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Fox in the henhouse

By Richard W. Rahn
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"I am from the government and I am here to help you," is a well-known oxymoron again proving to be true. A decade ago, we had a mean Internal Revenue Service that did all sorts of terrible and unjustified things to innocent taxpayers. The people got mad, and the people's representatives -- the House and the Senate -- held hearings where they beat up on the IRS, and the IRS folks pledged to reform. They promised a new, kinder and gentler IRS that would be helpful to taxpayers.

We, the taxpayers, actually did get a nicer and more helpful IRS for several years, but it was not to last. To help protect us, Congress passed the Taxpayer Bill of Rights. As part of this legislation, Congress established an independent office within the IRS, called "The Taxpayer Advocate Service." The goals of this Service were "to protect individual and business taxpayer rights and reduce taxpayer burden."

On Jan. 18, the National Taxpayer Advocate, Nina E. Olson, sent a report to Congress that identified "sole proprietor tax noncompliance" as one of the "top two" problems faced by taxpayers. Ms. Olson then went on to recommend that "Congress enact a withholding requirement on payments to independent categories of nonwage workers."

In other words, the "taxpayer advocate," whose job description, in part, is to protect small business from being taxed too much, is saying small businesses need to be taxed more and also suffer an increased paperwork and compliance burden.

Advocates for small business are justifiably outraged. The office, set up to protect small business, has been hijacked by the pro-tax mafia at the IRS. The IRS presented no data to show the proposal would satisfy sound cost-benefit analysis, nor unduly interfere with civil liberties. One suspects the IRS did not provide such information because it would contradict their costly proposal.

Senate Finance Committee Chairman Charles Grassley, Iowa Republican, said he found the proposal "troubling, given the report notes a lack of IRS data on overall noncompliance."

He went on to comment: "It's counterproductive when government agencies contradict each other on tax compliance, as we saw the Treasury Department advising against public infrastructure leases as tax shelters, and the Transportation Department advising in favor of them."

As further evidence the IRS needs new leadership that both understands the complete economic effects of its actions and has a healthy respect for civil liberties, on Jan. 13 the IRS released a set of new compliance and enforcement proposals. While some of the proposals clearly have merit, others were items that would probably have enraged our Founding Fathers. For instance, the IRS wants to "impose penalties on the failure to disclose potentially abusive transactions."

The courts have long ruled taxpayers have a perfect right to so order their affairs as to minimize their tax burden as long as they do not explicitly violate the tax law. The term "potentially abusive" is so elastic as to enable the IRS to go after almost anyone for anything and is most certainly not in the spirit of the Constitution, which very explicitly provides one is presumed innocent until proved guilty.

Americans who give up their citizenship are sometimes taxed by the U.S. government for another 10 years on non-U.S. income even though they are or have become citizens of other countries. The IRS now wants to make more people subject to this tax.

We may not like it when fellow Americans give up their U.S. citizenship, but we should recognize they have the basic human right to do so without being pursued by a hit man from the IRS. Our country was founded on the principal of no taxation without representation (remember the Boston tea party). This provision is too reminiscent of the exorbitant emigration taxes that the old Soviet Union used to impose on its citizens. The U.S. and many other nations rightfully condemned the practice as violating the basic human right to emigrate, provided some other country was willing to take them. It is hypocritical and wrong for the U.S. to engage in similar practices.

The Bush administration should immediately remove Ms. Olson as Taxpayer Advocate because she clearly does not understand her job description. In addition, it should set up a truly independent office within Treasury staffed by competent economists and civil libertarians with the authority to review and block any IRS or Treasury regulation or legislative proposal that does not meet sound cost-benefit and civil liberties tests. (There is a similar oversight office in the Office of Management and Budget that is quite effective in stopping abuses in other government agencies but has no authority over the IRS.)

Such an office would have prevented the embarrassment of the foolish and dangerous proposals mentioned above, as well as other outrages like the proposed interest-reporting regulation that would drive needed foreign capital out of the U.S. and impose a burden on U.S. businesses to help the socialist French government collect its taxes.

By adopting the above reform, President Bush and Treasury Secretary John Snow could shore up their conservative-libertarian-small business base which is in danger of being lost because of an out-of-control IRS.

Richard W. Rahn is a senior fellow of the Discovery Institute and an adjunct scholar of the Cato Institute.