is set at 23 percent of the gross payments (price plus tax) for the use or consumption in the United States of taxable property (goods) or services. For all years after 2017, the rate of tax is the combined federal tax rate percentage of the gross payments for the taxable property or services. The combined federal tax rate percentage is the sum of: The general revenue rate, the old age, survivors and disability insurance (Social Security) rate, and the hospital insurance (Medicare) rate. The general revenue rate is set at 14.91 percent. The other two rates are defined in SEC. 904. TRUST FUND REVENUE.

If a consumer imports taxable property directly, they pay both the FairTax and any import duty together at customs.

In general, the person using or consuming the taxable property or services in the U.S. is liable for the FairTax unless the consumer pays the tax to a person selling the taxable property or service and he/she receives a purchaser’s receipt with the amount of the tax separately stated.

### **SEC. 102. INTERMEDIATE AND EXPORT SALES.**

This section ensures that taxable property or services are taxed only once upon the final sale to a consumer. Taxable property or services purchased from a seller for a business purpose in an active trade or business, or for export from the United States for use or consumption outside the United States are not taxed provided the appropriate certificate is presented by the buyer to the seller. Purchases by consumers are taxed. Businesses that paid sales tax on business inputs purchased from a retailer can claim a credit for the tax paid on their own monthly sales tax return (explained in SEC. 203). Investments (property purchased exclusively for purposes of appreciation of income or the production of income) are not taxed.

### **SEC. 103. RULES RELATING TO COLLECTION AND REMITTANCE OF TAX.**

Generally, the sales tax must be collected and remitted by the seller of taxable property or services. In the case of an exempt purchase, the seller is relieved of liability for the tax if the seller retains on file a copy of the registration certificate from the purchaser. The copies of the



registration certificates provide proof, when the seller is audited by the state sales taxing authority, that the sale should be tax exempt. (This certificate could be either a business's registered seller certificate showing that the purchase is being made by a business registered with the state sales taxing authority, or a qualification certificate for a religious or charitable nonprofit agency.)

A consumer who directly imports taxable property into the U.S. is required to pay the tax (together with any customs duties), since the seller is outside of the U.S.

In the case of wages paid by a taxable employer that are taxable services, the employer must pay the tax. Taxable employers include households that employ maids, nannies or gardeners, etc. as employees (rather than acquiring services from a business that collects and remits the sales tax) and government (except government enterprises).

Government enterprises are governmental entities that receive payments from private persons for goods and services. They must maintain books of accounts separate from the non-enterprise governmental accounts. For example, the expenses and receipts of a county landfill enterprise must be kept separate from the expenses and receipts of the general county government. Examples are the U.S. Post Office, Amtrak, local government waste management operations, etc. These enterprises, at all levels of government, are treated the same as private businesses with respect to their purchases and sales to consumers. This means that any intermediate purchases by government enterprises are not taxed; only the final sale of goods or services to the consumer is taxed.

Property or services originally purchased for a business purpose or for export that are subsequently converted to personal use are subject to the sales tax at the fair market value on the date of the conversion. The person using or consuming the property is liable for the tax and has the responsibility to remit the tax to the state sales taxing authority. Example: If a business owner purchased a \$20,000 car for business purposes and two years later decided to give the car to his or her teenager, then they would have to pay the sales tax on the value of the car at the time, say \$15,000.

Barter transactions are taxed at the fair market value of the goods or services bartered. Example: A plumber fixes a toilet in a farmer's residence, and the farmer offers to pay him with produce from the farm. As the seller of the service, the plumber is responsible for remitting the tax based on his normal charge for fixing a toilet. If he normally charges \$100, then he owes tax on that amount.

## **CHAPTER 2—CREDITS; REFUNDS**

This chapter sets for the various credits that registered sellers can claim against their sales tax liability on their monthly sales tax return.

### **SEC. 201. CREDITS AND REFUNDS.**

Registered sellers can claim various credits against their sales tax liability on their monthly sales tax returns:



1. Business use conversion
2. Intermediate sales and export sales
3. Administration of FairTax
4. Bad debt
5. Insurance proceeds
6. Transitional inventory
7. Taxes paid in excess of amount due

These provisions are explained in greater detail in the following sections. A sample tax return is included at the back of this document.

**SEC. 202. BUSINESS USE CONVERSION CREDIT.**

If a person paid FairTax on the purchase of an item for personal consumption, then later began to use that item at least 95 percent for business purposes, he/she can get back a portion of the sales tax paid. The credit amount is the *lesser* of (a) the FairTax paid or (b) the FairTax that would have to be paid to purchase the item at fair market value at the time when it was converted from personal use to business use. Example: Using a home computer as equipment in a new business. If the price of the computer were \$2000 in 2017 when it was purchased for personal use, and then it was converted to business use in 2018, the business person could apply for a credit based on the amount of tax that would be due on a two-year-old computer valued at \$1000.

**SEC. 203. INTERMEDIATE AND EXPORT SALES CREDIT.**

If a business paid FairTax on items for business use, the owner can get that FairTax back.

Example: Buying pens and pencils at K-Mart rather than buying them from an office supplies wholesale business. The amount of FairTax paid can be claimed on the monthly sales tax return.

FairTax paid on any taxable property or services for export can also be credited against monthly sales tax liability.

**SEC. 204. ADMINISTRATION CREDIT.**

Every registered seller filing a timely monthly sales tax report is entitled to a taxpayer administrative credit for collecting the FairTax on behalf of the federal government. To qualify for the credit, the sales tax report must be filed timely. Rather than sending the retailer a check, the retailer is allowed to claim an administrative credit against the amount of tax due on its monthly sales tax return, provided that the return is filed timely.

The monthly credit is equal to the *greater* of these two amounts: (1) \$200 or (2) one-quarter of one percent of the tax paid, but the credit cannot exceed 20 percent of the tax paid.

See Figure 1 below which shows how to calculate the administrative credit based on various monthly sales amounts. Column (3) shows how much the credit is, based on one-quarter of one percent of sales. Column (5) shows the maximum credit allowable.

The cap affects registered sellers with monthly retail sales of less than \$3,400. For example, a retailer with only \$500 in monthly sales can claim a credit of \$30. They will not receive the



\$200 per month minimum, but will get the amount in the maximum column. Those with monthly sales between \$3,400 and \$270,000 per month will get the minimum credit of \$200 per month. Those with monthly sales higher than \$270,000 per month will receive the one-quarter of one percent of taxes collected amount in column (3). The minimum payment of \$200 and the cap of 20 percent are no longer a factor for sales at this level or higher.

**Figure 1: How to calculate the administrative credit**

(1) Monthly retail sales volume	(2) Monthly taxes collected	Monthly administrative credit		
		(3) ¼ of 1 percent	(4) Minimum	(5) Maximum 20% of tax paid
\$500	\$150	\$0.38	\$200	<b>\$30</b>
\$1,000	\$300	\$0.75	\$200	<b>\$60</b>
\$2,000	\$600	\$1.50	\$200	<b>\$120</b>
\$3,000	\$900	\$2.25	\$200	<b>\$180</b>
\$3,400	\$1,020	\$2.55	<b>\$200</b>	\$204
\$3,500	\$1,050	\$2.63	<b>\$200</b>	\$210
\$4,000	\$1,200	\$3.00	<b>\$200</b>	\$240
\$5,000	\$1,500	\$3.75	<b>\$200</b>	\$300
\$6,000	\$1,800	\$4.50	<b>\$200</b>	\$360
\$7,000	\$2,100	\$5.25	<b>\$200</b>	\$420
\$8,000	\$2,400	\$6.00	<b>\$200</b>	\$480
\$9,000	\$2,700	\$6.75	<b>\$200</b>	\$540
\$10,000	\$3,000	\$7.50	<b>\$200</b>	\$600
\$15,000	\$4,500	\$11.25	<b>\$200</b>	\$900
\$20,000	\$6,000	\$15.00	<b>\$200</b>	\$1,200
\$30,000	\$9,000	\$22.50	<b>\$200</b>	\$1,800
\$40,000	\$12,000	\$30.00	<b>\$200</b>	\$2,400
\$50,000	\$15,000	\$37.50	<b>\$200</b>	\$3,000
\$270,000	\$81,000	<b>\$202.50</b>	\$200	\$16,200
\$500,000	\$150,000	<b>\$375.00</b>	\$200	\$30,000

The administrative credit is designed to compensate retailers for their costs associated with collecting the FairTax and remitting it to the government. The FairTax is much simpler than the income tax, and many businesses already file monthly state sales tax returns. Most states will integrate their sales tax reports with the federal tax (to gain administrative efficiencies) so that a business will be able to file one sales tax report form. And the business won't have to deal with income tax withholding and payroll tax deductions for their employees and never has to file income tax returns again.

**SEC. 205. BAD DEBT CREDIT.**

Any person who has experienced a bad debt (this does not include unpaid invoices) is entitled to a credit which is equal to the tax rate times [the amount of the bad debt divided by (1 minus the tax rate)]. A bad debt of \$1000 would qualify for a credit equal to 0.23 times [\$1000/0.77] or 0.23 times \$1,298 = \$299. This would apply to financial institutions.



The credit also applies to persons electing the accrual method of reporting who have remitted tax on unpaid invoices. To qualify for the credit for unpaid invoices, the person must have charged the tax on the invoice, remitted the invoiced tax, delivered the taxable property or performed the taxable service invoiced, and not been paid six months after the invoice was due to be paid.

Example: An accountant bills a client on a quarterly basis, and because he uses the accrual method, he pays the FairTax during the month he invoices. Six months later, his client has not paid the invoice. The accountant is able to get a credit of the taxes he remitted when he issued the invoice, since the invoice has not been paid.

The bad debt credit also prevents the taxation of the risk premium portion of the interest rate. This credit is equal to the sales tax rate times the bad debt amount. Subsequent debt payments are taxable. This credit is also provided to accrual method taxpayers who have remitted sales tax on sales for which they have not yet been paid.

This credit is not available to sales made between related parties, i.e., affiliated firms and/or family members.

#### **SEC. 206. INSURANCE PROCEEDS CREDIT.**

For FairTax purposes, insurance premiums have two components: (1) dollars paid back as claims, and (2) dollars kept. The dollars kept are what is paid for the service of insuring the policyholder. The FairTax is paid on the purchase of this service, but not on the dollars paid back as claims. This applies to all types of insurance: Life, health, property and casualty, liability, marine, fire, accident, disability, and long-term care.

To ease administration, the policyholder pays the FairTax on the entire premium and receives a credit for taxes paid on claims received. Example: Annual Premium = \$1000. The policyholder pays \$1,000 + \$300 FairTax. If the policyholder were to receive a claim payment of \$400, he/she would be entitled to a refund of taxes paid (23% of \$400 = \$92).

When the insurer makes a claim payment to a provider of goods or services to a policyholder (examples: Payment to a doctor for an exam, payment to a hospital for room and meals, payment to an automobile body shop for repairs covered by car insurance) instead of to the policyholder directly, the insurance company does not pay FairTax on that payment. This is because the policyholder (i.e., consumer) effectively pre-paid the FairTax when he or she purchased the insurance policy. The purchase of goods or services by the insurer on behalf of the insured are considered purchases for business purposes and are not taxable. Conversely, the consumer's direct purchase of goods and services from a provider are taxable. Example: Insurance co-payments and services not covered by insurance.

The purchase of insurance by a business for its employees is taxable. The business owes the tax. (See SEC. 901. ADDITIONAL MATTERS.)

#### **SEC. 207. REFUNDS.**

Registered sellers and other persons are entitled to the refund of any overpayment of tax. They can claim a credit on their monthly sales tax report or they can apply to the state sales tax authority for a refund. The overpaid tax must be refunded to the registered seller within 60 days of receipt of the application. If not, the government is required to pay interest on the refund



amount from the date the refund application was received, at the federal short-term interest rate. This serves as an incentive for the government to pay refunds on a timely basis.

### **CHAPTER 3—FAMILY CONSUMPTION ALLOWANCE [FAIRTAX PREBATE]**

This chapter provides for the family consumption allowance or monthly prebate of FairTaxes paid to qualified households.

#### **SEC. 301. FAMILY CONSUMPTION ALLOWANCE.**

Each qualified family is entitled to a monthly rebate of the FairTax paid on poverty level spending. Poverty level spending is calculated annually by the Department of Health and Human Services to represent what it costs families of varying household size and composition to buy their necessities. The monthly sales tax rebate is equal to the FairTax rate (23 percent) times the monthly poverty level (see SEC. 303).

#### **SEC. 302. QUALIFIED FAMILY.**

The term “qualified family” means one or more family members sharing a common residence. A qualified family consists of all family members sharing the common residence. Family members include an individual and his or her spouse, children and grandchildren, parents and grandparents. Children/students living away from home are considered family members if they are registered as a student for at least five months out of the year and receive at least 50 percent of their support from the family unit. Children of divorced parents are considered to be family members of the custodial parent. Incarcerated individuals are not eligible to be a member of a qualified family.

In order for a person to be counted as a member of the family for purposes of determining the size of the qualified family, a person must have a valid Social Security number and be a lawful resident of the United States.

Families who choose to receive the rebate must register annually with the state. Those choosing not to register will not receive a rebate. The registration form requires the following information:

1. The name of each family member who shares the residence
2. The Social Security number of each family member
3. The family member to whom the rebate should be paid
4. A sworn statement that all listed family members are lawful residents, that all family members sharing the common residence are listed, and that no family members are incarcerated
5. The address of the shared residence

All family members 21 years of age and older must sign the registration form.

After the initial registration, any qualified family that fails to renew its registration each year, within 30 days of the family determination date, will cease receiving the rebate 90 days following the failure to register. However, the family can file to get up to six months of missed



rebates later (with no interest on missed payments). A possible method of assigning registration renewal dates would be on the birth date of the person filing the application. 30 or more days before the annual registration date, the sales tax authority is required to mail a proposed registration form to each qualified family that simply needs to be signed and mailed back in if the family’s circumstances have not changed.

**SEC. 303. MONTHLY POVERTY LEVEL.**

The monthly poverty level is 1/12<sup>th</sup> of the annual poverty level (as determined by the Department of Health and Human Services – DHHS), plus an additional amount to eliminate what would otherwise be a penalty for being married, multiplied by the FairTax rate. This amount is adjusted each year as DHHS recalculates poverty level spending.

The annual marriage penalty elimination amount equals: [the amount that is *two* times the annual poverty level for a family of one (2 times \$9,570 or \$19,140)] less [the annual poverty level for a family of two (\$12,830)]. Therefore, the annual marriage penalty amount = \$19,140 - \$12,830 = \$6,310.

The monthly poverty amount equals [the annual poverty level for a particular family size] plus [the annual marriage penalty elimination amount]. For a family of three (married couple with one child) this is \$16,090 plus \$6,310 or \$22,400. See Figure 2 for the rebate schedule.

**2015 FairTax Prebate Schedule**

One-adult household				Two-adult household			
Size of Family	Annual Consumption Allowance	Annual Prebate	Monthly Prebate	Size of Family	Annual Consumption Allowance	Annual Prebate	Monthly Prebate
1 person	\$11,770	<b>\$2,707</b>	\$226	couple	\$23,540	<b>\$5,414</b>	\$451
and 1 child	\$15,930	<b>\$3,664</b>	\$305	and 1 child	\$27,700	<b>\$6,371</b>	\$531
and 2 children	\$20,090	<b>\$4,621</b>	\$385	and 2 children	\$31,860	<b>\$7,328</b>	\$611
and 3 children	\$24,250	<b>\$5,578</b>	\$465	and 3 children	\$36,020	<b>\$8,285</b>	\$690
and 4 children	\$28,410	<b>\$6,534</b>	\$545	and 4 children	\$40,180	<b>\$9,241</b>	\$770
and 5 children	\$32,570	<b>\$7,491</b>	\$624	and 5 children	\$44,340	<b>\$10,198</b>	\$850
and 6 children	\$36,730	<b>\$8,448</b>	\$704	and 6 children	\$48,500	<b>\$11,155</b>	\$930
and 7 children	\$40,890	<b>\$9,405</b>	\$784	and 7 children	\$52,660	<b>\$12,112</b>	\$1,009

The annual consumption allowance is the amount of tax-free spending under the FairTax. For families/households with more than 8 persons, add \$4,160 to the annual consumption allowance for each additional person. The annual consumption allowance is based on the DHHS 2015 HHS Poverty Guidelines as published in the Federal Register, January 22, 2015. The annual prebate equals 23% of the annual consumption allowance.

**SEC. 304. REBATE MECHANISM.**

The Social Security Administration sends out the monthly rebates on or before the first day of every month. Rebate payments can only be made to persons 18 years or older. If a family wishes to designate more than one person to receive the rebate, then the rebate payment is divided evenly among those persons designated. Example: Two single people sharing the same residence are able to each get a rebate check. In accordance with instructions from each



qualified family, Social Security Administration provides the rebate in the form of a paper check via U.S. Mail, an electronic funds transfer to a bank account, or a “smart card” that can be used much like a bank debit card.

**SEC. 305. CHANGE IN FAMILY CIRCUMSTANCES.**

A qualified family may file a revised registration to report changes in family circumstances. A revised registration must be signed by all members of the qualified family who are 21 years of age or older. Address changes may be filed with the sales tax administering authority at any time and do not require the signature of all family members. It is unlawful to willingly and knowingly file a false claim for a family consumption allowance rebate. (See SEC. 505. PENALTIES for an explanation of these penalties.)

In no event shall a person be considered part of more than one family. Example: The rebate payment process should involve a search for the same Social Security number being listed in more than one family. These rebate checks are not mailed until it is resolved which family that person (and Social Security number) is a member of.

**CHAPTER 4—FEDERAL AND STATE COOPERATIVE TAX ADMINISTRATION**

This chapter provides for collection of the FairTax by state sales tax authorities and specifies how the federal government and the states jointly administer the tax.

**SEC. 401. AUTHORITY FOR STATES TO COLLECT TAX.**

The FairTax on the use or consumption of goods and services within a particular state is administered by that state, if that state is an administering state.

An administering state includes any state which has a state sales tax, and that enters into a cooperative agreement with the U.S. Treasury Department governing the administration of the FairTax by such state. Such an agreement includes provisions for the speedy transfer of tax monies collected, contact persons, dispute resolution, information exchange, confidentiality, and taxpayer rights. Administering states are required to submit taxes collected within five days after receipt. An interest rate of 150 percent of the federal short-term rate must be paid on amounts remitted after the due date. Administering states are allowed to retain one-quarter percent of the FairTaxes remitted timely.

States that do not have a state sales tax or states that do not want to administer the FairTax have two options: They may contract with another state that has a state sales tax to administer the tax, they may contract with the federal government to administer the tax or they may do nothing and the federal government will directly administer the FairTax within that state. If a state is collecting the FairTax in another state, both states and the federal government must sign the agreement.

If an administering state, on a regular basis, has failed to timely remit FairTaxes to the U.S. Treasury, breached the cooperative agreement, or failed to cure deficiencies within a reasonable time, the U.S. Department of the Treasury may revoke the authority of that state to administer the FairTax within its borders. This would be subsequent to a decision by a U.S. District Court



within that state. A state that has had its administering authority revoked cannot be an administering state for at least five years after revocation. After eight years, the state will be regarded without prejudice as eligible to again become an administering state.

**SEC. 402. FEDERAL ADMINISTRATIVE SUPPORT FOR STATES.**

The Secretary of the Treasury is required to administer a program to facilitate information sharing among the administering states. The Secretary shall facilitate or be a member of a compact of the states for the purpose of facilitating the taxation of interstate purchases.

Each state may choose whether or not to conform its state sales tax base to the FairTax base. The FairTax encourages states to do this, authorizing the Secretary of the Treasury to enter into an agreement with the conforming states which enables the conforming states to collect state sales tax on sales made by sellers without a particular state to a destination within that state. Example: If Florida and Texas decide to conform their state sales tax bases to the FairTax, then internet or mail order sales from Texas to residents of Florida are subject to the Florida sales tax. Currently, the U.S. Supreme Court has ruled that states cannot collect state sales taxes on most internet or mail order sales to their residents. In, 2008, the revenue losses to states from this prohibition are estimated to be between \$21.5 billion and \$33.7 billion.

The Secretary of the Treasury is given the authority to promulgate regulations, to provide guidelines, to assist states in administering the FairTax, to provide for uniformity in the administration of the tax, and to provide guidance to the general public.

**SEC. 403. FEDERAL-STATE TAX CONFERENCES.**

At least once per year, the Treasury Department is required to host a conference with the sales tax administrators from the various administering states to evaluate the condition of the national sales tax system, to address issues of mutual concern, and to develop and consider proposals to improve the tax system.

**SEC. 404. FEDERAL ADMINISTRATION IN CERTAIN STATES.**

The federal government will administer the FairTax directly in States that are not administering States or that have elected to have another State administer the FairTax within its borders.

**SEC. 405. INTERSTATE ALLOCATION AND DESTINATION DETERMINATION.**

The FairTax or national sales tax is a destination-principle tax. Rules are required to clearly determine under what conditions a sale is taxable in the U.S., and in which state the sale occurred. The following list specifies the destination of the sale for different types of goods or services:

- Tangible personal property (goods) – where the property was first delivered to the purchaser
- Real property – where the property is located
- Other property – the location of the residence of the purchaser
- Services – where the use or consumption of the services takes place
- Telecommunications services – the location of the residence of the purchaser
- Domestic transportation services – the destination of the trip



- International transportation services – the taxable service amount shall be 50 percent attributable to the United States destination or origin. So 50 percent of an international flight to or from the United States is taxable.
- Electrical service – the location of the residence of the purchaser
- Financial intermediation services – the residence of the purchaser
- Rents paid for the lease of property – where the property is located while in use
- Rental of vehicles less than one month – where the vehicle was originally delivered to the renter or lessee
- Rental of vehicles greater than one month – the location of the residence of the renter or lessee

Taxes collected shall be allocated to those states that are the destination of the taxable property or service.

The Secretary of the Treasury is required to establish an Office of Revenue Allocation to arbitrate any disputes between states regarding the destination of sales for purposes of allocating sales tax revenue among the states. States objecting to such determinations of this office may request judicial review in any federal court of competent jurisdiction. The court shall use “abuse of discretion” for the standard of such review.

#### **SEC. 406. GENERAL ADMINISTRATIVE MATTERS.**

The Secretary of the Treasury and each state sales tax administering authority may employ persons as necessary for the administration of the FairTax and may delegate to employees the authority to conduct hearings, prescribe rules and regulations, and perform other such duties.

In the event that the Secretary of the Treasury and any sales tax administering authority have issued inconsistent rules or regulations, those issued by the Secretary shall govern.

No government ruling related to the FairTax can take effect before 90 days have elapsed after its publication in the Federal Register – a federal government publication which provides notice to the public of proposed rule changes.

The Secretary of the Treasury will invite the Chief Counsel for Advocacy of the Small Business Administration to comment on the impact on small businesses of any proposed FairTax regulation. The Chief Counsel for Advocacy will have 30 days to submit his comments. If such comments are received, the Secretary will consider them and discuss them in the preamble to the regulation.

The FairTax is subject to “The Small Business Regulatory Enforcement Fairness Act” and the “Regulatory Flexibility Act” as a small business regulatory safeguard.

#### **SEC. 407. JURISDICTION.**

Federal and state authorities have concurrent jurisdiction but the federal authorities have the power to override state authorities in connection with the federal sales tax. Example: The purchase of a car by a state resident is subject to the state sales tax in the state where the sale occurred and is also subject to the FairTax; both the state government and the federal government have the power of administering their respective tax laws with respect to that sale.



## CHAPTER 5—OTHER ADMINISTRATIVE PROVISIONS

This chapter sets forth the general administration of the FairTax: Seller registration and certificates, the filing of monthly tax reports and payments, and penalties for noncompliance. It also specifies the burden of persuasion and production in disputes regarding tax liability and tax payments.

### SEC. 501. MONTHLY REPORTS AND PAYMENTS.

Retailers must regularly report gross sales and the FairTax collected on those sales and any FairTax credits the government owes them to their state sales tax authority. They must remit the FairTax collected (minus any credits owed to them) along with the report. Upon request, a filing date extension of 30 days will be automatically granted. On application, extensions of 30 to 60 days may be granted for reasonable cause. Extensions greater than 60 days may be granted to avoid hardship. Although extensions for the late filing of sales tax reports may be granted, the taxes due must be remitted timely, generally by the 15<sup>th</sup> of the following month. Example: The FairTax collected on sales in January must be remitted to the state sales tax authority by February 15<sup>th</sup>.

The sales tax report requires the following information:

1. The gross payments
2. The tax collected
3. The amount and type of any credit claimed
4. Other information reasonably required for the administration, collection, and remittance of the tax (example: Business name, address, type of business, registered seller number).

The FairTax and the state sales tax of conforming states are to be paid in one aggregate payment.

Small sellers are persons that have collected less than \$20,000 of FairTax in any of the previous 12 months. They are required to remit the FairTax on or before the 15<sup>th</sup> day of the following month. Example: Taxes collected on sales during the month of January must be sent to the state sales tax authority on or before February 15<sup>th</sup>.

Medium-sized retailers who collect more than \$20,000, but less than \$100,000, of FairTax per month must deposit the taxes they collect in a separate bank account each week within three business days of the end of the week. They must report and remit taxes on a monthly basis.

Large sellers are sellers who have collected \$100,000 or more of FairTaxes in any of the previous 12 months. They must deposit all taxes collected in a separate bank account and remit the taxes to the state sales tax authority on a weekly basis. Example: Last week's taxes must be remitted on the following Monday. The Secretary of the Treasury may adopt a regulation that requires large sellers to remit collected taxes by electronic funds transfer. (Most large sellers are already set up to do this since most states already require large sellers to remit taxes by electronic funds transfer.)



Large sellers must also post a bond in an amount equal to the greater of \$100,000 or 1.5 times their average monthly tax liability during the previous six calendar months. If the seller fails to remit taxes due then the bond or part of the bond may be forfeited to pay overdue taxes plus interest (if any).

The Treasury Department is required to set up a system for reporting violations of the FairTax law via toll-free phone calls and other methods. They may also offer rewards to those who assist in combating tax fraud.

**SEC. 502. REGISTRATION.**

Each person liable to collect the FairTax (including corporations and sole proprietors) who is engaged in a trade or business shall register as a “seller” with the sales tax administering authority. This includes retailers, wholesalers selling to businesses tax exempt, exporters, service providers, mortgage brokers, real estate brokers, insurance agencies, etc. They are required to designate a contact person for tax matters, and are required to notify the sales tax authority of a change in the identity of the tax matters person within 30 days of said change. Any person who is required to register, and fails to do so, may be prohibited from selling taxable property or services by a temporary restraining order or injunction, as appropriate.

Affiliated firms are treated as one person and require only one registration.

**SEC. 503. ACCOUNTING.**

Businesses collecting the FairTax may report and remit the FairTax in the month in which they actually collect the tax or they may elect to report and remit the tax in the month in which they invoice and accrue the sale. (Accrual accounting is a method of accounting that recognizes economic events regardless of when cash transactions happen. It is the opposite of cash accounting, which recognizes transactions only when there is an exchange of cash.) Example: Under accrual accounting, if a business sells a stereo on credit, the business would still recognize the event as a completed transaction in that month and remit the tax, even though full payment had not yet been received.

Most businesses will probably prefer the cash method since it means that they do not need to pay tax on a transaction until they have been paid. If someone pays only part of a bill, then the tax is remitted for only the portion that has been paid. Example: A lawyer bills a client \$500. Taxes due on this sale are \$150 for a total of \$650. If his/her client only pays \$350, then the lawyer would only remit 23 percent of the gross payment as tax (\$80.50) with the monthly sales tax report. The next month, his client pays the balance of \$300. The lawyer would remit 0.23 times \$300 or \$69.50 on that month’s sales tax report. The total tax remitted is the same. Those that use the accrual method of accounting internally may find it easier to pay taxes using the accrual method. There is a bad debt credit for registered sellers using the accrual method whereby they can get a refund of taxes paid on gross payments that were not received (i.e., paid for with a check with insufficient funds). See SEC. 202. BUSINESS USE CONVERSION CREDIT.

**SEC. 504. REGISTRATION CERTIFICATES.**

The sales tax administering authority issues certificates of registration to registered businesses.

**SEC. 505. PENALTIES.**

Civil penalties for noncompliance are graduated so that more severe violations are punished more severely and generally escalate over time (subject to caps) so that there is a continuing incentive to comply. There are also criminal fines and imprisonment for noncompliance. The fact that a civil penalty has been imposed shall not prevent the imposition of a criminal penalty, and vice versa.

The tax matters person (designated by the business) and responsible officers or partners of a firm shall be jointly and severally liable for the tax and penalties. The concept of “joint and several liability” provides that both the tax matters person and the responsible officers or partners are each responsible for the entire amount of taxes and penalties, regardless of their relative degree of responsibility for the nonpayment of taxes. However, each person who paid such tax or penalty is entitled to recover from the other persons who are liable an amount equal to the excess of the amount he paid over his proportionate share of the tax or penalty.

- Failure to register – penalty of \$500
- Reckless or willful failure to collect tax, reckless or willful failure to pay tax, and willful assertion of invalid exemption – civil penalty, the greater of \$500 or 20 percent of tax not collected; criminal penalty, imprisonment for up to one year
- Late filing – the greater of \$50 for each month the report is late, or 0.5 percent of gross payments required to be shown on reports
- Bad checks – the greater of \$25 per check or 2 percent of check amount
- Accepting false intermediate or export sales certificate – 20 percent of the tax not collected
- Failure to maintain a segregated account – \$1000 penalty
- Late payment interest – Interest penalty shall be charged on late tax payments equal to 1.0 percent per month from the due date. Caps this penalty to 24 percent.
- Violation of confidentiality of tax information – fined up to \$10,000 or imprisoned for up to one year, or both
- False rebate claim – civil penalty, the greater of \$500 or 50 percent of the claimed annual rebate amount not actually due, must repay any falsely due rebates; criminal penalty, imprisonment for up to one year

This is much simpler than the current income tax system which has approximately 150 different penalties.

**SEC. 506. BURDEN OF PERSUASION AND BURDEN OF PRODUCTION.**

In all disputes concerning the FairTax, the person engaged in a dispute with the state tax administering authority or the Secretary of the Treasury has the burden of production of documents and records, but the tax administering authority or the Secretary shall have the burden of persuasion. In all disputes concerning the legitimacy of an exemption claimed by a purchaser, if the seller has on file a properly completed intermediate sale or export sale certificate from the purchaser and did not have reasonable cause to believe that the certificate was improperly provided with respect to such purchase by the purchaser, then the burden of production of documents and records relating to that exemption shall rest with the purchaser and not with the seller.



**SEC. 507. ATTORNEYS’ AND ACCOUNTANCY FEES.**

If a business has a dispute with the government regarding its sales tax liability, the person is entitled to reasonable attorneys’ fees, accountancy fees, and other professional fees incurred in direct relation to the dispute unless the sales tax administering authority or the Treasury Department establishes that its position was substantially justified.

**SEC. 508. SUMMONS, EXAMINATIONS, AUDITS, ETC.**

The tax administering authority may conduct reasonable audits and examine the books, papers, records, or other relevant data to ensure that the FairTax is administered properly. Persons are subject to administrative summons by the sales tax administering authority for records, documents, and testimony required by the sales tax administering authority to accurately determine liability for tax. The summons must describe with certainty what information is being sought and must be served by an attested copy delivered in hand to the person to whom it is directed or left at his/her last known address.

**SEC. 509. RECORDS.**

Businesses collecting the FairTax are required to keep records. These records include:

1. A record of all sales tax receipts provided to customers
2. Complete records of intermediate and export sales
3. Purchaser’s intermediate and export sales certificates and tax numbers
4. The net of tax amount of purchase

These records must be sufficient to determine the amounts reported, collected, and remitted for a period of six years after the report was filed.

Purchasers (any business including not-for-profit organizations and government enterprises) that purchased taxable property or services but did not pay tax because they asserted an intermediate or export sales exemption are required to keep records sufficient to determine whether said exemption was valid for a period of seven years after the purchase of the taxable property or service.

The purpose of such record retention is to allow an auditor to review reported taxable and exempt sales after the fact. It enables the auditor to determine if sales were properly tax exempt or if the FairTax should have been collected on the sale.

**SEC. 510. TAX TO BE SEPARATELY STATED AND CHARGED.**

A business collecting the FairTax must provide to the purchaser a receipt for each transaction that sets forth at least the following information:

1. The property or services price exclusive of tax
2. The amount of tax paid
3. The property or service price inclusive of tax
4. The tax rate (the amount of tax paid divided by the price inclusive of tax)
5. The date that the good or service was sold
6. The name of the registered seller
7. The seller registration number



There are two exceptions: (1) the above does not apply to sales by certain vending machines, and (2) receipts with respect to financial intermediation services. These receipts are issued when the FairTax is imposed, which is generally when monthly or quarterly financial statements are rendered (see SEC. 803).

**SEC. 511. COORDINATION WITH TITLE 11.**

This section waives penalties (additions to tax) for those with a case pending under Title 11 – Bankruptcy under two conditions: (1) if the tax was incurred by an estate with an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses; or (2) if the tax was incurred by the debtor before the earlier of the order for relief or the appointment of a bankruptcy trustee, and the petition was filed before the due date for filing a tax return, or the penalty date occurs on or after the date the petition was filed.

**SEC. 512. APPLICABLE INTEREST RATE.**

Establishes that the applicable interest rate depends on the term of the debt instrument, investment, financing lease, or account. Terms up to three years use the federal short-term rate, terms more than three years but less than nine years use the federal mid-term rate, and terms more than nine years use the federal long-term rate. During each calendar month, the Treasury Department shall determine these rates. How these rates are used is explained in SEC. 804.

FINANCING LEASES.

**CHAPTER 6—COLLECTIONS; APPEALS; TAXPAYER RIGHTS**

This chapter provides for the general collection and enforcement of the FairTax, including an appeals process and a specification of taxpayer rights.

**SEC. 601. COLLECTIONS.**

The state tax administering authority is responsible for collecting and enforcing the FairTax, except in states that choose not to administer it (refer to SEC. 401).

**SEC. 602. POWER TO LEVY, ETC.**

Following due process of law, the tax administering authority can seize property, garnish wages, and file liens to collect FairTax amounts due. Certain property (clothing, school books, fuel, provisions, furniture, personal effects, tools of a trade or profession, and livestock) with a total value of up to \$15,000 and monthly income up to 150 percent of the poverty level are exempt from such collection remedies. Any tax lien must be released not later than 30 days after the tax liability is satisfied or becomes unenforceable, or a bond is accepted as security.

**SEC. 603. PROBLEM RESOLUTION OFFICES.**

Each sales tax administering authority must establish, maintain, and adequately staff an effective, independent Problem Resolution Office to protect citizens from abusive administration. The head of the Problem Resolution Office must be appointed by the state Governor (in the case of an administering state) or the President of the United States.



There must be an adequate number of Problem Resolution Officers (PROs). PROs have the authority to investigate complaints and to administratively stop an enforcement action if it is reasonably likely to not be in compliance with the law or to prevent hardship. PROs also have authority to reverse enforcement actions. They are authorized to issue Taxpayer Assistance Orders releasing or returning property that has been levied upon or seized, or ordering that a lien be released and that garnished wages be returned. A Taxpayer Assistance Order may only be reversed by the Problem Resolution Officer who issued it, by the highest official in the relevant sales tax administering authority or by its General Counsel upon a finding that the collection activity is justified by clear and convincing evidence. The authority to reverse this administrative injunction may not be delegated. The Treasury Department is required to create a form and procedure to aid persons in requesting the assistance of the PRO and to aid the PRO in understanding the needs of the person seeking assistance. The use of the form is not a prerequisite to action by the PRO.

Taxpayer Assistance Orders must include:

1. The name of the Problem Resolution Officer
2. The relevant time period to which it applies
3. The name of the person that it assists
4. The government office or employee to whom it is directed
5. The action or cessation of action that it requires

The Taxpayer Assistance Order does not have to contain findings of fact or its legal basis, but the PRO must provide such to the sales tax administering authority within two weeks of such request.

The independence of the PROs is protected. Problem Resolution Officers may not be disciplined or adversely affected for the issuance of administrative injunctions unless a pattern of issuing injunctions that are manifestly unreasonable is proven in an administrative hearing by a preponderance of the evidence.

The above provisions do not limit the right of the sales tax administering authority or the registered person to pursue any legal remedy in any court with jurisdiction over the dispute.

#### **SEC. 604. APPEALS.**

The sales tax administering authority must establish and maintain an appeals process that provides a full and fair hearing of any dispute regarding tax liability. A registered person must appeal a final notice of amount due within 60 days unless an extension to avoid hardship is granted by the appeals officer.

#### **SEC. 605. TAXPAYER RIGHTS.**

The tax administering authority must provide a document setting forth in plain English the rights of the person to any person against whom it has:

1. Commenced an audit or investigation
2. Issued a final notice of amount due
3. Filed an administrative lien, levy or garnishment



4. Commenced other collection action
5. An action for civil penalties
6. Any other legal action

This document must explain the appeals process, the authority of the Problem Resolution Office and how to contact that office, the burden of production and persuasion that the person and the sales tax administering authority bear, the right of the person to professional fees, the right to record interviews and such other rights as the person may possess. The document also sets forth the procedures for entering into an installment agreement.

In all dealings with the tax administering authority, a person shall have the right to professional assistance (at their own expense). Any person who is interviewed by an agent of the tax administering authority has the right to video or audio tape the interview at the person's own expense.

No collection or enforcement action can commence against a person until 30 days after that person has been provided a final notice of amount due (along with any interest and penalties due) and the factual and legal basis for the tax (and any interest and penalties) being due with sufficient specificity that the basis can be understood by a person who is not a tax professional. The final notice must be sent by certified mail. All returns and return information (related to any internal revenue law) shall be confidential and are accorded protections substantially the same as under present law.

In general, all reports and report information are confidential and may not be disclosed by any officer or employee of the United States, any state or local agency, or any other person who has had access to returns and return information. The sales tax administering authority, at the request of a person, may disclose such information to that person or persons he/she designates. Subject to requirements established by the Treasury Department, sales tax information may be disclosed to another sales tax administering authority, a deceased person's estate administrator, a person named in his/her will with a material interest affected by the information, to a person's trustee in bankruptcy, and to the legal guardian of a person who is incompetent.

The Chairman of the Committee on Ways and Means, The Chairman of the Committee on Finance of the Senate, or the Chairman or Chief of Staff of the Joint Committee on Taxation may submit a written request to see tax reports, however, any information that would identify a particular person can be furnished to such committees only when sitting in a closed executive session, unless the affected person gives written consent.

FairTax data may be used for statistical purposes. It may be shared with the Commerce Department for use in structuring censuses and national economic accounts and conducting related statistical activities authorized by law. The Treasury Department may use FairTax data in preparing economic or financial forecasts, projections, analyses, or estimates.

**SEC. 606. INSTALLMENT AGREEMENTS; COMPROMISES.**

The tax administering authority may negotiate lower and/or delayed tax payments as needed to optimize collection of the FairTax.

## CHAPTER 7—SPECIAL RULES

The chapter provides special rules for certain activities: Hobbies, the taxation of gaming services, the taxation of government purchases and of sales by government enterprises, the taxation of mixed use property, and the provisions governing the tax exempt status of nonprofit organizations..

### **SEC. 701. HOBBY ACTIVITIES.**

This section prevents people from using a hobby as if it were a business to take unfair and unintended advantage of the exemption for intermediate sales. The intermediate sales exemption (SEC. 102) and the credits (SEC. 202 and 203) do not apply to activities not engaged in for profit. An activity is deemed to be “for profit” if it meets the following criteria: The activity has received gross payments for the sale of property/services that are greater than the combined total of taxable goods and services purchased for use in that activity plus wages paid to persons engaging in that activity plus taxes paid (any type of taxes) in at least two of the most recent three years.

Example: If a person spent \$5000 on collecting antiques, paid themselves a salary of \$10,000 and paid property taxes and state sales taxes of \$2000, then, in order for the “collecting antiques” activity to be considered for profit and eligible to purchase goods/services tax free, the “collecting antiques” activity must have received gross payments for the sale of goods/services greater than \$17,000. If the collecting antiques activity received payments for sales less than \$17,000, it would be considered an activity that is not engaged in for profit. In this case, the person engaged in this activity would not be eligible to purchase goods and services for use in this activity tax free.

### **SEC. 702. GAMING ACTIVITIES.**

This provision requires those in the gaming business to register. Sales tax is not collected on the purchase of lottery tickets, casino chips, and the like. Instead, a tax is imposed on gaming services at the business level. The tax is paid by the gaming sponsor and must be remitted by the 15<sup>th</sup> day of each month for the gaming services sold during the prior month. The tax is computed by multiplying 23 percent times the gross receipts for gaming services received by the gaming business minus the total gaming payoffs to chance purchasers and minus any other gaming taxes. Example: Off-track betting is a gaming activity. The off-track betting business pays taxes equal to 23 percent of its gross receipts for gaming activities *minus* the prize money paid to winners plus any state gaming taxes.

### **SEC. 703. GOVERNMENT PURCHASES.**

Purchases by the federal government, state government, and local governments of taxable property and services are subject to the FairTax. Example: Supplies, furniture, services purchased from independent contractors such as janitorial services and maintenance services, food, uniforms, etc. Government is not charged taxes on the payment of tuition for its employees to attend job related training courses, as all education and training are exempt.

### **SEC. 704. GOVERNMENT ENTERPRISES.**



Government enterprises are governmental entities that receive gross payments from private persons for services. Example: U.S. Post Office, Amtrak, local government garbage collection fees, etc. For a unit of government to be considered a government enterprise, it must maintain books of account separate from the non-enterprise governmental accounts, in accordance with generally accepted accounting principles. All government enterprises whose receipts for services exceed \$2,500 per quarter are required to collect the FairTax on the fees charged for such services.

Government enterprises at the federal, state, and local level are treated the same as private businesses with respect to their purchases and sales to consumers. Their intermediate purchases are not taxed and the sale of goods/services to the consumer is taxed.

The purchase and subsequent transfer of taxable property or services from a government enterprise to other governmental units are taxable. This prevents units of general government from buying property and services through government enterprises to avoid paying the FairTax on general government purchases.

**SEC. 705. MIXED USE PROPERTY.**

Mixed use property or services are taxable property or services purchased both for taxable use or consumption and for a business purpose. An example would include a home office or a car used for both business and personal purposes. Mixed use property or services are subject to the FairTax unless the property or service is used more than 95 percent for business purposes. For property/services that are used less than 95 percent for business purposes, the property/service is taxed at the time of purchase but a registered person is entitled to a “business use conversion credit.” This credit is equal to the mixed use property amount times the business use ratio times the FairTax rate. Example: A sole proprietor spends \$20,000 for an automobile that he or she uses 80 percent for business purposes and 20 percent for personal purposes. This person is entitled to a business use conversion credit of \$20,000 times 80 percent times 23 percent ( $\$20,000 \times 0.8 \times 0.23$ ) or \$3,680.

There are detailed and, unavoidably, somewhat complex rules for calculating the business use portion of mixed use property. For example, the business use ratio is calculated differently for vehicles, real property, and tangible personal property:

1. Vehicles – ratio of business purpose miles to total miles in a particular month
2. Real property – ratio of floor space used primarily for business purposes to total floor space in a particular month
3. Tangible personal property – ratio of the total time used for business purposes to total time used in a particular calendar year
4. Other property or services – the ratio shall be calculated using a reasonable method appropriate to the property or service

Reasonable records must be maintained to support a person’s use of the mixed use property or service. Example: A mileage log documenting business use of a vehicle, the purchase price, and date of purchase. These rules are, however, simpler than the current income tax rules governing the same problem. Those who wish to avoid the application of these rules need to avoid using property for both business and nonbusiness purposes.



**SEC. 706. NOT-FOR-PROFIT ORGANIZATIONS.**

“Qualified not-for-profit organizations” receive favorable tax treatment under the FairTax. These are organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; as a civic league or social welfare organization; as a labor, agricultural or horticultural organization; as a chamber of commerce, business league, or trade association; or as a fraternal beneficiary society, order, or association. No part of the net earnings of not-for-profit organizations can serve to the benefit of any private shareholder or individual.

Organizations that meet the above criteria are issued a “qualification certificate” upon application to the state sales tax administering authority (on a form prescribed by the Treasury Department).

Tithes, dues, contributions, and similar payments to qualified not-for-profit organizations are not considered payments for taxable property or services subject to tax. Individuals make such payments or contributions to qualified not-for-profit organizations tax free.

If churches or not-for-profit organizations provide taxable services at no charge (running a soup kitchen for the poor, for example) these services are not subject to tax. If they provide taxable property or services in connection with contributions, dues or other payments to the organization, then the provision of the taxable property or service is treated as a taxable purchase at the fair market value of the taxable property or services. Example: An organization sells tickets to a dinner to raise funds for the group and charges \$100 per ticket which includes a \$25 dinner and a \$75 donation. The organization has to collect tax on the \$25 dinner portion of the ticket. Also, the sale of Bibles by a church is taxable.

The not-for-profit organization is responsible for collecting the tax and filing tax reports to the state sales tax administering authority. Taxable property and services purchased by a qualified not-for-profit organization “for business purposes” are not taxable. So, in other words, purchases for business purposes are not taxable and sales to consumers are taxable. However, the organization must present its qualification certificate to the seller when making a purchase in order for the sale to be tax exempt.

This is a narrower definition of not-for-profit organization than under current law. For example, the National Football League is not viewed as not-for-profit under the sales tax but is under the income tax.

**CHAPTER 8—FINANCIAL INTERMEDIATION SERVICES**

This chapter sets forth the provisions for taxing the services of financial institutions, brokers, and so on. In general, the fees charged for their services are taxable. These services have special



characteristics which require special provisions to define what is taxable and how the tax is collected.

**SEC. 801. DETERMINATION OF FINANCIAL INTERMEDIATION SERVICES AMOUNT.**

Interest rates may be viewed as having five components: (1) the normal (risk-free) return on capital, (2) the compensation to the lender for the expected loss in purchasing power (inflation) caused by excess money and credit creation, (3) the premium paid for the risk that the capital will not be repaid, (4) the compensation to the lender for taxes due on the interest, and (5) the payment for financial intermediation services – the servicing of the loan or deposit. Item (4) is no longer relevant since income taxes are repealed and the FairTax does not tax interest. The FairTax does tax the last component (5) of interest which is the implicit payment for financial intermediation services. This is not simple. Although some financial intermediation services are explicitly charged, in practice they may be incorporated into the interest paid. Similarly, insurance premiums have a financial intermediation services component. Under the FairTax, financial intermediation services purchased by consumers are taxable services, while financial intermediation services purchased by businesses are exempt as business inputs.

The term “financial intermediation services” means the sum of explicitly charged fees for financial intermediation services and implicitly charged fees for financial intermediation services.

“Explicit” means fully revealed, leaving no question as to meaning or intent. *Explicitly charged fees for financial intermediation services* include brokerage fees; explicitly stated banking, loan origination, processing, documentation, credit check fees or other similar fees; safe-deposit box fees; insurance premiums, to the extent such premiums are not allocable to the investment account of the underlying insurance policy; trustees' fees; and other financial services fees (including, but not limited to, mutual fund management, sales, and exit fees). All explicitly charged fees for financial intermediation services are taxable to the consumer and are not taxable when they are for business purposes.

“Implicit” means involved in the nature or essence of something though not revealed. *Implicitly charged fees for financial intermediation services* include any service charges or fees, the cost of which is rolled into the interest rate rather than stated separately. The most common and obvious example is a “free” checking account that pays little or no interest on balances held in the account.

The FairTax calculates the amount of financial intermediation services by determining the gross imputed amount in relation to any underlying interest-bearing investment, account or debt. The term “gross imputed amount” equals the excess (if any) of the basic interest rate over the rate paid on such investment multiplied by the account balance; and with respect to any underlying interest-bearing debt, the excess (if any) of the rate paid on such debt over the basic interest rate multiplied by the debt balance. The basic interest rate is the applicable interest rate (i.e., the federal borrowing rate for like-term instruments).

The FairTax is not imposed on the risk premium (item (3) above) because lenders get a credit equal to the FairTax rate times their bad debts.



Example: For a 30-year fixed rate home mortgage, the measure of the taxable financial intermediation services is the mortgage interest rate minus the interest rate for a 30-year Treasury obligation (which represents the price of items (1) and (2) above) times the mortgage balance.

Example: For a checking account that pays no interest, the measure of taxable financial intermediation services is the interest rate on short-term Treasury obligations times the average daily deposit during the month.

**SEC. 802. BAD DEBTS.**

This section provides the definition of bad debts for which a credit can be taken under SEC. 205. **BAD DEBT CREDIT.** A bad debt is a business loan or debt that becomes wholly or partially worthless. A business loan or debt is a bona fide loan or debt made for a business purpose that both parties intended be repaid. No loan or debt shall be considered wholly or partially worthless unless it has been in arrears for 180 days or more unless a debt is discharged wholly or partially in bankruptcy before 180 days has elapsed. A loan or debt that has been in arrears for 180 days or more may be deemed wholly or partially worthless by the holder unless a payment schedule has been entered into between the debtor and the lender.

**SEC. 803. TIMING OF TAX ON FINANCIAL INTERMEDIATION SERVICES.**

To simplify compliance, the FairTax on financial intermediation services provided in connection to an underlying investment account or debt is calculated and collected with the same frequency that statements are rendered by the financial institution in connection with the investment account or debt but not less frequently than quarterly. Example: The sales tax on a monthly checking account fee is charged on each monthly statement.

**SEC. 804. FINANCING LEASES.**

This section allows the calculation of the effective sales price in the case of goods that are leased for long terms rather than sold with a debt secured by the property sold. The principal component is taxable as if a purchase had been made on the day on which the lease was executed.

**SEC. 805. BASIC INTEREST RATE.**

The basic interest rate with respect to a debt instrument, investment, financing lease or account is the applicable interest rate (as determined in SEC. 512). For debt instruments, investments or accounts of contractually fixed interest, the applicable interest rate of the month of issuance applies. For debt instruments, investments or accounts of variable interest rates and which have no reference interest rate, the applicable interest is the Federal short-term interest rate for each month. For debt instruments, investments or accounts of variable interest rates and which have a reference interest rate, the applicable interest shall be the applicable interest rate for the reference interest rate for each month.

**SEC. 806. FOREIGN FINANCIAL INTERMEDIATION SERVICES.**

Financial intermediation services shall be deemed as used or consumed within the United States if the person (or any related party) purchasing the services is a resident of the United States. Any person that provides financial intermediation services to United States residents must, as a condition of lawfully providing such services, designate a U.S. tax representative, in a form prescribed by the Treasury Department. This U.S. tax representative is responsible for ensuring



that the sales tax imposed on financial intermediation services is collected and remitted and is jointly and severally liable for collecting and remitting these taxes. Reasonable bond may be required of the U.S. tax representative. The Treasury Department or sales tax administering authority may take legal action to enforce this section (e.g., temporary restraining order, injunction).

## CHAPTER 9—ADDITIONAL MATTERS

This chapter is a hodgepodge of unrelated matters that don't belong in the other sections. It deals with anti-avoidance measures, the transitional inventory credit, the reporting of wages to the Social Security Administration for the determination of benefits, the allocation of FairTax revenues among the various trust funds, and the withholding of tax on nonresident aliens and foreign corporations pursuant to international tax treaties.

### **SEC. 901. ADDITIONAL MATTERS.**

Various anti-avoidance rules and *de minimis* payments exceptions are provided in this section. The sale of a copyright or trademark is treated as the sale of taxable services and subject to taxation if the substance of the sales of copyright or trademark constituted the sale of the services that produced the copyrighted material or the trademark.

**De minimis payments.** Up to \$1,200 per year of gross payments received by a person not in connection with a trade or business are exempt. Example: The neighborhood teenager doing odd jobs or occasional babysitting is able to receive payments up to \$1,200 and not be required to collect the FairTax on the services they provide.

Likewise, individuals may spend up to \$400 of gross payments per year to purchase any taxable property or service imported into the United States for their own use. If the person purchases more than \$400 on goods and services for their own use in the United States, the individual is required to pay FairTax on the total amount of such purchases. The individual is responsible for remitting the tax.

Up to \$10,000 of gross payments from the sale of financial intermediation services is exempt from tax; however, this exemption is not available to large sellers (as defined in SEC. 501).

**Proxy buying by business.** Among the anti-tax avoidance rules is a rule taxing proxy buying by businesses. If a business provides taxable property or services to a person either as a gift, prize, reward, or as remuneration for employment, and if such taxable property or services were not previously subject to taxation, then the provision of such taxable property or services by the registered person is considered the conversion of such taxable property or services to personal use and subject to tax. Example: A business person gives his/her employees a Christmas present. If he/she purchased those gifts as business expenses and did not pay the FairTax, then giving the presents to his/her employees is converting the presents to personal use. The business owes the tax on the gifts. The business is required to remit the tax.

**Employee discounts.** In addition, employer-provided employee discounts over 20 percent are taxable. The term “employee discount” means an employer’s offer of taxable property or



services for sale to its employees or their families for less than the offer of such taxable property or services to the general public. If the employee discount amount exceeds 20 percent of the price to the general public, then the sale of such taxable property or services by the employer to the employee is considered the conversion of property or services to personal use and subject to tax. The taxable amount is the amount by which the discount exceeds 20 percent of the price to the general public.

**Timeliness of reports or other required actions.** If a report or other action is due on a Saturday, Sunday or legal holiday, the report or action is considered timely if it is performed on the next day which is not a Saturday, Sunday, or legal holiday (in the jurisdiction where the return is to be filed).

**SEC. 902. TRANSITION MATTERS.**

Businesses that have inventory on the close of business December 31, 2016 qualify for a transitional FairTax credit if the inventory is sold subject to the FairTax and prior to December 31, 2017.

Qualified inventory shall have the cost that it had for federal income tax purposes for the active trade or business as of December 31, 2016 (including any amounts capitalized by virtue of Internal Revenue Code Sec. 263A. Capitalization and inclusion in inventory costs of certain expenses as in effect on December 31, 2016). The transitional inventory credit is equal to the cost of the qualified inventory times the FairTax rate. The credit may be claimed on the monthly sales tax return for the month when the inventory is sold subject to the FairTax but it expires on Dec. 31, 2016. This credit shall be reported as an intermediate and export sales credit. The person claiming the credit must attach supporting schedules in a form prescribed by the Treasury Department.

Businesses may sell the right to receive the credit, so the credit can follow qualified inventory through the supply chain. Qualified inventory includes work in process.

A business entitled to the transitional inventory credit may sell the right to receive the credit to the purchaser of the qualified inventory. Example: A wholesaler who purchased inventory before the FairTax went into effect can sell the right to receive the credit to the retailer who buys that inventory. The retailer can then claim the credit as he sells that inventory to consumers (as described above).

Lastly, there may have arisen a question about the tax implementation based on the "transitional inventory credit" which applies to all "qualified inventory," including "work in progress," that existed on the date preceding the effective date of the sales tax. Such inventory may be sold throughout the year following the effective date and a credit may be taken by the retailer for the sale until the product is exhausted or the year has lapsed. For example, let's say on 31 December a specific widget is sold by retailer "B" for \$1 and the next day, 1 Jan, the sales tax becomes effective. Assuming no other economic impact occurs to cause a price increase in the widgets, the store can continue to sell the widget for \$1. This now becomes the "gross payment" for the widget which is inclusive of the product price and the 23% sales tax. The retailer will then submit his monthly sales tax report to the state administering authority which will include the 23% tax due on the sale of the widgets followed by a credit of 23 %, thus no taxes due on the



widget sales and the retailer keeps his \$1 for each of the widgets he sold. Another example. If manufacturing company "A" had a widget being manufactured on the assembly line before the effective date which was then sold to retailer "B" after the effective date, the same rule applies. Retailer "B" purchases the widget from the manufacturer as an "intermediate sale" (business-to-business), thus no taxes due, and then retailer "B" sales it to the final consumer for the same price as before, \$1. This assumes the manufacturer sells it wholesale to the retailer at the same price as before the effective date. Once the in-work inventory and retailer's inventory is exhausted, or the year has lapsed, whichever comes first, then the tax is applied to the sales price as set by both manufacturer and retailer. The transitional inventory credit expires at the end of the first year the sales tax is in effect.

The transition credit supports the assertion that products produced and sold under the current tax code are loaded with embedded federal taxes that have been cascaded through the production and final sale process, thus they should not be taxed again. Lastly, though not potentially all the reasons, the credit indirectly allows for a transitional period for production and retail to adjust to pricing without the inclusion of income and payroll taxes, corporate taxes, and compliance costs that before the FairTax was a large percentage of the cost passed along to the consumer. This means being able to keep some prices the same immediately after the effective date and then change prices over time consistent with new-found production and retail savings as tax burdens are lifted.

**SEC. 903. WAGES TO BE REPORTED TO SOCIAL SECURITY ADMINISTRATION.**

Employers, including self-employed persons, must submit such information as is required by the Social Security Administration to calculate Social Security benefits under Title II of the Social Security Act, including wages paid, to the Social Security Administration. The Treasury Department will prescribe the form on which the information is to be transmitted. To ensure that the employer is complying, he/she must provide a copy of the employer submission for each employee to said employee.

For purposes of reporting wages to the Social Security Administration, wages means all cash remuneration for employment, including tips to an employee and self-employment income.

Wages do not include:

1. Any insurance benefits received (including death benefits)
2. Pension or annuity benefits received
3. Tips received by an employee over \$5,000 per year
4. Benefits received under a government entitlement program (including Social Security benefits and unemployment compensation benefits)

For purposes of reporting self-employment income to the Social Security Administration, "self-employment income" means gross payments received for taxable property or services minus the sum of:

1. Gross payments made for taxable property or services without regard to whether FairTax was paid, and
2. Wages paid by the self-employed person to employees of the self-employed person



**SEC. 904. TRUST FUND REVENUE.**

FairTax revenues are allocated among the various trust funds to ensure that the same proportionate amount of revenue flows into each trust fund as would have under current law. These funds are: The general revenue, the old-age and survivors insurance trust fund, the disability insurance trust fund, the hospital insurance trust fund, and the federal supplementary Medicaid insurance trust fund.

**General Revenue** – Revenues collected are allocated to the general revenue fund in the same proportion as the general revenue rate (Sec.101(b)(4)) bears to the combined federal tax rate percentage (Sec. 101(b)(3)). The combined federal tax rate percentage is the sum of: The general revenue rate, the old-age, survivors and disability insurance (Social Security) rate, and the hospital insurance (Medicare) rate.

**Social Security trust fund** – The rate is set annually on an actuarially sound basis to provide the same amount of revenue as the current payroll tax would have raised.

**Medicare trust fund** – The rate is set annually on an actuarially sound basis to provide the same amount of revenue as the current payroll tax would have raised.

For calendar year 2017, the allocation of total revenue from the FairTax is specified as follows:

General revenue fund	64.83 percent of total	tax rate equal to	14.91%
Social Security trust fund	27.43 percent of total	tax rate equal to	6.31%
Medicare trust fund	<u>7.74</u> percent of total	tax rate equal to	<u>1.78%</u>
FairTax revenues	100.00 percent of total	total FairTax rate	23.00%

Further allocations: The Secretary shall allocate revenue received because of the old-age, survivors and disability insurance rate to the old-age and survivors insurance trust fund and the disability insurance trust fund in accordance with law or, in the absence of other statutory provision, in the same proportion that the old-age and survivors insurance trust fund receipts bore to the sum of the old-age and survivors insurance trust fund receipts and the disability insurance trust fund receipts in calendar year 2016.

**SECTION 905. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.**

This provision acts as an incentive for foreign countries to remain interested in entering into treaties with the U.S. and to not penalize U.S. nationals and U.S. owned firms in their countries by imposing high withholding taxes on payments made from U.S. owned companies to their U.S. parents. Payments of dividends and interest made to foreigners are taxed at a rate of 23 percent (unless a treaty reduces the tax rate).

The current law rate is 30 percent; however, most U.S. tax treaties with foreign countries reduce this rate considerably (mutually) to 5 to 15 percent, and sometimes 0 percent. If the U.S. (or foreign countries) just withdrew from these treaties and had no replacement, U.S. firms doing business abroad would be subject to very high foreign tax rates on funds repatriated from abroad to the United States.

**SEC. 202. CONFORMING AND TECHNICAL AMENDMENTS.**



The terms conforming and technical amendments have to do with statutory language changes that are not substantive in nature. They are necessary to make other sections of law conform with HR 25/S 155. This section contains a series of amendments repealing other sections of the Internal Revenue Code related to the taxes repealed in Title I of the Fair Tax Act (income tax, payroll taxes, estate, and gift taxes). It also contains technical amendments to conform Section 6151 (Time and place for paying tax shown on returns) and Section 6161 (Extension of time for paying tax) to the FairTax. A paragraph which refers to the income tax is deleted from Section 6151. References to income, payroll, and estate taxes are deleted from Section 6161. There is a technical amendment to Section 6601 (Interest on overpayments and underpayments) to conform it to the FairTax. Section 7451 (Fee for filing petition) retains the \$60 limit on filing fees for petitions to the Tax Court regarding the redetermination of a deficiency (underpayment of taxes) and deletes language in various sections in conflict with HR 25/S 155.

### **TITLE III — OTHER MATTERS**

This title has three unrelated sections dealing with phasing out appropriations for the Internal Revenue Service, creating bureaus to administer the FairTax, and excise taxes that are not repealed by HR 25/S 155, and incorporating the sales tax into the annual “cost of living adjustment” for Social Security benefits.

#### **SEC. 301. PHASE-OUT OF ADMINISTRATION OF REPEALED FEDERAL TAXES.**

This section governs the administration of the repealed federal taxes, including, for example administering the last year of the income tax (i.e., handling refunds, audits, and collections) during the period after its repeal, destroying all records relating to the income tax by the end of fiscal year 2015 (except that those records necessary for the determination of Social Security benefits will be kept by the Social Security Administration), and states that appropriations for the Internal Revenue Service shall not be authorized after the end of fiscal year 2019 (Sept. 30, 2015).

#### **SEC. 302. ADMINISTRATION OF OTHER FEDERAL TAXES.**

This section establishes an Excise Tax Bureau within the Treasury Department to administer those excise taxes not administered by the Bureau of Alcohol, Tobacco and Firearms. It also establishes a Sales Tax Bureau to administer the national sales tax in those states where the federal government directly administers the tax and to discharge other federal duties and powers relating to the FairTax. The Office of Revenue Allocation (created in SEC. 405) is housed in the Sales Tax Bureau. It also permits the Secretary of the Treasury to appoint and specify the duties of not more than five assistant general counsels without regard to the provisions of the civil service laws.

#### **SEC. 303. SALES TAX INCLUSIVE SOCIAL SECURITY BENEFITS INDEXATION.**

This section makes sure that the cost of living adjustment for Social Security benefits includes price increases, if any, caused by the FairTax. In other words, it maintains the real purchasing power of Social Security benefits after the FairTax is enacted. Here is how it works.

The cost of living adjustment (COLA) for Social Security benefits is an annual increase to offset the effects of inflation on fixed incomes based on the annual increase in consumer prices as



measured by the Consumer Price Index (CPI). [There has been no COLA adjustment to SS benefits for the last two years.]

HR 25/S 155 adjusts the CPI for price increases, if any, that occur due to the FairTax by multiplying the CPI times the national sales tax factor. The national sales tax factor is equal to 1.0 plus the FairTax rate divided by 1.0 minus the FairTax rate. Given a FairTax rate of 23 percent, it is equal to 1.299 [ $1.0 + (0.23/(1.0 - 0.23)) = 1.299$ ]. Multiplying the CPI by the national sales tax factor has the effect of upwardly adjusting the COLA for any price level increase that occurs as a result of the FairTax.

If we were in a zero inflation year and sales tax *exclusive* prices were unchanged and the CPI did not include sales tax, then benefits would increase by 29.9 percent. If producer prices fall, then adding the sales tax back makes benefits equal to those today. If the CPI is revised to include sales tax, then there won't be a need for such an adjustment.

#### **TITLE IV—SUNSET OF SALES TAX IF SIXTEENTH AMENDMENT NOT REPEALED**

##### **SEC. 401. SUNSET OF SALES TAX IF SIXTEENTH AMENDMENT NOT REPEALED.**

The purpose of this section is to ensure that the FairTax and the income tax will not exist simultaneously, that the FairTax is a permanent replacement for the federal income tax. The repeal of the 16<sup>th</sup> Amendment to the Constitution cannot be accomplished in the FairTax legislation. A separate bill, HJR 16, must be passed to repeal it and then this must be ratified by three-quarters of the States. HR25 provides for a seven year period for this to happen. If not, the FairTax is effectively repealed.

If the Sixteenth Amendment to the Constitution of the United States is not repealed before the end of the 7-year period beginning on the date of the enactment of this Act, then all provisions of, and amendments made by, this Act shall not apply to any use or consumption in any year beginning after December 31 of the calendar year in which or with which such period ends, except that the Sales Tax Bureau of the Department of the Treasury shall not be terminated until 6 months after such December 31.

#### **Summary of Timeline**

**July 1, 2016** – HR 25 becomes law.

**Dec. 31, 2016** – Taxes on income for all tax years beyond December 31, 2016 are repealed. All income tax withholding and payroll tax deduction for federal taxes ends.

**Jan. 1, 2017** – The national sales tax is imposed on final consumption of all goods and services.

**Jan. 15, 2017** – Estimated tax payments (form ES) for the final quarter of tax year 2016 are due.

**Apr. 15, 2017** – Income tax returns for the 2016 tax year will be due.

**Jan. 1, 2017 to Sept. 30, 2019** – The IRS will be processing 2016 annual tax returns for the individual income tax, corporate income tax, estate and gift tax, and the self-employment tax. It will conduct its normal collection and enforcement activities, including audits.

**Sept. 30, 2019** – No funding of the IRS beyond this date is authorized.

**What is the FairTax Plan?**

The FairTax Plan is a comprehensive proposal that replaces all federal income and payroll taxes with an integrated approach including a progressive national retail sales tax, a rebate to ensure no American pays federal taxes on spending up to the poverty level, dollar-for-dollar federal revenue replacement, and, through companion legislation, repeal of the 16<sup>th</sup> Amendment. This nonpartisan legislation (HR 25 / S155) abolishes all federal personal, gift, estate, capital gains, alternative minimum, Social Security, Medicare, self-employment, and corporate taxes and replaces them with one simple, visible, federal retail sales tax – collected by existing state sales tax authorities. The FairTax taxes us only on what we choose to spend, not on what we earn. It does not raise any more or less revenue; it is designed to be revenue neutral. The FairTax is a fair, efficient, transparent, and intelligent solution to the frustration and inequity of our current tax system.

**What is Americans For Fair Taxation (FairTax.org)?**

FairTax.org is a nonprofit, nonpartisan, grassroots organization dedicated to replacing the current tax system. The organization has hundreds of thousands of members and volunteers nationwide. Its plan supports sound economic research, education of citizens and community leaders, and grassroots mobilization efforts. For more information visit the Web page: [www.FairTax.org](http://www.FairTax.org) or call 1-800-FAIRTAX.

Karen Walby, Ph.D., Director of Research, Americans For Fair Taxation, Revised Nov. 8, 2015.  
(AFFT Documents\Papers on a specific subject\The Fair Tax Act of 2015 – HR 25/S 155 Plain English Summary)

### The FairTax Act - Sample Tax Return\*

Business Name \_\_\_\_\_ Month/Year \_\_\_\_\_  
 Sales Tax Registration Number \_\_\_\_\_

Line			Dollar Amount
1	Gross Sales	Enter gross payments received from the sale of taxable property or services.	
2	Sales Tax	Enter 23% of the amount on line 1.	
3	Administration Credit (Sec. 204)	Multiple row 2 by 0.0025.	
4	Administration Credit (Sec. 204)	Enter the larger of \$200 or line 3. (May not exceed 20% of line 2.)	
5	Other Credits Total (Optional)	Enter amount on line 12.	
6	Total Credits	Add lines 4 and 5.	
7	Tax Due	Subtract line 6 from line 2.	
		Remit the amount on line 7 to state sales tax authority in your state. (If line 7 is negative, this amount will be refunded to you within 60 days.)	
8	Business Use Conversion Credit (Sec. 202)	Enter business use credit amount (applies only to businesses with property used for both business and personal purposes)	
9	Intermediate and Export Sales Credit (Sec. 203)	Enter the amount of sales tax paid on the purchase of any taxable property or service purchased for a business purpose or for export from the U.S. for use outside of the U.S. Enter the amount of sales tax paid on the purchase of any taxable property or service purchased for a business purpose or for export from the U.S. for use outside of the U.S, and the cost of inventory held on Dec. 31st, 201_ and sold in the month of this report.	
10	Bad Debt Credit (Sec. 205)	Enter 23 percent of bad debts experienced (applies only to businesses electing the accrual method).	
11	Insurance Proceeds Credit (Sec. 206)	Enter 23% of insurance claims paid (for insurance companies only).	
12	Total Other Credits	Add lines 8 through 11.	

**\*This form is an example of the data required to be reported under the FairTax Act, HR25. For illustration purposes only.**