

## The Tax Police Budget Shrinks

By David Cay Johnston



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David Cay Johnston received the Pulitzer Prize for his coverage of tax policy while at *The New York Times*. He now teaches at Syracuse University College of Law and is the author of three books about taxes — *Free Lunch*, *Perfectly Legal*, and *The Fine Print*.

With the cuts under the budget sequestration, the IRS budget is down sharply from 2002 and is much too small to ensure the revenue collection necessary to sustain our democracy.

Those of us who care about tax administration, sound public finance, and equal justice under the law should pay close attention on April 10 when President Obama releases his proposed fiscal 2014 budget.

Almost certainly the IRS will be in for yet another budget cut. And that's before the antitax lawmakers in Congress do their best to disembowel the IRS.

Obama proposing an even smaller IRS would be very bad news. It would be bad for the economy, bad for the fisc, bad for closing the red ink chasm between revenues and outlays, and bad for social stability.

This fiscal year, the IRS will spend 20 percent less per capita in real terms than it did in 2002, my analysis of the official data shows. Back then the Service cost \$41.98 per American, but now it is down to \$33.55.

Those figures are based on the Obama administration's published sequester amount estimates. This week the IRS said the reduction is \$594.5 million instead of the White House figure of \$973 million or the nearly identical figure implied by the across-the-board cut of 8.2 percent. If the smaller number, which the IRS did not explain despite my request, is correct then the real reduction since fiscal 2002 would be down \$7.24 per capita, or 17 percent, rather than 20 percent. Either way this is bad.

Because "revenue" is the IRS's middle name, a smaller budget means less capacity to do the job, which in turn means less tax being collected than is due.

What a smaller IRS budget does not mean is less tax paid by the vast majority of taxpayers. Every dollar they get is independently verified, and the taxes usually come out before payment is made. For those who get a simple paycheck or pension, the IRS operates efficiently and effectively, at least so far.

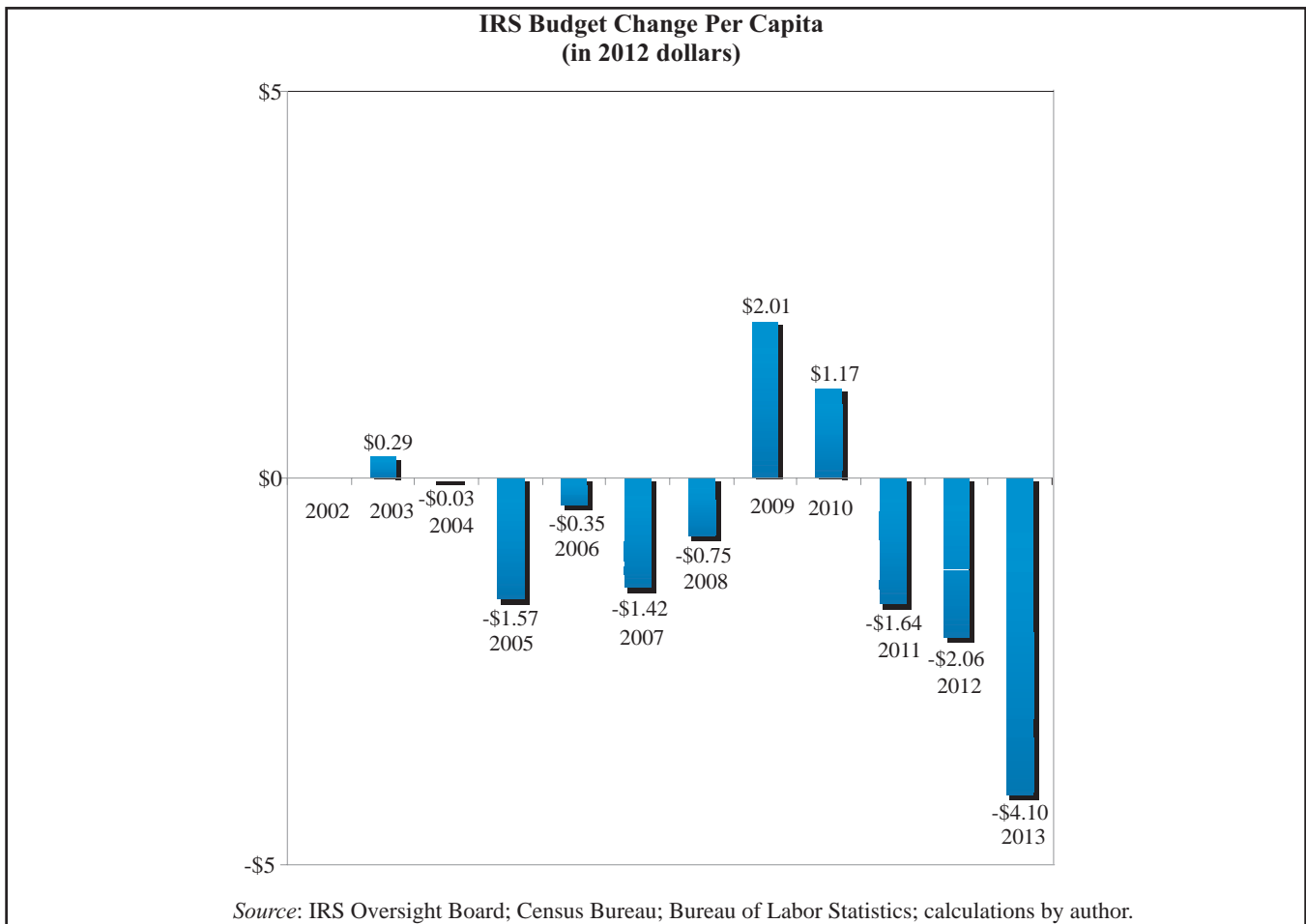
What a reduced IRS budget means is less tax paid by people who own businesses, especially those operating on a global scale. It means less revenue from real estate partners, from cash businesses, and from those at the top who can take advantage of little-known code provisions to defer for years or decades recognition of their gains by the tax system. For some, deferral just delays the obligation, which will be paid in full. But for others, the time value of their taxes is eroded. The value of their taxes wears down a bit each year as inflation takes its toll, the way coins circulating for decades become smooth and flat until only their size and color remind us of their notional value.

And then there are the criminals, the calculating tax cheats who get away, without being pursued by the tax detectives — otherwise known as auditors — whose ranks and experience dwindle.

That means a lot of tax money is being left on the table because the IRS lacks the resources to identify cheats, to pursue those who owe taxes, and to make cases the Department of Justice can prosecute.

The number of criminal convictions for tax offenses has fallen by more than a third since 1992, from 1,847 to 1,210, even as the population has grown by 22 percent, official data collected by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University. That means the odds of being convicted of a tax crime in this country have been cut almost in half compared with 1992, the oldest year for which I could find TRAC data. That year the DOJ obtained 7.24 criminal convictions per 1 million Americans, compared with 3.94 convictions per 1 million in 2011.

Given the wide variety of views in our country, it is certain that some people will cheer a smaller IRS budget. We have members of Congress who say we should get rid of the agency. Whether that is evidence of delusions or calculated rhetoric, such talk is as shameful as it is laughable.



We can have life, liberty, and the pursuit of happiness, but only if we have taxes. Without taxes, and the stability that the government revenues make possible, there are no individual liberties, there is no wealth creation, and there is no prospect of a better future.

Of course, taxes alone do not ensure the liberties of the people, prosperity, or a better tomorrow. Taxes are just one crucial thread in the fabric of democracy and freedom. The IRS is being asked to do more than it can — far more. And its incapacity hurts all of us.

Tax favors for the political donor class clog the tax system, driving up costs of compliance. CCH's *Standard Federal Tax Reporter* — which includes not just the code, but regulations, annotations of rulings and tax cases, and explanations — has experienced an 80 percent growth in page length since 1995, according to its principal analyst, Mark Luscombe.

Dealing with tax favors enacted by lawmakers requires either diverting resources or hoping that new problems will go unnoticed. Not looking is one

of the worst evils that can infect law enforcement. We do not want sightless sheriffs.

William J. Wilkins, the IRS chief counsel, gave the Tax Executives Institute a rundown of how the IRS is being asked to do a lot more without more money in 2013 (and a lot less money than in fiscal 2003, when the tax code was less complex). (Prior coverage: *Tax Notes*, Mar. 25, 2013, p. 1398.)

So follow the budget news closely, because otherwise you probably won't hear a peep about the IRS. Or just go to the White House budget website at <http://www.whitehouse.gov/omb/budget/>, and when the fiscal 2014 version appears, download it.

Spend some time looking at the sections affecting the IRS. Think about the delays in getting answers from the Service and in solving problems, and think about what it costs you to not have enough tax police on the job to make sure everyone pays what they owe.

And then ask what you can do to get the IRS the budget we need to fulfill the six noble purposes of our Constitution — and don't just think, act.