

WITHHOLDING ON SALARIES OF FEDERAL EMPLOYEES  
FOR STATE INCOME TAX PURPOSES

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Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

## R E P O R T

[To accompany S. 2282]

The Committee on Finance, to whom was referred the bill (S. 2282) to amend the act of July 17, 1952, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That the Act entitled "An Act relating to withholding, for State income tax purposes, on the compensation of Federal employees", approved July 17, 1952 (66 Stat. 765; 5 U.S.C. 84b-84c), is amended to read as follows:

"That where—

"(1) the law of any State or Territory provides for the collection of a tax by imposing upon employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the authorities of such State or Territory, and

"(2) such duty to withhold is imposed generally with respect to the compensation of employees who are residents of such State or Territory, then the Secretary of the Treasury, pursuant to regulations promulgated by the President, is authorized and directed to enter into an agreement with such State or Territory within one hundred and twenty days of the request for agreement from the proper official of such State or Territory. Such agreement shall provide that the head of each department or agency of the United States shall comply with the requirements of such law in the case of employees of such agency or department who are subject to such tax and who are residents of such State or Territory and whose regular place of Federal employment is within the State or Territory with which such agreement is entered into. A statement in writing of an employee that he is not a resident of the State or Territory in which he is employed shall be accepted by the head of each department or agency of the United States for purposes of the above agreement. No such agreement shall apply with respect to compensation for service as a member of the Armed Forces of the United States."

SEC. 2. Nothing in this Act shall be deemed to consent to the application of any provision of law which has the effect of imposing more burdensome requirements upon the United States than it imposes upon other employers, or which has

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the effect of subjecting the United States or any of its officers or employees to any penalty or liability by reason of the provisions of this Act. However, no department or agency of the United States shall, after March 31, 1959, accept compensation from any State or Territory for services rendered in withholding State or Territorial income taxes from the salaries of employees of such departments or agencies.

### SUMMARY

The bill, as introduced, forbids any department or agency of the United States from accepting compensation from any State or Territory for services rendered in withholding State or Territorial income taxes from the salaries of employees of such department or agency. The committee amendment contains this prohibition and, in addition, provides that a department or agency of the United States shall withhold only from the salaries of employees who are residents of the State or Territory imposing the tax.

### EXPLANATION OF BILL

The bill, as introduced, provides that section 2 of the act of July 17, 1952, 66 Stat. 765 (5 U.S.C. 84c), is amended to provide that no department or agency of the United States shall accept compensation from any State or Territory for withholding State or Territorial income taxes after March 31, 1959. This has become necessary because the State of Massachusetts newly enacted withholding tax law provides for compensation to employers who withhold from their employees. The United States does not pay compensation for withholding (either to the States or to private employers). Moreover, the United States now withholds for 20 States and Territories and does not receive compensation from any of them. Therefore, it does not seem equitable that Massachusetts should be alone in paying the United States for this tax withholding service. The Treasury feels strongly that no compensation should be accepted from Massachusetts. However, there is doubt as to the power of the executive departments or of any of their officers to decline to accept compensation due the United States. It is also believed that, if there is no specific provision, there is some possibility that an agreement by the Secretary of the Treasury to withhold without compensation, when other employers receive compensation, may be viewed as an assumption of more burdensome requirements than other employers. (The assumption of a more burdensome requirement is specifically prohibited by the statute.) For these reasons, it seems that the best method of refusing the compensation is to prohibit its acceptance by any agency or department of the United States by statute.

As has already been indicated, the amendment shall take effect as of April 1, 1959. Federal agencies have begun to withhold Massachusetts income taxes, and at the present time they are holding the compensation to which they are entitled under the Massachusetts law in suspense accounts. Enactment of this bill will, of course, make it possible to pay these sums over to the State of Massachusetts.

## EXPLANATION OF COMMITTEE AMENDMENT

The committee amendment retains in effect the substance of the bill as introduced and in addition amends section 1 of the act of July 17, 1952 (5 U.S.C. 84b). Section 1 of that act provides that the Secretary of the Treasury shall enter into an agreement with any State or Territory which provides for withholding of income tax, under which agreement the head of each department or agency of the United States shall comply with the requirements of such withholding law in the case of employees of such agency or department who are subject to such tax and whose regular place of Federal employment is within such State or Territory. Under the committee amendment, this section would be amended to provide that under any such agreement income tax is to be withheld only from employees who are residents of the State or Territory imposing the tax. The section would also be amended to provide that a statement in writing of an employee that he is not a resident of the State or Territory in which he is employed shall be accepted by the head of each department or agency of the United States for purposes of the agreement. Your committee is concerned over the multiplicity of income taxes which is developing as many States (and now several cities, as well) turn to this source of revenue. As a result it often occurs that an individual finds two or more States asserting the right to tax his income. Thus, he may be faced with the possibility of paying several local income taxes and may have to go to the effort of filing several returns and explaining his financial affairs several times. Your committee is aware that an individual regularly employed by an agency of the United States in a particular State may, nevertheless, not be a resident of that State. In such a case there might well be an issue between him and the State as to whether he is liable for the State income tax. However, if the U.S. agency which employs him has withheld from his salary the State will have the advantage, in any discussion or litigation, of having part or all of the claimed tax in its hands. Withholding as to such an individual might well have the effect of helping a State assert and collect an income tax from a nonresident. Your committee believes that in any issue involving a State income tax between a State and resident of another State, the position of the United States and of all its agencies and departments should be a neutral one. It therefore believes that there should be no withholding by the United States on the salary of a Federal employee who is not a resident of the State in which he is employed, so that if this State asserts the right to collect income tax from him, it will not have the advantage of having the money in its hands in advance. For these reasons, your committee believes it desirable to provide that no U.S. department or agency shall withhold from the salary of an employee who states in writing that he is not a resident of the State in which he is employed.

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##### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JULY 17, 1952 (66 STAT. 765)

AN ACT Relating to withholding, for State income tax purposes, on the compensation of Federal employees

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where—*

(1) the law of any State or Territory provides for the collection of a tax by imposing upon employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the authorities of such State or Territory, and

(2) such duty to withhold is imposed generally with respect to the compensation of employees who are residents of such State or Territory,

then the Secretary of the Treasury, pursuant to regulations promulgated by the President, is authorized and directed to enter into an agreement with such State or Territory within one hundred and twenty days of the request for agreement from the proper official of such State or Territory. Such agreement shall provide that the head of each department or agency of the United States shall comply with the requirements of such law in the case of employees of such agency or department who are subject to such tax *and who are residents of such State or Territory* and whose regular place of Federal employment is within the State or Territory with which such agreement is entered into. *A statement in writing of an employee that he is not a resident of the State or Territory in which he is employed shall be accepted by the head of each department or agency of the United States for purposes of the above agreement.* No such agreement shall apply with respect to compensation for service as a member of the Armed Forces of the United States.

SEC. 2. Nothing in this Act shall be deemed to consent to the application of any provision of law which has the effect of imposing more burdensome requirements upon the United States than it imposes upon other employers, or which has the effect of subjecting the United States or any of its officers or employees to any penalty or liability by reason of the provisions of this Act. *However, no department or agency of the United States shall, after March 31, 1959, accept compensation from any State or Territory for services rendered in withholding State or Territorial income taxes from the salaries of employees of such departments or agencies.*

