

IRS regularly seizes “suspicious” bank accounts without a criminal charge

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The Internal Revenue Service (IRS) seizes hundreds of bank accounts every year without a warrant or criminal charges being filed, according to a report in Sunday’s edition of the *New York Times*.

The legal procedure utilized in these seizures, “civil asset forfeiture,” gives the government broad latitude to confiscate property on the mere suspicion of its involvement in facilitating a crime, in flagrant violation of the Fourth Amendment’s prohibition against “unreasonable searches and seizures.” The practice has become increasingly widespread since the onset of the supposed “War on Terror.”

Under civil asset forfeiture a case is brought against a particular piece of property, rather than the owner of said property. The owner is then required to prove their property was not involved in any criminal activity in order to retrieve it. In other words, the owner is presumed guilty until proven innocent, despite not being formally charged with any crime whatsoever. In the vast majority of cases, the legal hurdles and expenses involved mean the original owner never recovers the seized property.

The *Times* reported that the IRS seized 639 bank accounts using civil asset forfeiture in 2012, a nearly six-fold increase from 2005. Fully 80 percent were seized without filing a criminal complaint. Underscoring the hurdles claimants face in contesting civil asset forfeiture, the *Times* notes that “legal costs can easily mount to \$20,000 or more,” while the median value of seized accounts is around \$34,000.

The focus of the IRS seizures are individuals and businesses suspected of “structuring,” or depositing large amounts of cash in multiple transactions under \$10,000, the threshold at which banks are required to report cash deposits to the federal government. Although depositing large sums of cash in this manner

is only illegal if done deliberately to avoid reporting mechanisms, the government is not required to demonstrate intent in a court of law or even within their own internal procedures. Moreover, there are many legitimate reasons for small businesses to make large cash deposits under \$10,000, including for insurance purposes.

Civil asset forfeiture emerged in the 1980s out of the so-called “war on drugs,” when it was portrayed as a necessary tool to disrupt the drug trade. The “war on drugs” has long been a catchall excuse for sweeping attacks on democratic rights. It was used to justify what later became known as the 1033 Program, which transfers military hardware from the Department of Defense to state and local police departments and has become infamous after the police-military occupation of Ferguson, Missouri.

Federal law actively encourages government agencies to pocket the spoils of civil asset forfeiture. The Comprehensive Crime Control Act, passed in 1984, established a system of forfeiture revenue sharing between the federal government and state and local police. The system is run through a Justice Department program known as “Equitable Sharing.” The Equitable Sharing program handles billions of dollars worth of property every year, taking in \$4.3 billion in 2012 alone from forfeitures of cash and property in both civil and criminal cases.

The flagrant conflict of interest created by the Equitable Sharing program, which allows state and local police to keep up to 80 percent of everything they seize, has led to virtually unrestrained legal looting. For example, police in the Miami suburb of Sunrise pocketed more than \$5.8 million in 2011 and 2012 in a reverse sting operation in which police posed as drug dealers and seized the cars of would-be buyers. Over

\$1.2 million went directly into police officers' pockets in the form of overtime pay, which topped \$240,000 for one officer.

Congress and various state legislatures have passed numerous toothless regulations over the years aimed at curbing the "excesses" of civil asset forfeiture. In 2000, Congress passed the Civil Asset Forfeiture Reform Act, which allows claimants to be reimbursed for legal fees in the unlikely event that they are able to successfully recover their property, while leaving the Equitable Sharing program intact.

The use of civil asset forfeiture has steadily increased since the September 11 terrorist attacks. According to an investigation by the *Washington Post*, police have seized cash without a warrant or indictment 61,998 times since September 11, 2001 through the Equitable Sharing program, resulting in payouts of more than \$2.5 billion.

Civil asset forfeiture has further exploded to record levels under the Obama administration. The value of assets seized through civil asset forfeiture more than doubled between 2008 and 2013, from \$508 million to \$1.1 billion.

The government seizure of the property of individuals and small business owners stands in sharp contrast to the Obama administration's treatment of the banking executives and financial speculators responsible for the 2008 financial crash. The government has never prosecuted, let alone seized the ill-gotten gains of these criminals who have devastated the lives of hundreds of millions in the US and around the world.



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