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RAHN: Abusive civil asset-forfeiture laws

Government seizure of property without due process should cease

By Richard Rahn

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Do you think the Internal Revenue Service and other government agencies should have the right to seize your assets, including your bank accounts, when you have not been convicted of wrongdoing? The fact is, the IRS and other government agencies do this all of the time, and often without even a formal accusation of wrongdoing.

Anyone who is awake knows that the IRS has been politicized — and thus critics of the administration live in fear that their property will be taken for the mere act of speaking out against the government.

The American Founding Fathers well understood that if the government was given too much power, it would almost certainly abuse it. Unfortunately, the elaborate system of checks and balances they devised has been steadily eroded by weak-kneed and intellectually bankrupt judges, members of Congress and presidents over the past two centuries, and thus, the United States increasingly resembles an authoritarian state rather than a republic that protects individual liberties.

The government has always been able to seize private property that was used to perpetrate a crime or produced by a crime. Under the Constitution, every American has the right to be considered innocent until proven guilty.

Thus, in criminal cases, the government has to convince a judge and jury beyond a reasonable doubt that a crime has been committed. Under civil asset-forfeiture laws, no such proof is required — and, as a result, many innocent people have had their property taken by agents of the federal government.

As people become increasingly aware of the abuses, individual citizens and organizations formed to protect individual liberty are fighting back and beginning to win some cases. There was the

widely publicized case of Terry Dehko and his daughter, who had owned a supermarket in Fraser, Mich., since 1978.

The IRS seized their entire bank account of more than \$35,000 in April 2013, without arguing before a court of law that the Dehkos had committed a crime. In fact, they had committed no crime. Fortunately, the Dehkos were able to enlist the help of the Institute for Justice, a civil-liberties law firm that works on the behalf of individuals. After a year of expensive litigation, the government did return their money.

Institute for Justice lawyers have noted that the "federal civil forfeiture law features an appalling lack of due process: It empowers the government to seize private property from Americans without ever charging, let alone convicting, them of a crime."

"Perversely, the government then pockets the proceeds while providing no prompt way to get a court to review the procedure."

Originally, the civil forfeiture laws were passed to make it easier for the government to stop drug traffickers, money launderers and tax evaders. As always, agents of the government, rather than being careful and judicious in the use of their new powers, quickly abused them. As Lord Acton warned, "Power tends to corrupt, and absolute power corrupts absolutely".

Consequently, Americans are left with a situation where government agents can seize private property (while often benefiting directly or indirectly from the seizure), where the citizen is given no due process, and where government agents have used their powers to take revenge or harass their political opponents. If the government seizes your bank account, where do you get the money to hire a lawyer to defend yourself?

The Institute for Justice and others have called for reforms, including allowing property owners subject to civil forfeiture to have speedy access for a prompt trial before a judge, having the presumption of innocence until proven guilty, and to reduce conflicts of interest, making sure seized assets are separated from the budgets of law enforcement. While such changes would surely be an improvement, they still leave too much power in the hands of IRS and other federal agents.

The tax code has grown to such an extent that no one person in the IRS or outside of government can fully understand it — so whether one is in compliance is increasingly subjective and vague. Often incomprehensible law (which characterizes both the tax code and anti-money laundering laws and regulations) administered by politicized government agencies will result in abuse.

The only real solution to protect the rights of the individual is to either repeal the income tax and anti-money laundering laws, or repeal all the civil asset-forfeiture laws, including the right of the IRS to seize bank accounts.

Some on both the right and the left will scream that repeal of civil forfeiture will make the job of the crime fighter and tax collector more difficult, which it will. However, the alternative is for

innocent citizens to live in fear of their assets being seized by overzealous, politicized or corrupt government agents.

Losing some tax revenue and having a few money launderers go free is a small price to pay for keeping our civil liberties.

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