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Banking on National Economic Suicide

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New account reporting rule would drive out foreign capital

Would you think it is smart to create regulations that make it all but impossible for Americans living abroad to get a bank account in the country where they live? Do you think it makes sense to impose regulations and costs on U.S. financial institutions that would drive needed foreign investment out of the United States for the sole purpose of helping foreign governments collect taxes from their own citizens?

Last week, the Internal Revenue Service (IRS) and U.S. Treasury held a hearing on a proposed regulation that is so dumb and destructive that people had assumed it was buried for good a decade ago, when it originally was proposed. Essentially, the proposed regulation would require U.S. banks to report the names of foreign account holders to their governments even though those foreign account holders have no tax liability to the U.S. government.

One of those testifying at the hearing was John Berlau of the Competitive Enterprise Institute, who nicely summarized the ill effects of the proposed regulation by noting that the rule would:

“(A) Reduce U.S. competitiveness in attracting foreign capital; (B) harm the safety and soundness of U.S. banks and credit unions; (C) threaten the privacy and safety interests of individuals throughout the world by putting sensitive information in the hands of governments with lax data security systems, in which criminal gangs could access the data to target victims for kidnapping; (D) empower corrupt dictators by giving them access to financial information of dissidents who may hold U.S. accounts.”

Former senior U.S. Treasury economic official Stephen J. Entin, president of the Institute for Research on the Economics of Taxation, testified: “The proposed regulation may be good for foreign governments but would not be good for the

U.S. economy. There would be no gain for U.S. tax enforcement. Weaker investment in the United States would reduce U.S. jobs and tax revenue beyond any possible reduction in tax evasion affecting money owed to the United States."

Many members of Congress, including the entire Florida delegation - Democrats and Republicans alike - have written to the Obama administration, asking for the withdrawal of the regulations. The Florida delegation wrote: "The regulation could drive job-creating capital out of America and harm U.S. financial markets. According to the Commerce Department, foreigners have $10.6 trillion passively invested in the American economy, including nearly '$3.6 trillion reported by U.S. banks and securities brokers.' In addition, a 2004 study from the Mercatus Center at George Mason University estimated that 'a scaled-back version of the rule would drive $88 billion from American financial institutions,' and this version of the regulation will be far more damaging."

Finally, Andrew Quinlan, president of the Center for Freedom and Prosperity, observed that when the original hearings were held on the proposed rule in 2001 and 2002, "100 percent of the speakers were against the proposed regulation" and said "today's current proposed rule received 71 comment letters with only three in support of the regulation."

It gets worse. There is a companion piece to the proposed regulation referred to as the Foreign Account Tax Compliance Act (FATCA) which, according to Treasury, would "require overseas financial institutions to identify U.S. account holders and report account information directly to the IRS, including the account balance." This provision is nothing less than financial imperialism by the U.S. government, which is trying to regulate and prosecute foreign institutions that are abiding by their own countries' laws and have a presence in the United States. Already, a number of foreign banks and financial institutions have announced they will no longer accept accounts by U.S. citizens and they will no longer invest in the United States. Many U.S. citizens who live abroad, even including U.S. diplomatic and military personnel, are finding that they can no longer open bank accounts in the country in which they live, which is causing great personal hardship.

Given the enormous deficits that the U.S. government is incurring, now more than at any time in the nation's history, foreign investment is needed. Yet the Treasury/IRS is embarked on a program that can only be called national economic suicide. Treasury's pathetic defense to the critics is merely to claim that the foreign-investment loss will not be that great (but it has no idea about the loss because it has never bothered to do a sound and independent cost-benefit analysis) and that the Treasury will ensure that the information collected does not get in the hands of bad governments and other bad actors. Apparently, Treasury never heard of WikiLeaks.

There are some folks at the IRS and the U.S. Treasury who have great power and responsibility but not necessarily the knowledge, experience, training and wisdom necessary for their jobs. Wise people think about the consequences and secondary effects of their actions. We will know in the next few weeks whether the people in the Obama Treasury are going to usurp the personal and economic liberties of American citizens in order to increase their own personal power or sensibly shelve these proposed regulations as bad ideas that should have long since died.

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