



The IRS: No crime needed to steal American's savings via forfeiture

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WASHINGTON, November 2, 2014 – Government, unfortunately for all of us, does not seem to be doing things that are indeed legitimate functions of government very well.

Americans have come to understand how poorly our veterans have been treated by the Veterans Administration. There is growing concern about how the Secret Service is doing its job, with even the White House being left virtually unattended. Our educational system seems to be in decline, and the initial CDC response to Ebola seemed less than professional. When the Obama administration introduced its new health plan, the computer programs didn't work. We have seen a series of resignations from those who headed the VA, the Department of Health and Human Services and the Secret Service.

But if government is failing to do the things it is legally mandated to do, in some instances it is doing things it is not legally entitled to do. The NSA's invasion of the privacy of millions of Americans is one example that has been widely discussed. Another government agency that seems to be violating the rights of Americans and acting outside of any legal mandate is the Internal Revenue Service.

The IRS has, under this administration, been targeting conservative groups. When called to account, IRS officials responded that they had lost the relevant material. Beyond this narrow political partisanship, the IRS has been using a law designed to catch drug traffickers, racketeers and terrorists by tracking their cash to go after honest business owners and wage earners without any allegation that they have committed crimes.

The government takes money from individual Americans without ever filing a criminal complaint, and the owners are left to prove they are innocent. Many give up.

"They're going after people who are really not criminals," said David Smith, a former federal prosecutor who is now a forfeiture expert and lawyer in Virginia. "They're middle-class citizens who have never had any trouble with the law."

Consider the case of Carole Hinders, of Arnolds Park, Iowa. According to The New York Times, “For almost 40 years, Carole Hinders has dished out Mexican specialties at her modest cash-only restaurant. For just as long, she deposited the earnings at a small bank branch a block away—until last year, when two tax agents knocked on her door and informed her that they had seized her checking account, almost \$33,000. The IRS agents did not accuse Ms. Hinders of money laundering, or cheating on her taxes—in fact, she has not been charged with any crime. Instead, the money was seized solely because she had deposited less than \$10,000 at a time, which they viewed as an attempt to avoid triggering a required government report.”

“How can this happen?” asked Ms. Hinders. “Who takes your money before they prove that you’ve done anything wrong with it?”

Now, as a result of public disclosure and outrage over this practice, the IRS has announced that it would curtail this practice, focusing instead on cases where the money is believed to have been acquired illegally or seizure is deemed justified by “exceptional circumstances.

But its apparent ability to engage in this forfeiture process remains intact.

The Institute for Justice, a Washington-based public interest law firm that is seeking to reform civil forfeiture practices, analyzed structuring data from the IRS, which made 639 seizures in 2012, up from 114 in 2005. Only one in five was prosecuted as a criminal structuring case.

These seizures come under a very dubious law known as civil asset forfeiture, which allows law enforcement agents to take property they suspect of being tied to crime even if no criminal charges are ever filed. Law enforcement agencies get to keep a share of what is forfeited.

Critics note that this incentive has led to the creation of a law enforcement dragnet, with more than 100 multiagency task forces combing through bank reports, looking for accounts to seize. Under the Bank Secrecy Act, banks and other financial institutions must report cash deposits greater than \$10,000. Since many criminals are aware of that requirement, banks are also supposed to report any suspicious transactions, including deposit transactions below \$10,000.

Last year banks filed more than 700,000 suspicious activity reports. Those who are caught up in these cases often can’t afford to fight.

The median amount seized by the IRS was \$34,000, according to the Institute for Justice analysis. While legal costs can easily reach \$20,000 or more.

There is nothing illegal about depositing less than \$10,000 cash but that doesn’t stop government interference and confiscation of the funds of honest citizens. In one Long Island case, police submitted almost a year’s worth of daily deposits by a business, ranging from \$5,500 to \$9,910.

The officer wrote in his warrant affidavit that based on his training and experience, the pattern “is consistent with structuring.” The government seized \$447,000 from the business, a cash-intensive candy and cigarette distributor that has been run by one family for 27 years.

Another case reported by The New York Times involves Army Sgt. Jeff Cortazzo of Arlington, Virginia, who began saving for his daughter's college costs during the financial crisis, when many banks were failing: "He stored cash first in his basement and then in a safe-deposit box. All of the money came from paychecks, he said, but he worried that when he deposited it in a bank, he would be forced to pay taxes on the money again. So he asked the bank teller what to do. She said: 'Oh, that's easy. You just have to deposit less than \$10,000.' The government seized \$66,000; settling cost Sgt. Cortazzo \$21,000. As a result, the eldest of his three daughters had to delay college by a year."

Now, the IRS is supporting the Organization for Economic Cooperation and Development (OECD) initiative to establish the automatic exchange of individual and business financial account information in tax matters between governments.

Richard Rahn, a senior fellow at the Cato Institute, points out that, "This proposed protocol has been enthusiastically supported by the Obama administration. If the protocol is ratified by the Senate, it would be up to the administration to decide which countries would be privy to our private financial and tax information—Russia, China, Venezuela or others. This would subject American citizens to blackmail, extortion, identity theft and other injustices by foreign governments and individuals within those governments who may be hostile to Americans."

Rahn notes that, "Officials in the administration assure us that they will protect the confidentiality of our personal information and not share it with countries that will not protect it. Have they not heard of Edward Snowden? Private companies and individuals can be held liable for not protecting private information. There should be no lesser standard for those in government. It is called being accountable for one's words and actions."

The IRS is increasingly out of control. The IRS Code now runs to more than 77,000 pages, much of which is understood by no one. Congress should take action regarding the abuse of asset forfeiture, particularly at the IRS, where it has gone on for far too long. No American should have his or her bank account or other assets seized without being convicted of wrongdoing in a court of law. Government's function is to protect our property, not confiscate it for no cause.

And Richard Rahn argues that people in the IRS must take responsibility for what they do: "Every IRS communication to any taxpayer should be signed by an individual in the IRS who is specifically responsible for the content and accuracy of the communication —no more anonymous letters and phone calls. Most IRS employees are very well paid, and thus it is not unreasonable that they should be expected to take personal responsibility for each of their actions."

We cannot afford to have the IRS, or any other agency of government acting outside of its proper legal mandate. We always like to say that ours is a government of law—but in the case of the IRS this seems not to be an accurate description. It is ironic indeed that the things government has a mandate to do, such as care for veterans, is done poorly, while things it has no mandate to do, such as seizing the property of citizens who have been accused of no crime, seems to be done very efficiently. If anything breeds alienation of Americans from Washington it is practices such as these.

