

## Repeal Three Percent Withholding Tax on County Purchases

**Issue:** Section 511 of Public Law 109-222 will require many counties, beginning in 2012, to withhold three percent in federal taxes on payments to government contractors for goods and services.

**NACo policy:** The National Association of Counties (NACo) endorses legislation that fully repeals this requirement.

**Background:** Congress has been investigating allegations of abuse and fraud by federal agency contractors that owe billions of dollars in unpaid taxes. Many proposals to shrink this so-called “tax gap” – the amount of unpaid taxes – focus on increasing reporting and/or withholding of taxes on payments made to government contractors. In 2005, the Joint Committee on Taxation proposed federal tax withholding on all goods and services purchased by government entities. No legislation was considered during the 109<sup>th</sup> Congress to apply this requirement to state or local governments – until it was slipped at the 11<sup>th</sup> hour in the Tax Increase Prevention and Reconciliation Act of 2006.

Section 511 of Public Law 109-222 will require many counties, beginning in 2012, to withhold federal taxes on payments to government contractors for goods and services. The requirement does not apply to the private sector.

This provision is estimated to raise \$6 billion for the federal treasury through a first-year accounting gimmick and slightly more than \$200 million annually thereafter. But the increase in the cost for state and local governments for goods and services and of reprogramming or purchasing accounts payable systems and hiring additional staff to comply with the requirement will far exceed that amount. Many counties are also concerned that the withholding requirement will discourage contractors from bidding.

NACo, working with a broad coalition of public and private sector organizations, was successful in getting a one-year deferral of the provision as part of the American Recovery and Reinvestment Act of 2009 and will continue its efforts to get a full repeal of the provision.

Three repeal bills have been introduced in the 112<sup>th</sup> Congress. In the House, Congressman Wally Herger (R-Calif.) introduced H.R. 674 to repeal the imposition of the withholding requirement. In the Senate, S.89, sponsored by Senator David Vitter (R-La.) and S.164, sponsored by Senator Scott Brown (R-Mass.) both seek to repeal section 511 of the 2006 Act. The bill by Senator Brown, however, provides an offset for the estimated loss in revenues due to the repeal by rescinding \$39 billion in unobligated discretionary funds. The Office of Management and Budget would be tasked with deciding the sources of the rescissions. The Department of Defense and the Department of Veteran Affairs would be exempt from rescission.

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