

IRS Morality: Defend Planned Parenthood, Audit Adoptive Families

Earlier this week, in a feeble attempt at humor on Facebook, I posted: "If you haven't been audited by the IRS during the Obama administration, can you even call yourself a conservative?" Given the scale of the abuses, I should probably just shorten it and say, "Only RINOs don't get audited."

My wife and I got audited in 2011, with the IRS examining every inch of our adoption the previous year. The process was painful, but we got through it, and our refund may have been adjusted by a few dollars (the amount of the adjustment was so small, I don't actually remember). In other words, the audit was a gigantic waste of time—for the IRS and for our family. A Facebook commenter, however, pointed me to a report that made me rethink the experience.

As we get word that the IRS has harassed a number of pro-life groups, including at least one alleged demand that a pro-life group not picket Planned Parenthood, check out this statistic: In 2012, the IRS requested additional information from 90 percent of returns claiming the adoption tax credit and went on to actually audit 69 percent. More details from the Taxpayer Advocate Service:

- During the 2012 filing season, 90 percent of returns claiming the refundable adoption credit were subject to additional review to determine if an examination was necessary. The most common reasons were income and a lack of documentation.
- Sixty-nine percent of all adoption credit claims during the 2012 filing season were selected for audit.

- Of the completed adoption tax credit audits, over 55 percent ended with no change in the tax owed or refund due in fiscal year 2012. The median refund amount involved in these audits is over \$15,000 and the median adjusted gross income (AGI) of the taxpayers involved is about 64,000. The average adoption credit correspondence audit currently takes 126 days, causing a lengthy delay for taxpayers waiting for refunds.

While many returns had missing or incomplete information (more on that in a moment), what was the outcome of this massive audit campaign? Not much:

- *Despite Congress' express intent to target the credit to low and middle income families, the IRS created income-based rules that were responsible for over one-third of all additional reviews in FY2012.*
- *Of the \$668.1 million in adoption credit claims in tax year (TY) 2011 as a result of adoption credit audits, the IRS only disallowed \$11 million – or one and one-half percent – in adoption credit claims. However, the IRS has also had to pay out \$2.1 million in interest in TY 2011 to taxpayers whose refunds were held past the 45-day period allowed by law.*

So Congress implemented a tax credit to facilitate adoption—a process that is so extraordinarily expensive that it is out of reach for many middle-class families—and the IRS responded by implementing an audit campaign that delayed much-needed tax refunds to the very families that needed them the most. Oh, and the return on its investment in this harassment? Slightly more than 1 percent.

This audit wave got almost no media coverage, but what was the experience like for individual families? In a word, grueling. Huge document requests with short turnaround times were followed by lengthy IRS delays in processing, all with no

understanding for the unique documentation challenges of international adoption. Here's how one adoptive family described the experience:

"It was early June when a letter arrived from IRS explaining that we (and lots of other adoptive parents, as it turns out) were being audited re: our adoption tax credit. The folks at IRS gave us 30 days to gather our receipts, invoices, canceled checks, etc. to document our expenses and submit said documents to their tax examiner.

"If we couldn't comply within the time limit, they would set aside our request for a credit and we would be out of luck, meaning no more of our money would be refunded to us. If we got them the paperwork, then they would review our records and decide how much more of our money they would refund to us. (Am I bitter? Just a tad bit ...)

"Anyway, this might seem to be an easy fix to those unfamiliar with foreign adoption. After all, if you adopt, you work with an agency and that's a business, right? Businesses give receipts and invoices, right? And everyone has canceled checks, rights? Um, not so much. See, we adopted from Kazakhstan ... on the other side of the freakin' earth ... and it's a cash economy ... that uses its own currency ... and English isn't the language of Kazakhstan. The aforementioned issues presented a teensy problem to securing what IRS needed in a timely manner."

She went on to explain the challenges of documenting expenses (challenges we shared in our own audit, when I ultimately decided it was simply futile trying to document how we spent all the cash we took to Ethiopia). Her post concluded as she wrapped up the audit and waited for the IRS to respond:

"Anyway, here we are, 30 days later. For the last several days, my dining room table has been covered with documents. I've been reliving my bad old times of adoption dossier

preparation but in reverse this time. I finally got it all compiled, copies made, and the huge package of receipts, invoices, translations and conversions sent off to the IRS via Express mail. Now we wait for an answer ... to see how much of our money the IRS will give us back. Let's see if they can turn it around in 30 days like I had to. Bitter??? Nooooo, not me."

Is it the IRS' job to frustrate and obstruct the intent of Congress by targeting vulnerable families? Once again, here's the Taxpayer Advocate Service:

"With respect to the Adoption Credit, and in particular the credit for adoption of special needs children, the IRS has failed abysmally to take into account that over 45 percent of adopting families are at or below 200 percent federal poverty level, presenting particular communication and functional literacy challenges even as they are desperately in need of the funds which Congress has sought to deliver to them."

As an adoptive family, it's sometimes difficult to describe the immense challenges in gathering paperwork, opening your lives to social workers for home studies, then expensive travel to sometimes-corrupt foreign locales to then launch a new life with a child you love immensely but who is also experiencing his or her own culture shock and adjustment.

All of this places a great strain on family finances and emotions. To then face an audit on the other side? All so the IRS can collect a whopping 1 percent additional revenue? It's beyond the pale. If the IRS is concerned about fraud, it can audit random samples, not the vast majority of adoptive families claiming the credit.

The IRS is a broken institution. Yet despite its moral and legal corruption, it still wields immense power. As Congress investigates wrongdoing, it's past time to consider fundamental tax reform. In other words, starve the beast. It

has proven it can't be trusted with power.

This article is crossposted at National Review Online.

David French *is a senior counsel at the American Center for Law and Justice.*