Why Not Five Percent?

Tax Freedom Day came three days later this year (April 21) than last year (April 18). Calculated yearly by the Tax Foundation, it is "the day when the nation as a whole has earned enough money to pay its total tax bill for year." The day falls much later than it once did (in 1900, the day fell on January 22 and the average American paid only 5.9% of his income in taxes). In 2014, Americans' total tax bill (federal, state, & local) will come to about $4.5 trillion, or 30.2 percent of income.

Although some will pay in taxes a percentage of their income much less than that, others will pay much more. So much more that Representative David Jolly (R-Fla.) introduced a bill (H.R.4512), the "Alternative Maximum Tax Act," on April 29 to "amend the Internal Revenue Code of 1986 to establish a maximum rate of Federal, State, and local tax imposed on taxpayers."

The bill would limit any non-corporate taxpayer's total effective tax rate to 50 percent of their adjusted gross income by amending part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 by the addition of a new section.

In section 3, subsection (b) of the bill, it specifically names 37 categories of federal, state, and local taxes that are included when calculating one's maximum tax:

(1) Air transportation taxes.

(2) Biodiesel fuel taxes.

(3) Cigarette taxes.

(4) Medicare tax.

(5) Social Security tax.

(6) Estate taxes.

(7) Insurance taxes, including insurance premium taxes, excise taxes on comprehensive health insurance plans, and individual health insurance mandate taxes.

(8) Federal unemployment taxes.

(9) Garbage taxes.

(10) Gasoline taxes.

(11) Gift taxes.

(12) Hotel taxes.

(13) Import taxes.

(14) Income tax, including city, State, and county.

(15) Inheritance taxes.

(16) Interstate user diesel fuel taxes.

(17) Inventory taxes.

(18) Liquor taxes.

(19) Luxury taxes.

(20) Medicare taxes.

(21) Taxes enacted under the Patient Protection and Affordable Care Act, including the individual mandate excise tax and the Medicare tax surcharge on investment income of high earning Americans.

(22) Tangible personal property taxes.

(23) Real estate taxes.

(24) Sales taxes.

(25) Self-employment taxes.

(26) Service charge taxes.

(27) Sewer and water taxes.

(28) Special assessments (city and county).

(29) State unemployment taxes (SUTA).

(30) Tanning taxes.

(31) Telephone-related taxes, including telephone 911 service taxes, telephone Federal excise taxes, telephone Federal universal service fee taxes, telephone minimum usage surcharge taxes, telephone State and local taxes, telephone universal access taxes.

(32) Tire taxes.

(33) Use taxes (city, county, and State).

(34) Utility taxes.

(35) Vehicle registration taxes.

(36) Waste management taxes.

(37) Workers compensation taxes.

The good thing about this bill is that it draws attention to the tremendous number of taxes that Americans are forced to pay. This list is enough to make any taxes the American colonists paid to the British Crown seem rather insignificant. The two taxes that Americans are the most familiar with are the federal income tax and state sales taxes. Most states also have an income tax. Some states (Alaska, Delaware, Montana, New Hampshire, Oregon) have no sales tax. Those who pay attention usually also notice the Social Security and Medicare taxes that are taken out of their paychecks and the taxes listed on their phone bill. Most taxes are hidden, like federal, state, and local excise taxes on gasoline.

There are, however, a number of problems with the "Alternative Maximum Tax Act."

First of all, some taxes are not listed, like taxes on rental cars and taxes on interest and dividends like one pays in the state of New Hampshire.

Second, the conclusion of this bill says that “the Secretary shall prescribe such regulations as may be necessary to carry out this section.” This bill would make the colossal and complex U.S. tax code even larger and more difficult to navigate as rules are developed and regulations are written about figuring one’s maximum tax.

Third, taxpayers would be required to compile the total amount of all the taxes they paid during the year to determine whether they reach the 50 percent mark. This would require extensive time and effort, as well as detailed record keeping to survive an IRS audit.

Fourth, H.R.4512 does not specify how taxpayers are to remain below a 50 percent effective tax rate. If the other taxes are already paid, then some kind of credit will have to be taken against one’s federal income tax owed. This would entail the addition of more arcane IRS rules to the already too complex federal tax code.

Fifth, and most important, why 50 percent? Why should Americans be happy that “the tax imposed under this chapter on a taxpayer other than a corporation for the taxable year shall not exceed the amount which when, added to the tax amounts described in subsection (b), bears the same ratio as 50 percent of adjusted gross income of the taxpayer for the taxable year bears to the adjusted gross income of the taxpayer for the taxable year.” Why not 5 percent?

The effect of a 5 percent maximum tax would be devastating to the federal government. Since the majority of Americans would reach or exceed their five percent threshold from either the Social Security and Medicare taxes that are withheld from their paychecks or by paying the myriad of state and local taxes that they are responsible for, they would not be obligated to pay any federal income tax.

Under a 5 percent maximum tax ceiling, only very wealthy individuals who are not employed or very high wage earners (because Social Security taxes are not collected on incomes over $117,000) would pay any federal income tax at all. And they wouldn’t pay anywhere near 5 percent once they calculated the amount of taxes they already paid under the 37 categories of federal, state, and local taxes that are listed in the “Alternative Maximum Tax Act.”

This would leave the federal government with very little money to spend. This is why the bill introduced by Rep. Jolly doesn’t dare say “5 percent of adjusted gross income.” Federal spending is out of control. Members of Congress have an insatiable desire to spend the taxpayers’ money.

But how could the federal government function with such a greatly reduced revenue stream?

Obviously, in the way in which the government functions now, it couldn’t. And that is precisely the way it should be. The vast majority of spending currently authorized by Congress is blatantly unconstitutional. As is the vast majority of departments, bureaus, and agencies of the federal government. Consider just the following examples:

There is no constitutional authority for the Department of Housing and Urban Development or any federal spending on housing.

There is no constitutional authority for any federal spending on foreign aid.

There is no constitutional authority for the Department of Health and Human Services or any federal spending on health care.

There is no constitutional authority for any federal spending on the war on drugs.

There is no constitutional authority for the Department of Agriculture or any federal spending on agriculture.

There is no constitutional authority for any spending on welfare programs like food stamps, WIC, Medicaid, EITC, TANF, SCHIP, SSI, the National School Lunch Program (NSLP), the School Breakfast Program (SBP), or the Low Income Home Energy Assistance Program (LEAP).

There is no constitutional authority for the Department of Education or any federal spending on education.

There is no constitutional authority for agencies like the EPA, SBA, FTC, FCC, SEC, FDA, TVA, HUD, NEA, NEH, CPB, NIH, and OSHA.

An "Alternative Maximum Tax Act" with a rate of 5 percent would limit the federal government to spending money on only that which is constitutionally authorized. It should be remembered that until 1913 there was no permanent personal or corporate income tax in the United States. All constitutionally-authorized functions of the federal government were funded by tariffs, land sales, excise taxes, and fees. The income tax could and should be abolished. But until such time that it is, why not limit taxes to 5 instead of 50 percent?