

Federal regulations will kill the economy

It is not an overstatement to assert that almost any American business executive, at any time, can be subject to fines or imprisonment for his or her failure to follow some rule or regulation.

This is not because businesspersons have become less law-abiding, but because laws and regulations have become so extensive, expansive, elastic, contradictory and devoid of common sense that almost anyone who manages any business can be held in violation of something.

Historically, ignorance of the law has not been accepted as a defense. This was a sensible position for judicial authorities to take as long as laws and regulations were few enough in number and clear enough in statement that people of normal intelligence could know and understand them. It is not now possible for any one person, or even an organization, to understand what the law is in regard to their activities. IRS regulations run into the hundreds of thousands of incomprehensible pages. Environmental, money-laundering, labor, discrimination and disability laws and regulations are so vague, loosely drawn and complex that no business can possibly know when they are in compliance. The genius of the Ten Commandments was that they were 10. Thus, everyone knew what the rules were. If Moses had descended from the Mount with 500 commandments, along with 100,000 implementing regulations, the world would not have been better off.

If ignorance of the law is no excuse, and if the law is unknowable, then everyone is a potential lawbreaker, regardless of their desire to comply with the law. Arguably the situation is not new, but what is new in the last couple of decades is the explosive acceleration of the problem. The government "wars" on drugs, discrimination in any form, polluters, etc., as well as the increasing tax bite, have increasingly put all Americans (particularly businesspeople) at risk to the excesses of irresponsible government officials. The new totalitarians, who are increasingly permeating all branches of government, have created a climate of fear in the American business community. This climate is eroding our moral and economic strength.

Business executives have good reason to be fearful. For instance, the Environmental Protection Agency alone now brings hundreds of criminal, in addition to thousands of civil, cases against individuals each year. These charges are for alleged violations of laws that are so complex that even lawyers admit that no one can understand them. Under the Clean Air Act, you can go to jail for merely failing to fill out a form correctly. Senior managers can be held criminally liable for violations that occurred without their knowledge or participation.

Businesspeople develop certain pathologies in totalitarian societies in order to survive. When businesspeople are branded a criminal class, as they are increasingly in the United States, they try to keep their heads down by minimizing their public visibility. They seek to avoid confrontations with government officials even when they know they have done no wrong. They pay bribes and protection money to government officials merely to engage in legitimate and legal business activity to avoid "trouble" or excessive expense. They also move as much of their financial and business activity as they can to locations outside of the reach of the corrupt government officials.

Unfortunately, but understandably, we see the same pathologies emerging in the American business community. For example, recently Sen. Bob Dole asked the Business Leadership Council to try to gather signatures from major companies for a letter in support of Congress abolishing the Department of Commerce. We knew of many business leaders who had privately expressed support for the abolition of Commerce, yet virtually none of them were willing to sign the letter. Why? Because as many of them noted, Secretary Ron Brown was running an aggressive campaign to save his department. The business leaders fears went from minor issues, such as not being invited on one of Mr. Brown's "trade trips," to the fear of loss of government contracts, to the fear of triggering an unjustified IRS or regulatory audit. Most of the business leaders were not being cowardly; they had a responsibility to protect their

stockholders financial interests, which meant not antagonizing the Clinton Administration. It is no surprise that only the Business Leadership Council, the smallest of the broad-based business organizations, is publicly supporting the abolition of the Department of Commerce.

According to House Ways and Means Committee Chairman Bill Archer, approximately 44 million Americans had an incident with the IRS last year. Most often they received deficiency notices. It is well documented that most individuals and businesses pay the requested amount rather than fight the IRS, even though the IRS is very frequently wrong. Why? Because individuals and businesses find it less costly to pay the "bribe" to the IRS, rather than to fight. Bribe is the appropriate word, because many IRS officials are expected to meet quotas (a.k.a. performance standards, or some other politically correct term). Hence, officials are more interested in collecting revenue than administering fairness. Taxpayers know that given the complexity of the tax laws and the cost of fighting the IRS, the deck is stacked in favor of the new totalitarians. So, they pay protection money to avoid an even more costly audit or legal suit.

Most Americans were appalled when they learned the extent to which paid informants were used by the communists to "protect the state." Yet, increasingly in our own country the government relies on paid informants to report on the alleged tax, environmental or other misdeeds of businesspeople. Therefore, the incentive is to make charges without sufficient evidence. Unfounded charges can easily destroy the reputation and financial well being of an individual or business. The difference between the action of the U.S. government and the communist East German secret police is a matter of degree, not form.

Abuse by government officials in shootouts like Waco and Ruby Ridge is both rare and visible. What is common and not so visible is bureaucrats protecting their misdeeds through the use of government lawyers or government funded private lawyers. The government will spend an almost unlimited amount of taxpayer dollars protecting its own, while the private citizen or business can be bled dry. Thus, it is no surprise that most businesses pay unjustified fines and are unwilling to take on the government, even when the government is clearly in the wrong.

As government and uncontrolled government power grows, the risk to businesses increase. As the risk increases, businesses will invest less and hire fewer people in the United States. As the real cost of transportation and world wide information declines, it will be increasingly easy for business to leave; America will be poorer.

Moving money at the speed of light to any place in the world anonymously over the Internet will soon be as easy as a few keystrokes on your business or home computer. Because of the potential to greatly reduce the size of the identifiable tax base, it presents a real threat to the new totalitarians. As expected the new totalitarian crowd at Treasury and Justice are proposing regulations, essentially requiring every American business and individual to report every item of income or expenditure worldwide, through electronic means. Not even the Nazis or communists were able to achieve this level of proposed intrusiveness. Fortunately, many in the new Congress are set to oppose this latest attempt to deny us any remnant of financial privacy.

We are now at a crossroads. The new technologies are going to enable much of American business and investors to pick up and leave - electronically. The more the new totalitarians try to tax, regulate, control and confiscate, the greater the incentive for business and investors to leave.

The alternative would be the passage of a new "Bill of Rights" for American citizens and businesses, to protect them against government actions brought under laws and regulations that are so sweeping, extensive, complex and/or unclear that average people cannot readily be expected to know, understand and easily comply with them.

The climate of fear which is diminishing investment and employment, and our economic well being as well as our personal liberties, can only be diminished by taking away the authority of the new totalitarians over business and the American people.

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