

Britain's 'Unexplained Wealth' Rules Give State Too Much Power

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It's like, "Your papers, please," but for things you own.

Authorities in Britain have begun trying out a new police power called unexplained wealth orders under a law that took effect last year. The police go to a court and say you're living way above any known legitimate income. The judge then signs an order compelling you to show that your possessions (whether a house, fancy car, or jewelry) have been obtained honestly and not with dirty money. In the meantime, the boat or artwork or other assets get frozen, and you can't sell them until you've shown you obtained them innocently.

The kicker: The burden of proof falls on you, not the government. If you don't prove the funds were clean, Her Majesty may be presumed entitled to keep the goodies.

The asset must be worth at least £50,000, but it doesn't have to be located in Britain so long as you yourself fall under its laws. The law was a response to London's popularity as the favorite place for overseas oligarchs (nicknamed "McMafia" in a popular TV series) to stow ill-gotten funds, with convenient flights, luxury shopping, and a hot property market.

The first person named as a target of the law was Zamira Hajiyeva, whose story could make even an oligarch blush, assisted by a small fortune in purchases from Harrods cosmetics and perfume counters. Hajiyeva's husband is serving time after being convicted of extracting at least \$100 million from Azerbaijan's state-controlled bank, of which he was chairman. She's fighting extradition to that country herself.

In the meantime, her possessions include a £12 million London house and a golf course on the outskirts. Details of Hajiyeva's wild Harrods spending sprees were neatly captured for authorities and readers by the store's loyalty card program. They included a £1,190,000 Cartier diamond ring and tens of thousands at a Godiva chocolate shop, adding up to \$20 million over a decade. The high-end London store reserved two bespoke parking spots for her. She used at least 54 credit cards, many issued by the state-controlled bank her husband ran.

By the way, don't stories like these make the idea of a state-controlled bank, as has been floating in New Jersey and elsewhere, sound just swell?

The new British law doesn't allow the police to seize just anyone's assets. The target has to fall into one of two categories. The first is those a judge finds to be reasonably suspected of involvement in serious crime, or connected to such a person. That doesn't sound so bad, but remember that "serious crime" can mean lots of things, not just being the next Bernie Madoff.

For example, in the opinion of our own government it's a serious crime to offer Americans online gambling from overseas servers, even if you run an honest house and pay all the winning bets promptly. The second group is called Politically Exposed Persons, and it includes foreign officials from countries outside the European Economic Area, plus their relatives and associates.

Obviously, a law like this does help in catching some baddies. Specifically, it gives the authorities major new leverage in cases where a suspect has not yet been convicted of anything. Proceeding carefully, authorities have so far chosen a target likely to command little sympathy.

But advocates want this to be the start of hundreds of seizure actions against other rich foreigners in the British capital.

Some are already calling for bringing a law like this to the United States, and maybe we're halfway there already. Asset forfeiture laws, blessed by the Supreme Court, already let police seize your property on suspicion of involvement in a crime and make you go to court to get it back. We've been chipping away at financial privacy in this country for decades, through Know Your Customer, suspicious-activity reports, and FATCA (expatriate tax) rules.

The reversal of the presumption of innocence troubles many Britons, too. For the moment, use of the orders is limited to a few elite law enforcement agencies. One of those agencies, however, is Her Majesty's Revenue and Customs — the tax collectors. It's not wrong to worry about where this idea is headed.

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