Key Points Summary

The

FAIRTAX®

FairTax.org

Act of 2015

HR 25 and S 155

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Key Points Summary
HR 25 / S 155 - FairTax Act Of 2015

GENERAL

- The FairTax is a proposed national sales tax introduced to the 114th Congress in companion bills HR 25 and S 155, short titled, the *FairTax Act of 2015*.

- The sales tax will replace all Federal income, payroll, self-employment, alternative minimum, capital gains, estate, gift and corporate taxes.

- USC Title 26 (Internal Revenue Code), Subtitle A (Income Taxes), Subtitle B (Estate and Gift Taxes), Subtitle C (Employment Taxes), and Subtitle H (Financing of Presidential Election Campaigns) are repealed and replaced with 'Subtitle A - Sales Tax.'

- The legislation does not eliminate other forms of Federal taxation (tariffs, duties, imposts, excises, etc.) nor direct any changes to Federal expenditures.

- The sales tax would be assessed on the consumption (purchase) or use of all of taxable properties and services.

  (Generally, new properties (products) and all services are taxable unless exempted as described herein, but, in every case, properties and services are assessed the Federal sales tax once and only once. This does not include the separate and additional tariffs, imposts, duties, and excises that may be inclusive to the product price. Property exempted from the sales tax when purchased new, such as purchases by businesses for business purposes, may subsequently be taxed at the fair market value when sold used to a private consumer.)

- A used property is one for which the sales tax has been paid and no credit subsequently taken, or it can be any property purchased before the implementation of the sales tax and held for other than a business purpose.

- The sales tax is a 'destination principle' tax, meaning that it will be collected by (or for) the state in which the goods or services are delivered, located or consumed.

- The person purchasing a taxable property or service is liable for the sales tax, but that liability ceases when the sales tax is paid to the seller and the purchaser is provided a receipt indicating the payment.

- Government entities not qualifying as a 'government enterprise' and households employing domestic servants are deemed 'taxable employers' and responsible for remitting the sales tax for the services rendered by their respective employees. The tax is not assessed on the payroll of government employees providing direct educational services (teachers, instructors, professors in the classroom).

- Tax liability for barter transactions remains the same as if the transaction had been made with money.

- A sales tax rate has been selected that will produce, mathematically, a revenue neutral result; meaning it will collect a net revenue amount equal to the combined net result of those taxes it replaces.

(The sales tax rate and revenue neutral result are based on existing economic data and do not reflect the projected increases in revenues that will occur as the economy favorably responds to the sales tax.)

- The initial sales tax rate will be 23% inclusive which yields a 30% exclusive rate.

  (Inclusive Rate = Sales Tax / Property or Service Price + Sales Tax); Exclusive Rate = Sales Tax / Property or Service Price).

  (The 'inclusive' rate is used to maintain continuity with the rates applied to the taxes replaced by the sales tax; i.e., a 25% marginal income tax rate is an inclusive rate that yields a 33.3% exclusive rate.)

  (The term 'gross amount', when used in the bill, refers to the property or service price + the sales tax.)

- The 'Combined Federal Tax Rate Percentage' will be sum of the general revenue rate (set at 14.91%), the Old Age Survivors and Disability Insurance (OASDI) rate (6.31%), and the Hospital Insurance (HI) rate (1.78%).

  (The sum of the General Fund rate, OASDI Fund rate and HI Fund rate equals the sales tax rate, 23% in this case. The OASDI and HI rates included in the sales tax will collect the same amount of revenues as currently collected though employee and employer payroll taxes, respectively 12.4% and 2.9 %.)

- The sales tax revenues remitted to the U.S. Treasury will be allocated for tax year 2017 as follows: 64.83% General Fund; 27.43% OASDI; and 7.74% HI and Federal supplementary medical insurance.

  (For every $1 collected in sales tax revenues, approximately $.65 goes to the General fund, $.27 to Social Security (OASDI), and $.08 to Medicare (HI).)

- The Internal Revenue Service will be eliminated within 3 years and replaced with a 'Sales Tax Bureau' responsible for administering the sales tax (as required) and to provide Federal oversight of the revenue system. An 'excise tax bureau' will also be included to administer excises not under the authority of the Bureau of Alcohol, Tobacco and Firearms.

- The sales tax will be collected and enforced principally by State sales tax authorities that will subsequently remit the tax revenues to the U.S. Treasury. (See Administration section below for more details.)

- The bill contains a 'Sunset Clause' mandating that all provisions of the act, and any subsequent amendments to it, will be eliminated if the 16th Amendment to the U.S. Constitution is not repealed by the 7th year after the date of enactment of the FairTax.

REBATE

- To reduce or eliminate the regressive effects of a consumption tax, a rebate (aka 'prebate') is issued on the first business day of each month to legally residing individuals or families having annually, and voluntarily, registered for the rebate with their State sales tax administering authority. (See attached FairTax Rebates Schedules for 2015.)

(The rebate is provided to all legal residents in lieu of tax credits, deductions or exemptions for the basic necessities of life, such as housing, food and medicine. It is paid in amounts based on family size, not income or actual expenditures.)

- A qualified rebate recipient must have a valid Social Security number, be a lawful resident of the U.S., not be incarcerated, and meet all other legal dependency qualifications for family members.

- The monthly rebate amount is calculated from the 'annual poverty level' which is based on the 'Poverty Guidelines' published by the Department of Health and Human Services (DHHS), but with the marriage penalty inherent to the Guidelines eliminated.

  (In households with either a single adult or a single adult with qualified dependent children, the DHHS Guideline reflects the same allowable income amounts per family size as the annual poverty level amount. The rebate calculation begins by first determining the number of qualified persons in the family and then identifying the respective annual poverty level (Guideline) amount. The annual amount is divided by 12 to find the 'monthly poverty level' amount. The monthly amount is multiplied by the sales tax rate (now 23%) which yields the amount of tax that would have been paid for taxable purchases up to the monthly poverty level amount. It is this amount that is then rebated to the individual or family.)

  (To remove the marriage penalty from the DHHS Guideline, first, double the 1-person amount indicated in the Guideline chart. Next, subtract the Guideline amount indicated for two people from the product obtained in the first step. The difference between the two in the preceding step is the 'marriage penalty amount.' This is the amount that is added to each indicated amount in the Guideline for the increasing numbers of persons in the family, starting with the 2-person amount. The new amounts reflect the 2-adult annual poverty level amount. From this point, the calculation to determine the monthly rebate is the same as described above for the single-adult family.)

  (The rebate will eliminate the sales taxes inclusive to gross amount purchases that are equal to or less than the monthly poverty level. Therefore, every qualifying individual or family, regardless of income, has a zero percent, or less, effective tax rate until the gross amount of their purchases exceeds their respective poverty level.)

  (The purchase of used properties, on which there is no sales tax imposed, can substantially help those individuals and families that need to live on a thriftier budget.)

- The rebate will be issued by the Social Security Administration via a 'Smartcard' or direct electronic deposit to the account of an individual or one or more designated family members 18 years of age or older.

ADMINISTRATION

- The States will be offered the opportunity to administer and enforce the sales tax as a 'Sales Tax Administering Authority' also referenced as an 'Administering State'.

- Administering States will be authorized to retain 0.25% of all the sales tax revenues they collect as an 'administration fee' for services rendered.

- States not acting as an administering authority may contract with an Administering State to act as their administering authority, but only done so subsequent to coordination with the Secretary of the Treasury (hereafter addressed as the 'Secretary').

- The Secretary will administer the sales tax in those States void of a sales tax administering authority.

- Administering States will have 5 days from the receipt of remitted sales taxes to remit the same to the U.S. Treasury.

- A State sales tax imposed by a State with the same definition (tax base) for taxable properties and services as that defined for the national sales tax will be recognized as a 'Conforming State Sales Tax.'

- Conforming States, that is, States with a conforming State sales tax, that have entered into a conforming agreement with the Secretary will be able to collect conforming State sales taxes from sellers in both conforming and nonconforming States.

  (In other words, products and services sold by sellers in another State, as with internet sales, may be taxed by the State into which the property or service is delivered for consumption or use.)

- The Secretary is authorized to maintain a program of awards for payment to those individuals assisting the Secretary in the discovery or prosecution of persons committing tax fraud.

- In tax disputes, the burden of document production and records falls upon the person in dispute with the Secretary or administering authority, but the burden of persuasion rests with the Secretary or administering authority.

- In tax disputes the person engaged in the dispute with the Secretary or administering authority shall be entitled to reasonable attorneys' fees, accountancy fees, and other professional fees incurred unless the Secretary or administering authority establishes that its position was reasonably justified.

  (The two previous bullets provide, in effect, a Taxpayer Bill of Rights that better protects the rights of the taxpayer.)

- The respective bills contain a detailed listing of tax reporting and remitting violations and the penalties, both criminal and civil, that may be applied in consequence to tax law violations.

BUSINESSES

- Businesses will register (registered seller) with the (State) administering authority and receive a 'vendor registration number' prior to selling taxable properties and services.

- All sales, except as stated below, shall include a receipt that reflects the property or service price exclusive of the sales tax; the amount of tax paid; the gross amount paid; the inclusive tax rate; the date of the sale; the vendor's (company) name; and the vendor's registration number.

- Vending machines dispensing individual items priced less than $10 are not required to provide a receipt to the purchaser.

- Financial intermediation services providers (banks, credit unions, brokerage firms, insurance companies, etc.) providing routine statements on a frequency of quarterly or less may, in lieu of a receipt, defer to those statements for the reporting of taxes paid by the consumer.

- Any registered seller collecting less than $20,000 in tax revenues in any of the previous 12 months is designated a ‘small seller.’

- Any registered seller collecting $100,000 or more in sales tax revenues during any of the previous 12 months is designated a ‘large seller.’

  (Registered sellers collecting between $20,000 and $100,000 in sales taxes in any month are not defined for reporting and revenue remitting purposes in the bill, leaving open subsequent regulation by the administering authority as to how the category shall remit revenues.)

- All registered sellers of properties and services must submit a report by the 15th of each month indicating the gross payments received in the previous calendar month, taxes collected, any credits, and all other information that may be required by the administering authority or Secretary.

- All sellers that are not large sellers must remit payment to the administering authority by the 15th day of the month following the month in which the tax is collected.

- Large sellers shall remit tax revenues to a separate segregated account on the first business day following the previous calendar week in which the revenues were received.

  (The account will be maintained by the seller, including all associated costs, and to which the administering authority will have access to collect the revenues.)

- Large sellers will be required to keep a security in the form of a: cash bond; bond from a Secretary approved surety company; a certificate of deposit; or a U.S. Treasury or State Bond in an amount that is the greater of $100,000 or 1.5 x the average monthly tax liability calculated from the sum of the previous 6 months tax revenues.

- Financial intermediation service providers will collect and remit taxes for both explicitly and implicitly charged fees.

  (The sales taxes for implicit fees (typically interest bearing accounts) are generally tied to the amount that interest exceeds the market rate of interest as measured by the difference between the applicable Federal short, mid or long-term interest rate amount and the seller’s interest rate amount.)

- Businesses and the self-employed shall continue reporting earnings (up to $5,000 for tips) to the Social Security Administration for the purpose of accumulating benefit credits.

- Discounts extended to employees or their family members for properties or services that exceeds 20% of the amount extended to the general public will be assessed the sales tax on the amount over 20%, in addition to the remaining balance for the property or service.

- The substance of a transaction will prevail over its form if the transaction has no bona fide economic purpose and is designed to evade the sales tax.

  (In other words, giving something (form) to someone that serves more to a personal consumption than a business purpose (substance), then it is a taxable item and not a bona fide business purchase.)

- Gross income to foreign entities arising from the sale or lease of properties or services in the United States will be taxed and deducted from the gross amount of payments; excluding taxes applicable to portfolio debt investments or where such action is contrary to Tax Treaty agreements.

GAMING

- A chance (wager, bet, lottery ticket, etc.) alone is not a taxable property or service.

- Taxable gaming services are defined as the 'gross receipts' from the sale of chances minus the sum of total gaming payoffs and any other gaming specific taxes imposed by the Federal, State or local government.

- A 23% tax will be assessed on the gross receipts of gaming services and payable to the administering authority by the 15th day of the month following the month in which the taxable services were provided.

EXCLUSIONS AND EXEMPTIONS

- No tax shall be imposed on any taxable property or service purchased for a business purpose in a trade or business, including that which is used for research, experimentation, testing and development.

- No tax will be assessed on the tuition applicable to qualifying primary, secondary and postsecondary educational services or job-related training services.

- The taxable employer assessment will not be imposed on the payroll amounts for those government employees providing 'direct' educational services (to the public).

- No tax shall be imposed on any taxable property or service purchased for an investment purpose and held exclusively for appreciation or the production of income, but entailing no more than minor personal efforts.

- No tax shall be imposed on State government functions that do not constitute the final consumption of property or services (Intergovernmental Immunity).

  (This does not preclude the Federal government from taxing the services provided by an individual to any government. Example - The service provided by an individual to the municipal police department as a police officer is taxable by the Federal Government, but the service of the police department to the public is not taxable by the Federal government.)

- No Tax shall be imposed on intangible property (excluding rents or leases of any term and computer software) deemed intangible at common law; where differences exist among the States, the Secretary shall by regulation resolve the differences.

- A ‘De Minimis Payment’ clause allows for up to $400 in individual purchases in a calendar year that may be imported and consumed by the same person, but not in connection with a trade or business.

- A ‘De Minimis Sale’ clause allows for the receipt of up to $1,200 in a calendar year that is not received in connection with a trade or business, but for a casual or isolated sale.

- A ‘De Minimis Sale of Financial Intermediation Services’ provides a $10,000 gross payment exemption ($2,300 sales tax exemption) on the sale of financial intermediation services, but only to those sellers not deemed a ‘large seller.’

CREDITS AND REFUNDS

- The ‘Business Use Conversion Credit’ provides a means to recoup a portion of the taxes paid for a property or service subsequently transitioned to a business use in a trade or business.

  (The reverse applies and at fair market value for any property or service converted from a business use to a personal consumption use.)

- The ‘Mixed Use Property or Services Credit’ can be claimed for that portion of a property or service used for both private and business use.

- The ‘Intermediate and Export Sales Credit’ is used to recoup taxes paid on items for business purposes or for items exported for use or consumption outside the United States.

- The ‘Administration Credit’, like that rendered to Administering States, rewards businesses promptly reporting and remitting taxes with a credit amounting to the greater of $200 or 0.25% of the taxes to be remitted, but no more than 20% of the amount of taxes due before the application of any credit.

- The ‘Bad Debt Credit” provides a means to recoup that portion of taxes paid by a business for a purchase upon which the buyer fails to remit the balance of payments (generally in arrears more than 180 days).

- The ‘Insurance Proceeds Credit’ is available to either the insurer (insurance company) or the insured for the amount of tax that would be inclusive to the amount of benefit paid to, or on behalf of, the insured; assuming that the insured paid the sales tax in the insurance premiums.

  (In other words, the insurer can pay the insured (likely a business in this case) a reduced benefit amounting to 77% of the total benefit and the insured report a credit for the tax amount, or the insurer can pay the insured the full benefit and the insurer can claim the credit. In both cases, the premiums paid for the benefit must have included the sales tax. If properties or services are purchased by the insurer for the insured and the sales tax is not paid for those purchases (for example, a windshield replacement by the insurer using an intermediate sales tax exemption), then neither the insured nor the insurer may claim the credit.

- The ‘Transitional Inventory Credit’ is applicable for the first year after implementation of the sales tax. It may be used for all properties in inventory or ‘work-in-progress’ until such inventory or work is either sold or the year has transpired.

(This credit allows the retailer, immediately after implementation of the FairTax, to continue selling properties in work or inventory at the pre-FairTax price; i.e., the seller will report the sales tax on the sale of affected properties and take a credit for the same resulting in a zero monetary transaction and no additional cost to the consumer or seller.)

- Registered sellers or other persons making an overpayment of the sales tax may apply for a refund in a form to be provided by the sales tax administering authority.

GOVERNMENTS (Federal, State and Local)

- All governments, excluding those entities designated a government enterprise, will pay the sales tax on the purchases of taxable properties and services.

- A government enterprise is an agency of any government that provides properties and services to the public and for which the individual consumer renders a payment.

  (The U.S. Post Office, local government utility services, and parks operating on a pay as you go fee are examples of government enterprises.)

- Government enterprises will collect the tax on the sale of properties and services and enjoy the exemptions and credits extended to a trade or business.

- To maintain government enterprise status and enjoy trade and business benefits, the enterprise must receive, in any quarter, more than $2,500 in revenues ($10,870 gross amount with a 23% sales tax rate).

- Government enterprises will be required to keep separate books of account and maintain them in accordance with 'generally accepted accounting principles.'

- Subsidies transferred to any government enterprise shall be assessed the tax (exclusive rate), less the fair market value of any consideration (item given in exchange and applicable tax).

- Purchases from a government enterprise by a government entity that is not a government enterprise shall include the sales tax.

- Transfers of properties and services previously not taxed from a government enterprise to a non-enterprise government agency will result in a tax assessment at fair market value on that property or service.

- A tax equal to the sales tax (exclusive) rate will be assessed on the payroll of all government employees for services rendered to the government (taxable employer); excluding those payroll amounts for government enterprise employees and educators providing 'direct' educational services (to the public).

SOCIAL SECURITY

- All employers are required to report employee wages and self-employment income (minus gross payments for taxable property and services and wages paid to employees) to the Social Security Administration for the accumulation of benefit credits.

- Tips in an annual amount not to exceed $5,000 may be reported for the accumulation of benefit credits.

- If, after implementation of the FairTax, the computation of the Consumer Price Index (CPI) does not include the sales tax in either the base or cost-of-living quarter, then the quarter omitting the tax will have the computed CPI multiplied by: 1 + (.23/(1-.23), currently 1.3, which represents the 'CPI increase percentage'. This will also provide, in the first cost-of-living quarter after implementation of the FairTax, a sales tax inclusive CPI to be compared with a non-sales tax inclusive CPI from the base quarter prior to implementation of the FairTax.

  (The CPI increase percentage protects the purchasing power of Social Security benefits.)

NOT-FOR-PROFIT ORGANIZATIONS

- Qualified not-for-profit organizations will enjoy tax benefits similar to those allowed under the current tax system.

- Not-for-profit organizations meeting applicable qualifications will be issued a 'qualification certificate.'

- Taxable properties or services provided by a qualified not-for-profit in connection with contributions, dues or other similar payments will be treated as the provision of a taxable property or service and the sales tax will be imposed on the property or service at the fair market value.

HOBBIES

- Hobbies become a taxable business when, in any 2 of 3 consecutive calendar years, sales from the hobby exceed the sum of: taxable purchases for the hobby; wages or salaries paid for the hobby; and any taxes paid for the hobby.

2015 Contiguous States and Washington DC FCA

Qualified Family Size	1 Person FairTax FCA Guideline	Annual Monthly FCA	2 Persons Married FCA Guideline	Annual Monthly FCA
	$11,770	$2,707 $226	$23,540	$5,414 $451
+1 Person	$15,930	$3,664 $305	$27,700	$6,371 $531
+2 Persons	$20,090	$4,621 $385	$31,860	$7,328 $611
+3 Persons	$24,250	$5,578 $465	$36,020	$8,285 $690
+4 Persons	$28,410	$6,534 $545	$40,180	$9,241 $770
+5 Persons	$32,570	$7,491 $624	$44,340	$10,198 $850
+6 Persons	$36,730	$8,448 $704	$48,500	$11,155 $930
+7 Persons	$40,890	$9,405 $784	$52,660	$12,112 $1,009
>7 Persons + Each	+ $4,160	$957 $80	+ $4,160	$957 $80

2015 Alaska Family Consumption Allowance

Qualified Family Size	1 Person FairTax FCA Guideline	Annual Monthly FCA	2 Persons Married FCA Guideline	Annual Monthly FCA
	$14,720	$3,386 $282	$29,440	$6,771 $564
+1 Person	$19,920	$4,582 $382	$34,640	$7,967 $664
+2 Persons	$25,120	$5,778 $481	$39,840	$9,163 $764
+3 Persons	$30,320	$6,974 $581	$45,040	$10,359 $863
+4 Persons	$35,520	$8,170 $681	$50,240	$11,555 $963
+5 Persons	$40,720	$9,366 $780	$55,440	$12,751 $1,063
+6 Persons	$45,920	$10,562 $880	$60,640	$13,947 $1,162
+7 Persons	$51,120	$11,758 $980	$65,840	$15,143 $1,262
>7 Persons + Each	+ $5,200	$1,196 $100	+ $5,200	$1,196 $100

2015 Hawaii Family Consumption Allowance

Qualified Family Size	1 Person FairTax FCA Guideline	Annual Monthly FCA	2 Persons Married FCA Guideline	Annual Monthly FCA
	$13,550	$3,117 $260	$27,100	$6,233 $519
+1 Person	$18,330	$4,216 $351	$31,880	$7,332 $611
+2 Persons	$23,110	$5,315 $443	$36,660	$8,432 $703
+3 Persons	$27,890	$6,415 $535	$41,440	$9,531 $794
+4 Persons	$32,670	$7,514 $626	$46,220	$10,631 $886
+5 Persons	$37,450	$8,614 $718	$51,000	$11,730 $978
+6 Persons	$42,230	$9,713 $809	$55,780	$12,829 $1,069
+7 Persons	$47,010	$10,812 $901	$60,560	$13,929 $1,161
>7 Persons + Each	+ $4,780	$1,099 $92	+ $4,780	$1,099 $92