



Written by [Bob Adelman](#) on February 7, 2017

## Another Travel Ban: This One From IRS, for Back Taxes

The Internal Revenue Service (IRS) has released [its final details](#) on just how it can revoke American citizens' passports for being behind in paying their taxes. Effective Monday, February 6:



If the Secretary [of the U.S. Department of Transportation] receives certification by the Commissioner of Internal Revenue that an individual has a seriously delinquent tax debt, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 32101 of the FAST Act.

“Seriously delinquent” means an “unpaid, legally enforceable Federal tax liability of an individual ... which has been assessed ... which is greater than \$50,000, and ... with respect to which ... a notice of lien has been filed ... or ... a levy is made.”

The unpaid debt will include penalties and interest along with an inflation adjustment. As long as the debt remains unpaid, the State Department will not issue or renew an individual's passport.

There are some exceptions (as noted here), including “innocent spouse relief,” the existence of an installment payment agreement being met, or the acceptance of an offer in compromise.

When she was a senator, California Democrat Barbara Boxer inserted a little paragraph into the highway transportation bill “Moving Ahead for Progress in the 21st Century Act” (MAP 21) to provide funds to the IRS to create the database necessary to track delinquent taxpayers. It was called the Highway Use Tax Evasion program whereby up to \$10 million of highway funds would be allocated to the IRS “for efforts including the development, operation, and maintenance of databases to support tax compliance.”

It passed in July 2012 and laid the groundwork for the insertion of the current clause into the FAST (Fixing America's Surface Transportation) Act, which President Obama signed into law last December.

According to Timothy Meyer, a constitutional law professor at the University of Georgia, it's probably legal despite concerns about lack of due process: “Courts have upheld statutes calling for the revocation and denial of passports to those in arrears on child support payments,” and so legal precedent would likely override those concerns in the present instance.

The theory is that the power now wielded by the State Department, working hand-in-hand with the IRS, will reduce the “tax gap” (the amount Americans owe above what they've paid), estimated to approach \$500 billion. The only problem is that, according to Congress' Joint Committee on Taxation, the amount expected to be raised by this effort is less than \$400 million, about one-tenth of one percent of that gap.



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Professor Daniel Shaviro, a tax policy expert at New York University's School of Law, thinks it's more of a "policy" issue rather than a tax collection tool: Someone owing a lot to the IRS might present a flight risk and this new rule will allegedly keep citizens who are behind on their taxes from fleeing abroad. It'll also make it easier for the IRS to find them and extract the back taxes through liens, wage garnishments, offers in compromise, and the like.

Not all travel bans apply to foreigners.

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