

118TH CONGRESS
1ST SESSION

H. R. 1040

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2023

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flat Tax Act”.

5 **SEC. 2. THE FLAT TAX.**

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

1 **“PART VIII—THE FLAT TAX**

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

“Sec. 60A. Tax imposed on individuals.

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

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

2 **“SEC. 60. IRREVOCABLE ELECTION TO BE SUBJECT TO**
 3 **FLAT TAX.**

4 “(a) INDIVIDUAL.—

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

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

18 “(b) PERSON ENGAGED IN BUSINESS ACTIVITY.—In
 19 lieu of the tax imposed by sections 11 (relating to tax im-
 20 posed) and 55 (relating to alternative minimum tax im-
 21 posed), under regulations prescribed by the Secretary, a
 22 person engaged in business activity may make an irrev-

1 ovable election to be subject to the tax imposed by this
2 part.

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

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

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

11 “(1) 19 percent of the taxable income of such
12 individual for such taxable year in the case of the
13 first 2 taxable years of the individual beginning with
14 the taxable year for which the election is made, and

15 “(2) 17 percent of the taxable income of such
16 individual for such taxable year in the case of all
17 taxable years subsequent to the taxable years de-
18 scribed in paragraph (1).

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

21 “(1) the sum of—

22 “(A) wages (as defined in section 3121(a)
23 without regard to paragraph (1) thereof) which
24 are paid in cash and which are received during

1 the taxable year for services performed in the
2 United States,

3 “(B) retirement distributions which are in-
4 cludible in gross income for such taxable year,
5 plus

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

10 “(c) STANDARD DEDUCTION.—For purposes of this
11 part—

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

14 “(A) the basic standard deduction, plus

15 “(B) the additional standard deduction.

16 “(2) BASIC STANDARD DEDUCTION.—For pur-
17 poses of paragraph (1), the basic standard deduction
18 is—

19 “(A) \$32,496 in the case of—

20 “(i) a joint return, or

21 “(ii) a surviving spouse (as defined in
22 section 2(a)),

23 “(B) \$20,739 in the case of a head of
24 household (as defined in section 2(b)), and

1 “(C) \$16,248 in the case of an indi-
2 vidual—

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

6 “(ii) who is a married individual filing
7 a separate return.

8 “(3) ADDITIONAL STANDARD DEDUCTION.—For
9 purposes of paragraph (1), the additional standard
10 deduction is \$6,998 for each dependent (as defined
11 in section 152) who is a qualifying child (as defined
12 in section 152(c)(1)) for the taxable year and who
13 is not required to file a return for such taxable year.

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

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

20 “(2) an annuity plan described in section
21 403(a),

22 “(3) an annuity contract described in section
23 403(b),

24 “(4) an individual retirement account described
25 in section 408(a),

1 “(5) an individual retirement annuity described
2 in section 408(b),

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

5 “(7) a governmental plan (as defined in section
6 414(d)), or

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

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

12 “(e) INCOME OF CERTAIN CHILDREN.—For purposes
13 of this part—

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

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

22 “(f) INFLATION ADJUSTMENT.—

23 “(1) IN GENERAL.—In the case of any taxable
24 year beginning in a calendar year after 2023, each
25 dollar amount contained in subsection (c) shall be

1 increased by an amount determined by the Secretary
2 to be equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment for such
5 calendar year.

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

10 “(A) the CPI for the preceding calendar
11 year, exceeds

12 “(B) the CPI for the calendar year 2022.

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

18 “(4) CONSUMER PRICE INDEX.—For purposes
19 of paragraph (3), the term ‘Consumer Price Index’
20 means the last Consumer Price Index for all urban
21 consumers published by the Department of Labor.
22 For purposes of the preceding sentence, the revision
23 of the Consumer Price Index which is most con-
24 sistent with the Consumer Price Index for calendar
25 year 1986 shall be used.

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

5 “(g) MARITAL STATUS.—For purposes of this sec-
6 tion, marital status shall be determined under section
7 7703.

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

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

12 “(1) 19 percent of the business taxable income
13 of such person for such taxable year in the case of
14 the first 2 taxable years of the person beginning
15 with the taxable year for which the election is made,
16 and

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

21 “(b) LIABILITY FOR TAX.—The tax imposed by this
22 section shall be paid by the person engaged in the business
23 activity, whether such person is an individual, partnership,
24 corporation, or otherwise.

1 “(c) BUSINESS TAXABLE INCOME.—For purposes of
2 this section—

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

6 “(2) GROSS ACTIVE INCOME.—

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

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

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

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

22 “(C) COORDINATION WITH SPECIAL RULES
23 FOR FINANCIAL SERVICES, ETC.—Except as
24 provided in subsection (e)—

1 “(i) the term ‘property’ does not in-
2 clude money or any financial instrument,
3 and

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

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

12 “(d) DEDUCTIONS.—

13 “(1) IN GENERAL.—The deductions specified in
14 this subsection are—

15 “(A) the cost of business inputs for the
16 business activity,

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

21 “(C) retirement contributions to or under
22 any plan or arrangement which makes retire-
23 ment distributions (as defined in section
24 60A(d)) for the benefit of such employees to the

1 extent such contributions are allowed as a de-
2 duction under section 404.

3 “(2) BUSINESS INPUTS.—

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

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

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

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

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

23 “(B) EXCEPTIONS.—Such term shall not
24 include—

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

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

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

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

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

20 “(g) CARRYOVER OF CREDIT-EQUIVALENT OF EX-
21 CESS DEDUCTIONS.—

22 “(1) IN GENERAL.—If the aggregate deductions
23 for any taxable year exceed the gross active income
24 for such taxable year, the credit-equivalent of such
25 excess shall be allowed as a credit against the tax

1 imposed by this section for the following taxable
2 year.

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

7 “(A) the sum of—

8 “(i) such excess, plus

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

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

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

19 “(A) such excess, plus

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

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

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

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

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

17 “(1) 19 percent of the value of excludable com-
18 pensation provided during the calendar year by the
19 employer for the benefit of employees to whom this
20 section applies in the case of the first 2 calendar
21 years beginning with the calendar year for which the
22 election under section 60 is made, and

23 “(2) 17 percent of such excludable compensa-
24 tion during the calendar year in the case of all cal-

1 endar years subsequent to the calendar years de-
2 scribed in paragraph (1).

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

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

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

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

14 “(3) retirement contributions to or under any
15 plan or arrangement which makes retirement dis-
16 tributions (as defined in section 60A(d)).

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

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

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

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

“PART VIII. THE FLAT TAX”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2022.

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

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

10 (b) EFFECTIVE DATE.—The repeal made by sub-
11 section (a) shall apply to the estates of decedents dying,
12 and gifts and generation-skipping transfers made, after
13 December 31, 2022.

14 (c) CROSS REFERENCE.—See section 102 of the In-
15 ternal Revenue Code of 1986 for exclusion of gifts and
16 inheritances from gross income.

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

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

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

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

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

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