



LIBERTY TREE

Vol. 12, No. 6 — June 2010

Editorial by Dick Greb

In the last Liberty Tree, I wrote about the way government protects its power and control by erecting blockades in the path to restore Constitutional limitations. This month, I will look at another aspect of government protectionism — what might be thought of as diversionary bureaucracies. Although it is by no means the only such example, the one I will use is everybody's nemesis, the Internal Revenue Service.

Over the years, there have been some who promoted the idea that the Internal Revenue Service was not actually a government agency, some even going so far as to claim that it was merely a private corporation chartered in Delaware in 1933.¹ But the fact is that the IRS began as the Office of the Commissioner of Internal Revenue way back on July 1, 1862.² The office was established as the executive branch's arm for assessing and collecting internal taxes, and so Congress gave it all the powers deemed necessary to carry those responsibilities into effect. Not only does this include such enforcement powers as assessing penalties and interest for violations of tax provisions, but also the power of distraint (*i.e.*, levy and seizure) to get the money it claims is owed. For purposes of this discussion, the extent of these powers — that is, whether they can be used against citizens or anyone else — is

irrelevant. My point here is only that Congress created the IRS for those purposes, and the IRS operates under the authority thus granted.

Another aspect built into the operation of the IRS is that all of your so-called due process with respect to their claims against you is channeled into specific and narrow paths. The first of those paths is through Tax Court, apparently so named to give it an undeserved façade of respectability, because it is really not a true court. That is, it does not, and cannot, exercise any portion of the *judicial power of the United States* granted by Article III of the Constitution, because that power can only be exercised by judges who are appointed for life (as long as they maintain “good Behavior”), and Tax Court judges are appointed for only 15 year terms.³ Supreme Court Justice Blackmun in *Freytag v. Commissioner of Internal Revenue*, 501 U.S. 868 (1991) incorrectly described their role as exercising *judicial* power, but Justice Scalia, in his concurring opinion sets the record straight:

The Tax Court ... reviews determinations by Executive Branch officials (the Internal Revenue Service) that this much or that much tax is owed — a classic executive function. ... It seems to me entirely obvious that the Tax

(Continued on page 2)

THE BELLY OF THE BEAST

1. The name of that corporation was the Internal Revenue
2. “That for the purposes of superintending the collection of act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the Treasury Department to be called the **office of the Commissioner of Internal Revenue**; and the President of the United States is hereby authorized to nominate, and, with the advice and consent of the Senate, to appoint, a **Commissioner of Internal Revenue**...” 12 Stat. 432.
3. IRC §7443(e).

Tax and Audit Service, Inc., not the Internal Revenue Service. internal duties, stamp duties, licenses, or taxes imposed by this



Mack is back!

Sheriff Richard Mack spoke to an enthusiastic group of patriots and several Sheriffs in Westminster, Md. on March 29, 2010. His talk and all other presentations that day are now available on DVD.

Mack boldly states that the salvation of our Constitutional Republic is in the

hands of the State Governors and County Sheriffs — they must interpose themselves between the tyrannical acts of federal officials and the counties' citizens. Please purchase and share this DVD with your family and friends — because everyone needs the Sheriff!

The DVD can be ordered at www.lwrn.net (sample clips can be viewed on-line), or by calling LWRN at 410-857-5444.

(Continued from page 1)

Court, like the Internal Revenue Service, the FCC, and the NLRB, exercises **executive** power. (at pp. 911-912.)

Despite this, Congress has limited your access to Article III courts through the Anti-Injunction Act (IRC §7421) until you have paid whatever this executive branch review board determines you owe. Only then can you have access to the judicial power through the second path to due process (assuming you have any financial resources left), but of course, by then, the damage is already done.

A good way to visualize this framework that Congress has created to do its dirty work for them is a dragon. Not only does it have offensive fire breath, but it also has defensive armor-like scales that protect its body from attack. You can whack at those scales from dawn to dusk, day after day, but you won't get through them and you won't wear them out. That's precisely why Congress puts that IRS dragon out there in the front line of its battle to take your property; because it was specifically designed to withstand the challenges that can be brought against it.

There is an additional aspect to this scheme, beneficial to the government's cause; the very presence of the dragon and its offensive actions draw the opposition to itself. In other words, since the IRS is the force which wreaks havoc on the citizenry, they are also the likely target of retaliation. And this provides excellent cover for those who really deserve the condemnation — Congress! Congress is the soft underbelly of the dragon, where the scales don't cover. They are the weakest link, so to speak. Congress hopes they can keep you flailing at the armor, and fleeing from the fire breath, so that you don't realize that the belly of the beast is vulnerable. It is Congress that must stand for election every few years; they must come before the people and try to justify being returned to their cushy job legislating away your freedoms. Of course, that's not quite the way



**THE VERY PRESENCE OF THE DRAGON
AND ITS OFFENSIVE ACTIONS
DRAW THE OPPOSITION TO ITSELF.**

they'll be putting it, but we need to recognize that's all it really is, since most of what Congress busies themselves with on a daily basis is outside their Constitutionally granted authority, and so is **illegal**.

Every two years, **every** member of the House of Representatives must stand for re-election. That means that in just one election cycle, the whole seditious bunch of them could be out on their ears. Senators, on the other hand, have six-year terms, but they're staggered so that a third of them expire every two years. That means it would take three election cycles to completely clean house there, but I'll bet that with so many of their partners-in-crime getting their walking papers, the remaining ones would probably be a little more responsive to the will of the people for whatever time they have left. As Carl Klang sang in one of his popular patriot songs, "Use your vote like a rope, hang 'em high." Naturally, we need to find and elect good people — statesmen — to take their places, and that means plenty of hard work at the grass roots. And of course, there's always the chance that some scoundrels will manage to get elected, or that the power of the office will corrupt the new batch of Congressmen too. (Though it's hard to imagine that they could do much more damage than the current bunch.) So, we need to keep on our toes, and not let complacency drag us back down to our present circumstances.

While there are definitely *some* Constitutionally literate Congressmen (Ron Paul being the shining example, of course), their number is small indeed. Therefore, the odds are great that for every incumbent that gets voted out, we will have one fewer freedom-hating tyrant in the legislature.

**REMEMBER, REMEMBER, VOTE THEM OUT
IN NOVEMBER!**



MORE NUMBERS FOR THE BEAST

H.R. 3590: Patient Protection and Affordable Care Act

SEC. 9006. EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 6041 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsections:

“(h) APPLICATION TO CORPORATIONS.—Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this subsection, for purposes of this section the term ‘person’ includes any corporation that is not an organization exempt from tax under section 501(a).

“(i) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section, including rules to prevent duplicative reporting of transactions.”.

(b) PAYMENTS FOR PROPERTY AND OTHER GROSS PROCEEDS.— Subsection (a) of section 6041 of the Internal Revenue Code of 1986 is amended—

(1) by inserting “amounts in consideration for property,” after “wages,”

(2) by inserting “gross proceeds,” after “emoluments, or other”, and

(3) by inserting “gross proceeds,” after “setting forth the amount of such”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2011.

H.R. 3221: Housing and Economic Recovery Act of 2008

SEC. 3091. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.

“(a) IN GENERAL.—Each payment settlement entity shall make a return for each calendar year setting forth—

“(1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and

“(2) the gross amount of the reportable payment transactions with respect to each such participating payee. Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

“(b) PAYMENT SETTLEMENT ENTITY.—For purposes of this section—

“(1) IN GENERAL.—The term ‘payment settlement entity’ means—

“(A) in the case of a payment card transaction, the merchant acquiring entity, and

“(B) in the case of a third party network transaction, the third party settlement organization.

“(2) MERCHANT ACQUIRING ENTITY.—The term ‘merchant acquiring entity’ means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

“(3) THIRD PARTY SETTLEMENT ORGANIZATION.—The term ‘third party settlement organization’ means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions. ...

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2010.

Holy Bible, NKJV: Revelation 13:17

... and that no one may buy or sell except one who has the mark or the name of the beast, or the number of his name. — Revelation 13:17

At what point will the abused citizens of this country realize that the system of the Beast described in Revelation has, step by step, been put into place all around them? These latest reporting “requirements” are merely the further tightening of the noose already set around their economic necks.

AS THE UNITED STATES DEVOLVES into a third-world county and income tax revenues begin to wane, the 110th and 111th Congresses have made sure that the IRS is fed enough numbers to swell its proud control over every aspect of your economic life.

Tax blogs have been agog with how two “stealth” changes in income tax reporting provisions — one from the “health care reform” law of 2010, and one from the “housing reform” law of 2008 — will swamp U.S. business with a flood of new tax paperwork: 1099-MISC and 1099-K forms.

The IRS self-servingly estimates that the federal government “loses” about \$300 billion in annual revenues because many types of business transactions aren’t reported; tracking millions more transactions is supposed to help the IRS recover its phantom “loss.”

But the reporting changes may be much more ominous than the official reasons given. As Mark Tapscott of the *Washington Examiner* puts it:¹

... the essential fact that puts this hidden surprise in Obamacare into perspective – The 1099 can be used to track and report ... millions more transactions that go into the creation, marketing and selling of all products and services. It thus becomes the paper trail for the government’s imposition and collection of a VAT.

With a VAT, government gets to tax a good or service at every stage from its production to its sale, but to do so, it first has to track all of the constituent transactions. Once that is possible, it opens up vast new opportunities for government to collect taxes ...

BUYING A PRODUCT FOR YOUR BUSINESS?

Section 9006 of the health care bill changes 26 USC §6041 to state that, beginning in 2012, all persons engaged in a “trade or business” must make information returns (1099-MISC’s) to any individual or corporation from which they buy more than \$600 in property “in the course of their trade or business” in a tax year.

In the past, this section has only been applied to compensation for *services*, but now, with the addition of “amounts in consideration for property” and “gross proceeds,” there will be millions of new forms to file with the IRS for *goods* that are bought and sold, and lots of ex-

(Continued on page 4)

1. “Obamacare – stalking horse for a VAT?” Editorial by Mark Tapscott, *Washington Examiner*, 5/6/10.

(Continued from page 3)

tra work and expense collecting names and tax ID numbers from every vendor and store a business deals with. Since the \$600 limit is so low, watch for businesses to start collecting this information from everyone they do business with, in the interest of efficiency.

DOES YOUR BUSINESS ACCEPT CREDIT CARDS?

Section 3091 of the housing and economic recovery law laid a new requirement on banks and credit card merchants to report all payments settled by them to the IRS beginning in 2011. A reportable payment is one that any bank, credit card company, or third-party settlement network (e.g., Paypal) makes to its customers — the businesses who accept credit cards or Paypal payments, etc. — unless the total payments settled for the year are less than \$20,000 or total transactions less than 200.

The IRS has designed a draft from of the new 1099-K, *Merchant Card and Third-Party Payments*. It looks similar to the 1099-INT and 1099-DIV used by banks to report interest and dividends, respectively. Millions of these forms will be filed every year, tracking nearly every dollar that changes hands through credit and on-line transactions. Imagine the sheer magnitude of that information for a moment.

WHEN AGAIN ARE THESE RETURNS REQUIRED?

Somehow, in all of the excitement over how many economic transactions can be tracked by the IRS, and how much extra burden it is on American business — as it undoubtedly is — a long-standing provision of the income tax law is always left out of the discussion.

Section 6011 of the Internal Revenue Code says “(a) General rule. When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary.” [emphasis added]

Are all the businesses filing 1099s liable for a tax or the collection of a tax with respect to the amounts they report? Must they file such returns even if they are not? These are questions some inquiring minds might want to see addressed.

More importantly, at what point will the abused citizens of this country realize that the system of the Beast described in Revelation has, step by step, been put into place all around them? The noose is tightening; the system for a number to buy and sell is here. Liberty Works Radio Network is calling the alarm — are you listening?



| | | |
|-----------------------------------|-----------------------------|--|
| OMB No. 1545-XXXX | | Merchant Card and Third-Party Payments |
| 2011 | | |
| Form 1099-K | | Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2011 General Instructions for Certain Information Returns. |
| 4 | Federal income tax withheld | |
| \$ | | |
| 5b | February | |
| \$ | | |
| 5d | April | |
| \$ | | |
| 5f | June | |
| \$ | | |
| 5h | August | |
| \$ | | |
| 5j | October | |
| \$ | | |
| 5l | December | |
| \$ | | |
| Account number (see instructions) | | |

LWRN radio hosts speak truth in the face of tyranny

Have you heard these hosts yet? Listen live at www.lwrn.net!

Tom Cryer hosts “The Truth Attack Hour” on Liberty Works Radio Network from 5-6 PM EST Monday through Friday. His legal and political background help him to prick political bloviations and expose the lies fed to the public about taxes, money, and more.



Michael Benoit hosts “Tyranny Busters” on Liberty Works Radio Network from 9-10 EST Monday through Friday. A grassroots organizer and lover of Liberty, Benoit takes on the unconstitutional actions of the government on everything from the illegal war in Iraq to the fraudulent money system of the Federal Reserve Bank.

Left: Tom Cryer speaks at the American Tax Day Protest of the Red River Tea Party April 15, 2010. The speech can be viewed at <http://www.youtube.com/watch?v=IskTJPqMPq4>.