Written by **Steve Byas** on February 17, 2017

Will California Cut off Tax Receipts to Feds in Sanctuary Cities Dispute?

"California could very well become an organized non-payer. They could recommend non-compliance with the federal tax code," predicted former California State Assembly Speaker Willie Brown, Jr., recently. Brown suggested such non-compliance is possible were the Trump administration to follow through with threats to cut off federal funds to so-called sanctuary cities in the Golden State.

Several cities in California consider themselves sanctuary cities — municipalities that refuse to cooperate with federal immigration officials attempting to enforce U.S. immigration law.

Trump's threat to cut off federal funds to these sanctuary cities in California would certainly create havoc for them. Oakland receives in excess of $130 million in various grants from the federal government every year. The money pays for such things as seismic retrofitting to local law enforcement. (One wonders why the state of California cannot pay for its own local law enforcement).

Several cities, including Santa Clara, Santa Cruz, San Francisco, Oakland, San Jose — and counties such as Alameda County and Santa Clara County — have designated themselves as sanctuary cities. About one-sixth of Santa Clara County's budget of $6 billion is funded by federal grants of various sorts. Santa Clara County Executive Jeff Smith has vowed to fight any cutoff of funds through legal action.

Exactly how the state of California could stop federal taxes from being sent to the U.S. Treasury is unclear. But left-wing members of the Legislature are exploring ways to bar state tax receipts from flowing to the feds.

Avideh Moussavian, a policy attorney with the National Immigration Law Center in Washington, D.C., argued that it is unclear whether Congress can legally cut off funds to sanctuary cities. "The essential question is, can Congress legislate on this and if so, can it mandate compliance with ICE detainers."

It would appear that the answer to Moussavian's query is clear and can be found in Article I, Section 9, of the U.S. Constitution: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." And since Article I, Section 1, of that same Constitution explicitly states that "all legislative powers [the power to make laws] herein granted shall be vested in a Congress of the United States," the answer is yes, Congress can legally cut off funds to sanctuary cities.

After all, if Oakland uses federal funds to pay for local law enforcement, one would think the Oakland police could contact immigration officials when they know they have an illegal alien occupying one of their jail cells.

Still, with an overabundance of federal judges who regularly ignore the clear wording of the Constitution, and instead substitute their own left-wing viewpoints, how a federal judge would rule is speculative. Moussavian said that "a lot of places are arming themselves with legal arguments" to fight any Trump effort to cut off funds to sanctuary cities.

Ira Mehlman, speaking for the Federation for American Immigration Reform (FAIR), took a different view, arguing, "Cutting off federal funding and other grants is an appropriate response for local jurisdictions that obstruct federal immigration laws. There's very little reason why Congress should not include this sort of language in appropriations measures that restrict federal funding on the fact that these jurisdictions are obstructing federal immigration policy. It takes two to create an impasse. These local jurisdictions could very easily avoid these sorts of situations."

The importance of the issue of sanctuary cities intensified after Kathryn "Kate" Steinle was murdered on a pier in San Francisco. The man charged in her death — Francisco Sanchez — had been in a jail in the Bay Area only shortly before her shooting. Instead of turning him over to federal immigration officials, though, he was simply set free — because the city and county are "sanctuaries" for illegal aliens. They do not turn these illegal aliens over to immigration officials, even if asked.

During the presidential campaign, Trump used Steinle's killing as an example of the problems with sanctuary cities.

Amazingly, not all sanctuary cities have said they would turn over illegal aliens — even those charged with murder.

David Huerta, president of the SEIU United Service Workers West, condemned Trump's efforts to punish sanctuary cities with loss of federal funds. "In California, a state where more than one in four residents are immigrants, the fear-mongering and racism behind these orders take on a particular meaning…. SEIU members applaud and support the efforts of the California leaders who have committed to defend all the people who are the strength of our diverse Golden State."

If California proves successful in stopping some tax receipts from going to the federal government, this could give other states a viable option to strike back when the federal government threatens the loss of federal funds in other situations. For example, North Carolina was told by the Obama administration that they could lose federal monies if their public schools did not open their bathrooms and showers to "transgender" students — such as biologically male students who "identify" as female.

Back in the 1970s, the federal government even bullied states into lowering their speed limits to 55 mph by a threat to withhold federal highway funds. This power of the federal government to dictate state and local actions would not be possible, of course, without the passage of the 16th amendment, which permits Congress to enact a federal income tax.

It is doubtful, however, that progressives wish to see the abolition of the federal income tax (which their political ancestors pushed through in 1913), or the threat of withholding of federal funds to go away in all cases.

In the meantime, it would seem quite logical to conclude that if California's sanctuary cities do not wish to turn over persons known to be in the nation illegally to federal immigration officials, the Congress and the president have every right to direct federal dollars elsewhere.

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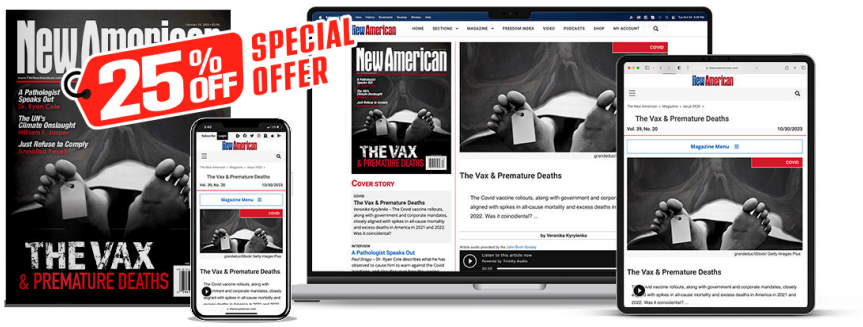

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