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Your Passport Could Be Cancelled If You Owe IRS

The idea of tying travel to taxes has been percolating in Washington for years. The IRS and Justice Department cooperate. For example, they can have tax cheats arrested when they land on U.S. soil. Adding to the mix is [FATCA](#), the Foreign Account Tax Compliance Act, which penalizes foreign banks that don't hand over American account holders. But, now, the feds want to go after people even if they are reporting everything correctly, but have unpaid tax debts.

Congress thinks America should do more to grab people on the move, or to prevent them from traveling in the first place. And unlike prior bills on this topic that have stalled in Congress, this one is about to become law. It is part of [H.R.22](#), which has passed both the House and the Senate. It is in conference, so something could change. But it is expected to pass, adding new section 7345 to the tax code. The title of the section is "Revocation or Denial of Passport in Case of Certain Tax Delinquencies." The idea goes back to 2012, when the Government Accountability Office reported on the [potential for using the issuance of passports to collect taxes](#). Sen. Harry Reid (D-Nev.) got on board, and then Sen. Orrin Hatch wrote a [Memo to Reporters and Editors](#). The idea has grown in popularity since then.



(Photo credit: Victor J. Blue/Bloomberg)

The State Department could revoke, deny or limit passports for anyone the IRS certifies as having a seriously delinquent tax debt in an amount in excess of \$50,000. It is supposed to be a little like having outstanding parking tickets. You might have to pay them to be able to register your car or renew your driver's license. But critics say the right to travel is fundamental and constitutional.

This time, it is expected to pass as part of the pending highway bill. It means in January of 2016, the State Department will start blocking Americans with 'seriously delinquent' tax debts. Administrative details about how all this will work are scant. But in all likelihood, it will mean no new passport and no renewal. It could even mean the State Department will *rescind* existing passports of people who fall into that category.

The list of affected taxpayers will be compiled by the IRS. The IRS will use a threshold of \$50,000 of unpaid federal taxes. But this \$50,000 figure includes penalties and interest. And as everyone knows, interest and penalties can add up fast. Notably, if you are contesting a proposed tax bill administratively with the IRS or in court, that should not count. That is not yet a tax *debt*.

There is also an administrative exception, allowing the State Department to issue a passport in an emergency or for humanitarian reasons.

But how that will work isn't clear, nor is the amount of time it will take to get special dispensation. You would still be able to travel if your tax debt is being paid in a timely manner, as under a signed installment agreement.

Yet the dynamics are still significant and could drastically alter how people interact with the IRS. Moreover, these harsh rules are not limited to criminal tax cases. They aren't even limited to situations where the government thinks that you are fleeing a tax debt. In fact, you could have your passport revoked merely because you owe more than \$50,000 and the IRS has filed a notice of lien.

A \$50,000 tax debt is easy to amass today, especially considering interest and penalties. Moreover, the IRS files tax liens routinely. It's the IRS way of putting creditors on notice so the IRS eventually gets paid. In that sense, the you-can't-travel idea seems extreme. IRS tax liens cover all your property, even acquired after the lien is filed. The courts use liens to establish priority in bankruptcy proceedings and real estate sales. The IRS can file a [Notice of Federal Tax Lien](#) after:

- IRS assesses the liability;
- IRS sends a Notice and Demand for Payment saying how much you owe; and
- You fail to fully pay within 10 days.

A tax lien *can* also be filed by mistake. In most cases, there's no mistake and the IRS lien is valid. But occasionally, the person might not actually owe the taxes and may just need to straighten out a pile of paperwork. With all this in mind, if this becomes law, is it subject to challenge? Is it constitutional? The right to travel is established, both between states and internationally. And although some restrictions have been upheld, it is not clear that this measure would pass the constitutional test. Consider especially the roughly eight million Americans living overseas, many of whom are already reeling from FATCA compliance problems.

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