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Tax Alert



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THE TAX LAWYER

Are 'Expendables 3' & IRS Equally Expendable?

[The Expendables 3](#) is a little like the IRS. Did we need this third installment of the action movie franchise? It had a lackluster opening weekend and tepid reviews, so perhaps with ['Expendables 3' the Third Time's Not a Charm](#). But it may have a hidden message.

An expendable movie about a cadre of aging action stars is a little like the sagging IRS. The IRS may never have been a star, but its star has fallen in recent years. For over a year now, it has been plagued by scandal and what sometimes seems like downright arrogance at the top. Even in the face of these sad developments, some claim there is [not a 'Smidgen Of Corruption' at the IRS](#).

Like an aging action star demanding too much money and being frozen out, such behavior doesn't bode well for the IRS. Expendables—the movie—features Sylvester Stallone, Arnold Schwarzenegger, Harrison Ford, Jason Statham, Jet Li, Mel Gibson, Antonio Banderas, Dolph Lundgren, Wesley Snipes, Terry Crews, Randy Couture, Kellen Lutz, Ronda Rousey, and Kelsey Grammer.



Expendables—the IRS—features an agency that collects billions and is charged with administering the nation’s tax laws. Make no mistake, that’s no easy job. Yet on the whole, I still think the IRS does a generally good job (no hate mail please). That is why it’s so *terribly* important that we restore some trust and accountability.

The alternative in the expendables category is something like the FAIR tax, whose proponents want to abolish the IRS. On a fanciful level, maybe it’s fun for every American taxpayer to smile wistfully at this thought. It’s practically human nature to smile about abolishing the tax collector.

But don’t be deceived, since that’s not all, folks. FairTax.org says the FAIR tax would replace all federal income and payroll taxes. Instead, there would be a national retail sales tax. The group also wants to repeal of the 16th Amendment.

The bills introducing this, H.R. 25 and S. 122, call for abolishing all federal personal and corporate income taxes, gift, estate, capital gains, alternative minimum, Social Security, Medicare, and self-employment taxes. The new federal retail sales tax, say its proponents, would be administered primarily by existing state sales tax authorities.

The IRS would be disbanded and defunded. As much as I favor simplicity—and make no mistake, our tax code is a bloated monster that needs slaying by Congress—abolishing the IRS isn’t the answer. Reform is. And I don’t blame groups for wanting answers about those emails.

Does our our country have more important problems? Sure we do. But it’s still wrong that we cannot seem to get straight answers. [The latest order](#) from Judge Emmet G. Sullivan in the litigation filed by [Judicial Watch](#) asks for answers about the recently ‘lost’ emails of Lois Lerner and other IRS officials. See [Judicial Watch v. IRS](#) (No. 1:13-cv-1559).

The fact that a federal judge has had to launch this inquiry into the issue of the missing emails is a sad day for the IRS, regardless of whether the IRS realizes it. The IRS filings were at least lackluster and seemed not to take seriously the judge’s request for sworn declarations about the IRS email issue. The judge really means it.

The IRS is really not expendable. Columbia Law Professor Michael Graetz would keep it, but *also* would add a national sales tax. Professor Graetz thinks a 12.9% VAT would allow our nation to cut our corporate tax rate to 15%. He also says it would eliminate income taxes for all households earning less than \$100,000 (\$50,000 for singles).

What a grand idea! No more income tax for 80% of current filers. And for the rest, Professor Graetz proposed two rates of 16% and 25.5% . Payroll tax rates would stay the same, with credits for low-income workers to offset the regressive impact of the VAT, as well as an additional child tax credit. See [Another Tax Reform Solution: Taxing Consumption](#).

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.