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## Wrong Checks Are in the IRS Mail

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Most people know totalitarian regimes tend to abuse their own citizens. What is not well known is that in most such regimes people have court trials before they are fined, imprisoned, or worse. Such governments like to pretend they are acting under the rule of law, and that the people convicted are guilty of some crime.

Typically, totalitarian governments issue thousands of new laws and regulations encompassing almost all human activity, many of which are so vague and complex no one could possibly know whether they are guilty of something. Thus, prosecutors can target almost anyone and find him or her guilty of breaking the law. The rule of law, like all other attributes of a civil society, is thereby destroyed.

The U.S. has entered this slippery slope as laws and regulations become more numerous and complex. The income tax code, which now has well more than 10,000 pages of fine print and several hundred thousands of pages of regulations, is the prime example. It has become so complex that no one person, or even group of people, can honestly claim to understand it all.

At this time of year, writers at some financial publications take income and financial data for a hypothetical taxpayer to various IRS offices and tax preparation/accounting firms and ask them to calculate the income tax owed.

The predictable result is that each IRS office and accounting firm comes up with a different number, usually with wide variances. We are both amused and appalled, but the situation only gets worse.

Several years ago I was in a meeting with a number of tax directors for major corporations. One of them remarked: "The bad news is that not one of us paid the correct amount of tax last year — we either paid too much or too little. The good news is that the IRS cannot successfully audit us." The same thing can be said for almost any individual who has a complex return.

The result is that tens of millions of individuals and almost all businesses, who have no intent to avoid complying with the law, can be attacked by an IRS agent for not interpreting the law or regulation in the same way that particular IRS agent does. These attacks most often take the form of fines, but can result in imprisonment if someone at the Internal Revenue Service is feeling particularly vindictive.

We are told that ignorance of the law is no excuse, but the tax law is unknowable, as a number of former high-ranking U.S. Treasury and IRS officials have admitted. (The policy that ignorance of the law is no excuse was reasonable when Moses came down from the mountain with the 10 Commandments, but it is not reasonable in an era of countless laws and regulations.) The various tax courts frequently make inconsistent rulings.

Yet you, as an American taxpayer, can be fined and sent to prison, not for willful misconduct, but for not complying with a law or regulation that the lawmakers do not even pretend to understand.

Calling the IRS to answer a question is not a solution. Often you cannot even get a human on the phone within a reasonable time. When you do, they frequently do not even claim to know the answer and, if you do get an answer, you are not entitled to rely on it. The basic function of government in a free society is to protect person and property. This principle has now become reversed with the IRS serving as predator and the American citizen as prey. As Thomas Jefferson warned us, "When the government fears the people there is liberty, and when the people fear the government there is tyranny."

What can be done? The correct answer is to abolish the income tax and replace it with taxes on consumption. The income tax is unsalvageable because it is inherently complex and intrusive (we cannot even get a consistent definition of income). Given that Congress has been unable to act on tax simplification, we can do things that are likely to force them to begin to get serious about the problem. One reform that would do much to shift the balance of the burden for tax law interpretation from the taxpayer to the IRS would be to require the IRS to answer any taxpayer question within seven days and for the IRS to be legally bound by its answer. Questions could be submitted and answers received over the Internet.

Another useful tactic in the tax simplification effort would be for citizen and tax reform advocacy groups to start demanding that members of Congress release their entire tax forms over the Internet each year by a date certain. The purpose would be to let the world see the inconsistencies in the treatment of various tax items among members of Congress. The personal embarrassment suffered by many members of Congress each year with the disclosures should speed reform.

Members of Congress who argue that we cannot afford tax simplification need to be reminded that a free, civil and prosperous society will not exist where tax collection is deemed more important than the rule of law.

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