



**Wood** LLP

# Tax Alert



## **Robert W. Wood**

THE TAX LAWYER

TAXES 2/05/2015

## Coming Soon: No Travel Or Passport If You Owe IRS

The IRS and Justice Department cooperate to catch tax scofflaws. They can even have notorious ones arrested when they land on U.S. soil. But some in Congress think we could do more to grab people on the move or to prevent them from taking flight in the first place. In 2012, the Government Accountability Office reported on the [potential for using the issuance of passports to collect taxes](#). The idea—introduced several times over the last few years—is a little like requiring you to pay all your outstanding parking tickets to register a vehicle or renew your driver's license.

The analog here is to restrict passports and travel until you pay the IRS. Several successive proposals have been defeated for now. Some say the right to travel is fundamental, practically constitutional. Moreover, as proposed, this would only apply to serious tax matters. The movement started in 2012, when Sen. Harry Reid (D-Nev.) proposed that if you owe the IRS more than \$50,000, you shouldn't get a passport. See also Sen. Orrin Hatch's [Memo to Reporters and Editors](#).



These efforts morphed into [Senate Bill 1813](#), introduced by Senator Barbara Boxer (D-CA). Mostly it was about highway safety, but would also authorize the federal government to prevent Americans from leaving the country if they owe back taxes. One idea is to allow the State Department to 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.

Note that the no-travel, no-passport idea hasn't become law, at least not yet. But in 2014, Sen. Ron Wyden (D-Ore.) joined the chorus. As proposed, you would still be able to travel if your tax debt is being paid in a timely manner, in an emergency, or for humanitarian reasons. Still, critics noted that it isn't limited to criminal tax cases or even situations where the government fears you are fleeing a tax debt. In fact, if the bill is passed 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. In addition, tax liens are pretty standard. The IRS files tax liens routinely when you owe taxes. 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. Some commentators noted that a far smaller sum of unpaid child support can trigger similar passport action. Others attack the proposal as potentially unconstitutional.

Some people figure the IRS needs all the help it can get to collect taxes. Others fear administrative glitches and potential administrative nightmares. The proposed law appears in the pending Highway Bill, more prophetically labeled the "[Moving Ahead for Progress in the 21st Century Act](#)" or "[MAP-21](#)". It would add a new section 7345 to the code entitled "Revocation or Denial of Passport in Case of Certain Tax Delinquencies".

Bear in mind that tax liens are almost automatic. 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* be a 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.

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