

Civil Asset Confiscation: The US Internal Revenue Service (IRS) Can Now Seize Bank Accounts On Suspicion Alone

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“How can this happen?” Ms. Hinders said in a recent interview. “Who takes your money before they prove that you’ve done anything wrong with it?”

The federal government does.

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The topic of civil asset forfeiture has been high on our agenda recently as [federal ‘agents’ discover how to steal Americans’ hard-earned cash with zero repercussions](#), and [decide unilaterally how much cash a ‘common man’ is allowed to carry](#); but as The NY Times reports, the escalation to The IRS brings a whole new world of possibilities with regard asset confiscation based on no actual crime being proved...

[As The NY Times reports,](#)

For almost 40 years, Carole Hinders has dished out Mexican specialties at her modest cash-only restaurant. For just as long, she deposited the earnings at a small bank branch a block away - until last year, when two tax agents knocked on her door and informed her that they had seized her checking account, almost \$33,000.

The Internal Revenue Service agents did not accuse Ms. Hinders of money laundering or cheating on her taxes — in fact, she has not been charged with any crime. Instead, the money was seized solely because she had deposited less than \$10,000 at a time, which they viewed as an attempt to avoid triggering a required government report.

Her money was seized under an increasingly controversial area of law known as civil asset forfeiture, which allows law enforcement agents to take property they suspect of being tied to crime even if no criminal charges are filed. Law enforcement agencies get to keep a share of whatever is forfeited.

Critics say this incentive has led to the creation of a law enforcement dragnet, with more than 100 multiagency task forces combing through bank reports, looking for bank accounts to seize.

Using a law designed to catch drug traffickers, racketeers and terrorists by tracking their cash, the government has gone after run-of-the-mill business owners and wage earners without so much as an allegation that they have committed serious crimes. The government

can take the money without ever filing a criminal complaint, and the owners are left to prove they are innocent. Many give up.

“They’re going after people who are really not criminals,” said David Smith, a former federal prosecutor who is now a forfeiture expert and lawyer in Virginia. “They’re middle-class citizens who have never had any trouble with the law.”

On Thursday, in response to questions from The New York Times, the I.R.S. announced that it would curtail the practice, focusing instead on cases where the money is believed to have been acquired illegally or seizure is deemed justified by “exceptional circumstances.”

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But the Institute for Justice, a Washington-based public interest law firm that is seeking to reform civil forfeiture practices, analyzed structuring data from the I.R.S., which made 639 seizures in 2012, up from 114 in 2005. Only one in five was prosecuted as a criminal structuring case.

The practice has swept up dairy farmers in Maryland, an Army sergeant in Virginia saving for his children’s college education and Ms. Hinders, 67, who has borrowed money, strained her credit cards and taken out a second mortgage to keep her restaurant going.

The \$10,000 loophole line in the sand...

Under the Bank Secrecy Act, banks and other financial institutions must report cash deposits greater than \$10,000. But since many criminals are aware of that requirement, banks also are supposed to report any suspicious transactions, including deposit patterns below \$10,000. Last year, banks filed more than 700,000 suspicious activity reports. Owners who are caught up in structuring cases often cannot afford to fight. The median amount seized by the I.R.S. was \$34,000, according to the Institute for Justice analysis, while legal costs can easily mount to \$20,000 or more.

There is nothing illegal about depositing less than \$10,000 cash unless it is done specifically to evade the reporting requirement. But often a mere bank statement is enough for investigators to obtain a seizure warrant. In one Long Island case, the police submitted almost a year’s worth of daily deposits by a business, ranging from \$5,550 to \$9,910. The officer wrote in his warrant affidavit that based on his training and experience, the pattern “is consistent with structuring.” The government seized \$447,000 from the business, a cash-intensive candy and cigarette distributor that has been run by one family for 27 years.

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“I don’t think they’re really interested in anything,” Mr. Potashnik said of the prosecutors. “They just want the money.”

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