

The cost of not paying taxes in the US

Americans' passports could be seized if they owe more than \$50,000 in taxes, but could this law be unfairly applied?

[James Reinl](#) | 29 Jan 2016 13:10 GMT | [Business & Economy](#), [United States](#), [Politics](#)

New York, United States - January can be a hectic month for accountants in the United States. And the start of 2016 has been busier than usual, with many Americans fearful of having their passports seized if they owe more than \$50,000 in taxes.

The new rules, which were approved by Congress in December, have led to a wave of frantic calls from Americans, at home and overseas, to tax lawyers. Critics say citizens could lose their passports unfairly and that the rules are aggressive and even unconstitutional.

David Hendricks, a business writer for the San Antonio Express-News, described an "extreme move" for the Internal Revenue Service (IRS).

"It is not fair to taxpayers who obediently pay their taxes for other people to escape their tax burdens. The IRS ought to have tools to enforce the laws," Hendricks told Al Jazeera.

"On the other side, it's a drastic move to revoke passports, a vital piece of identification in numerous situations. This law is probably headed for the courts as various, unforeseen situations arise. The constitutionality of the law needs further examination."

US officials have been clamping down on tax dodgers for years, often focusing on those who use offshore tax havens and spend much time overseas. In 2010, Congress approved the Foreign Account Tax Compliance Act (FATCA) to keep tabs on American expats.

The [new rules](#) were passed under the FAST Act, which stands for Fixing America's Surface Transportation. They enable the IRS to inform the US State Department, which issues passports, about citizens owing more than \$50,000 in back taxes.

Under the law, the State Department will not issue passports to anybody the IRS certifies as having "seriously delinquent tax debt", William Cocks, a State Department spokesman, told Al Jazeera. It may also revoke the passports of tax debtors.

Americans who have their passports revoked while abroad, or have their applications for a passport declined while overseas, can get a "limited passport valid only for direct return to the US", Cocks added.

Those in the process of paying back the IRS will not be affected, officials say. Other exceptions cover people in "emergency circumstances" or those needing to travel "for

humanitarian reasons", according to the legislation.

The new rules are estimated to raise an extra \$398m over 10 years.

The efficiency of the IRS

Campaigners and tax lawyers have raised concerns over passport seizures. Some say that Americans have a right to travel and that seizing passports is unconstitutional. Others warn of bureaucratic bungling leaving innocents stranded.

"A \$50,000 tax debt is easy to amass today, especially considering interest and penalties," tax lawyer [Robert Wood](#) told Al Jazeera.

"The IRS routinely puts creditors on notice so that it eventually gets paid. An individual could easily lose their passport without actually owing taxes and may just need to straighten out a pile of paperwork."

"There's another, broader constitutional question. The right to travel is established, both between states and internationally. Although some restrictions have been upheld, it is not clear that this measure would pass the constitutional test."

Many also worry about the efficiency of the IRS.

Tax experts describe a cumbersome bureaucracy that has suffered under job cuts and automation and has a poor track record in communicating with people it is investigating, particularly those in far-flung places.

According to Shai Fietze, an accountant at Sol Schwartz and Associates in Texas, the IRS does not communicate by email, making it difficult for people who live overseas or travel regularly to receive warnings in time.

"They really don't call or email. If there's an issue, the IRS will send you a letter, and if you don't get that letter then it's going to be a problem," Fietze told Al Jazeera.

"With the IRS it's always best to stay in front. Once you get behind it's hard to catch up and problems can snowball real fast."

Travis Watkins, an Oklahoma-based tax lawyer, said that people could end up losing their passports for no good reason - either down to an IRS blunder or just because otherwise honest people fall behind on their book-keeping.

"The reasons for these tax problems run the gamut," Watkins told Al Jazeera.

"Either the IRS made a mistake or something happened in their lives, such as health issues, divorce or other problems. For folks outside the US there can be problems with communication and receiving notices."

Watkins said those in danger of losing their travel documents could pay the IRS a lump sum to push their debts below \$50,000 and then negotiate on the remainder or agree to repay by instalments. The IRS declined to comment to Al Jazeera.

It is no laughing matter for the estimated eight million Americans who live overseas, said Eric La Cara, the Tokyo-based managing partner of Capital Tax, who helps American denizens of the Japanese capital file taxes back home.

"Expats need their passports for such normal activities as banking, reserving a hotel room and even registering their kids for school," La Cara told Al Jazeera.

"This is not something to ignore as the long arm of US law is extending ever further into the lives of those, who in the past, have managed to avoid paying their taxes."

'Unintended consequences'

Marylouise Serrato, an executive director of American Citizens Abroad, an advocacy group, said she was "very concerned" about the new rules and is working with the IRS and State Department to ensure they are implemented fairly.

"Whatever systems are put in place, they must certainly take into consideration how they affect Americans overseas and ensure those people are not negatively impacted," Serrato told Al Jazeera.

"It would be tragic for somebody who is trying to get out of a dangerous zone internationally and discovers that, for some reason, their passport is revoked or denied."

The US government has increasingly cracked down on tax dodging over the past decade in the wake of a series of scandals, notably with major Swiss banks admitting to helping Americans hide their assets offshore.

The FATCA rules require individuals to report certain foreign assets, and for banks to disclose all foreign accounts held by Americans. Americans are also obliged to disclose foreign bank holdings worth more than \$10,000.

Tougher tax rules may have unintended consequences. A record 1,335 Americans renounced their citizenship in the first three months of 2015, according to official data. In 2014, the number of Americans who gave up their passport was 15 times higher than in 2008.

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