Pilla Talks Taxes

DAN PILLA'S MONTHLY TAX AND FINANCIAL BULLETIN

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What's Happening With The Tax Laws

Democrats Push for Massive Tax and Spending Measure

On September 13, the House Ways and Means Committee released details of the massive tax-and-spend proposal championed by Democrats. This is still not yet a final package. Changes are being made as I write. What we do know is that the package calls for about $3.5 trillion in new spending over the next ten years. During that same period, the promised tax increases will raise about $2.1 trillion in new money. During this process, I've seen no mention whatsoever about how these massive deficits will be paid for. It's astonishing to me that such topic is not even on the table.

Here are some of the major proposals of the bill.

INCOME TAXES

The top personal income tax rate would rise from 37% to 39.6%. This would reverse a change to the law brought about by the Tax Cuts and Jobs Act (TCJA), which was President Trump's tax plan. There is also on the table a proposal to add a 3% "surtax" on individuals with adjusted gross income of more than $5 million. This is part of the overall philosophy of Leftist Democrats to attack and destroy wealth in the hands of private persons.

CORPORATE TAXES

The House would return to the policy of high corporate

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ADS

taxes that marked U.S. tax policy prior to the TCJA. The TCJA cut the top corporate tax rate down to 21%. The current bill would increase it to 26.5%. The graduated corporate rates under the Democrat plan would look like this

- 18% on the first $400,000 of income
- 21% on subsequent income up to $5 million
- 26.5% above $5 million

There is no provision in the bill to adopt Biden's proposal to establish a 15% minimum tax on the profits a company claims for non-tax, financial-reporting purposes. That is to say, the plan to impose a tax on something other than a company's net taxable profit as calculated under the Internal Revenue Code (as opposed to, say, SEC filings) seems to have failed.

CAPITAL GAINS

House Democrats propose to raise the capital gains tax rate by 5 points, to 25%, for "certain high income individuals." Apparently, that means individuals with adjusted gross income of more than $1 million. The 3.8% Obamacare tax on investment income is to be added on top of that. That means the top capital gains rate would be pushed to 28.8% on investment income.

TOBACCO TAXES

The House proposal would double the federal excise tax on cigarettes. The tax on chewing tobacco would increase by just over 2,000%, and the tax on related tobacco products would go up over 1,600%.

The taxes on tobacco have not gone up in over ten years. Apparently, House Democrats are looking to make up for lost time. It is also apparent, from just this one proposal, that the Administration's claim that none of the tax increases will affect anybody earning less than $400,000 per year is untrue, unless you believe that only people making $400,000 per year or more smoke cigarettes, or use pipe and chewing tobacco.

IRS ENFORCEMENT FUNDING

I have talked at length about the increased funding to be provided to the IRS. The plan will increase the agency's funding by $80 billion over ten years. This means that the IRS's annual budget would grow incrementally from about $13 billion in fiscal 2021 to about $21 billion over that time.

The IRS plans to use the bulk of the spending on tax law enforcement in general, and to increase tax audits in particular. They claim the target will be businesses and high-income individuals. To support this, two dubious reports and a Treasury Department editorial article (discussed in the next article, below) have been issued claiming that the richest 1% of income earners are responsible for up to 36% of all federal income taxes NOT paid to the government. See my article in the April/May 2021 issue of *PTT* on this point.

In any event, both business owners and tax pros must be prepared for the explosion of audits and enforcement action that is sure to grow from these reports. Our 2021 Taxpayers Defense Conference will focus on defending business tax audits. This conference is a must for any tax pro representing taxpayers before the IRS. See details below.

BANK REPORTING

Congress and the Administration continue to push for the massive bank reporting regime that I discussed in the June issue of this newsletter. In fact, on September 7, the Treasury published an article on its website agitating hard for adoption of the bank reporting scheme that's been laid out. The article portends a "robust attack" by the IRS through both audit and collection activity using ongoing access to bank records as a chief tool in the federal government's latest war. See my discussion of this, below.

SALT DEDUCTIONS

Ever since the TCJA became effective, Leftists in Blue

LOCATION:

Embassy Suites by Hilton, Nashville South, Cool Springs, Tennessee.

DATES:

Sunday Evening November 7 – TDI/TFI Members Only Business and Networking Meeting.
Monday and Tuesday November 8 & 9 – Taxpayers Defense Conference.

COST:

More details will follow on cost but it looks like the room cost is $149 a night which includes breakfast. Those who stay at the hotel will get an additional discount off the conference registration fee. The retail cost of the conference will be at least $795. For our current members, the cost will be $595 at most.

PLEASE EMAIL JEAN DIRECTLY

at *jean@taxhelponline.com* to say whether you are planning to attend in person. We are also planning to host it virtually (like we did last year) so let Jean know if that is what you are planning.

DEFENSE CONFERENCE THEME and TOPICS:

The IRS has made it perfectly clear that it intends to launch an attack on businesses. Because of that, our 2021 Defense Conference theme is Business Tax Audits. The topics include:

- An analysis of how this attack will look
- How the IRS attacks a business's reported income and deductions
- The law regarding the burden of proof on underreported income
- 6 ways to prove deductions
- An analysis of procedures relating to Notice CP2000 and ASFRs
- 2 ethics sessions to include billing practices and the essential elements of competency of counsel
- And don't forget our very educational live role playing and group debriefing sessions
- Finally, as always, we will have our popular and informative moderated discussion where all topics and problems are fair game.

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Watch your email and check the TDI/TFI website for more details.

States have been absolutely apoplectic over the cap on the deductibility of state and local taxes (SALT). The reason is that Blue States are notorious for high state and local taxes. The itemized deduction for SALT is now capped at $10,000. That means those paying more cannot deduct the excess on their personal tax returns.

There is currently no provision in the bill to restore the full deduction for SALT but Democrats in high-tax states are not giving up. Those from New York, New Jersey and other high-tax states continue to push to repeal the cap.

Ironically, as I have written in the past, the limitation on SALT deductions hits only high-income taxpayers. As a result, the full restoration of the SALT deduction in fact constitutes "tax cuts for the rich." It might seem quite odd that Democrats are championing a provision that undeniably only benefits high income people. But in fact, there is logic in their thinking. Since the SALT cap became law, hundreds of thousands of people began fleeing high-tax states (CA, NY, NJ, CT, etc.) in favor of lower tax environments (FL, TX, TN, etc.).

You can be certain that politicians in high-tax environments do not want to continue to see their citizens voting with their feet. They could solve the problem by cutting their state and local taxes. But, alas, they most certainly will not do so.

OIL AND GAS

The proposal does not include Biden's plan to scrap a long list of tax advantages for the oil and gas industry. It does, however, provide for a 16.4 cents-per-gallon tax on oil and imported petroleum products. Again, I wonder whether only people earning $400,000 per year or more purchase petroleum products such as, say, gasoline. The fact is, any hike in federal gas taxes drives up the cost of just about every product in the market place.

The Tax Gap Fraud

More Propaganda Pushed by Biden's Treasury

On September 7, 2021, the Treasury Department released a story titled "The Case for a Robust Attack on the Tax Gap." The story, written by Natasha Sarin, is the third installment in the string of Treasury Department propaganda supporting the idea of turning the IRS loose on Americans. The Treasury Department presses the case for increasing the IRS's budget by $80 billion over the next ten years, claiming that the "investment" (read: "government spending") will generate "an estimated $320 billion in additional tax collections over the next ten years."

Parenthetically, I note that even if this were true, the additional revenue would not be sufficient to cover the federal government's operating deficit for *just one year.*

The article also pushes the case for the Administration's proposal to engage in massive spying on citizens through our nation's banks and financial institutions. I discussed this proposal at length in the June 2021 issue of *PTT*. See my article titled, "Biden's Tax Plan Calls for Massive Spying."

The Treasury suggests that the blizzard of new information reporting required under Biden's plan will not "impos[e] any burden on taxpayers whatsoever." Nothing could be further from the truth. It is undisputed that the high costs of complying with the annual reporting that the plan demands will most certainly be passed on to customers by the banks and other financial institutions required to gather, assimilate and disclose the data to the IRS on an annual basis.

The fact is the American Bankers Association

opposes the Biden plan. They are concerned about several consequences the plan poses for both individual and businesses taxpayers, including the assault on privacy and the threat to security. But chief among the reasons for opposition is the increased costs to taxpayers due directly to the burdens imposed by the massive reporting envisioned under the plan. The association is calling on its member bankers to oppose the Administration's plan.

The central thesis of the Treasury's article is that business owners are the primary source of all tax cheating in the U.S. According to the article, "about half of the individual income tax gap accrues to income streams from proprietorships, partnerships, and S-corporations, where there is either little or no information available to the IRS to verify the veracity of tax filings." Said another way, unless the IRS has third-party information to verify the claims made by self-employed people, they will and do systematically cheat on their tax returns.

This claim is based chiefly on IRS audit results. But as I've written in the past, these data are simply unreliable. It is well-documented that the IRS is wrong between 60-90% of the time with their audit results, depending on the issue. Moreover, IRS auditors are themselves undertrained in tax law, meaning they often fail to apply the proper legal standards to their audit decisions (one reason they are wrong so often). Even worse, auditors routinely use tactics of bluff and intimidation, misinformation and disinformation, and even outright lie, to citizens during audits to coerce them into accepting audit results that are simply not accurate.

The Treasury's article continues to advance the party line that Biden's tax plan will not affect anyone earning less than $400,000 per year. Consider this statement:

> It is important to understand what this improved information reporting proposal is not: It is not about using new financial account information reports to increase enforcement scrutiny on lower-income taxpayers. The Administration has been clear that audit rates will not rise relative to recent years for those with under $400,000 in actual income. Instead, these proposals are about targeting enforcement actions where they belong: on higher earners who do not fully report their tax liabilities.

In light of the claim that the underreporting is attributable to "proprietorships, partnerships, and S-corporations," it is pure fraud to suggest that self-employed individuals operating under one of these entity forms will not be targeted for enforcement action. The vast majority of self-employed people operate under one of these entities. And the vast majority of those earn under $400,000 annually. The reality is that, as a whole, the money in America is largely in the hands of the middle class. Because of that, you can be sure that's where the IRS attacks will be targeted.

The ultimate fraud in the article is the claim that we have a "two-tiered tax system." The author claims that our tax system contains "two sets of rules: one for regular wage and salary workers who report virtually all the income they earn; and another for wealthy taxpayers, who are often able to avoid a large share of the taxes they owe."

This is a false statement of epic magnitude. There are absolutely *not* two sets of rules in the tax code. The Internal Revenue Code applies to all taxpayers equally. A person earning a small amount of income must report all that income and pay whatever tax is owed after the application of allowed deductions, credits, etc. The same is true of high income people. They simply do not have a separate set of rules that allows them to avoid paying taxes on income that lower-income people would otherwise have to pay.

This is merely a thinly veiled attempt to inflame class envy. The scheme is to persuade lower-income people that high-income people systematically cheat on their taxes while the former must pay through the nose. In that case, the former will likely (and out of

ignorance) countenance any plan to attack the latter without considering the possibility that they themselves may likewise come under attack. But that's exactly what will happen since there are just not enough high-income earners available to raise the revenue needed to support the trillions of dollars in proposed spending and deficits.

Yet another fraud in the argument is the idea that lawmakers are somehow hamstrung in their policymaking by the failure of some to pay all the tax they owe. The author argues:

> The tax gap also has meaningful implications for fiscal policy. These unpaid taxes mean policymakers must choose between rising deficits, lower spending on important priorities, or further tax increases to compensate for lost revenue—which will only be borne by compliant taxpayers.

This thread-bare con suggests that the taxes of honest people go up when others don't pay what they owe. The fact is, your taxes are high and getting higher for one reason only: Congress spends way too much of your money and there's no incentive whatsoever for it to stop.

Moreover, throughout the national spending debate we've witnesses over the past 18 months, there's been no discussion whatsoever on when or even how the many trillions in new spending will be paid for. Congressional Democrats frankly don't care whether their gravy train of spending will ever be paid for. To suggest that policymakers engage in some level of intellectual "give-and-take" over the friction between higher deficits and lower spending is complete nonsense.

Anybody who's spent any time studying these policy issues knows full well that Congress sets its spending agenda *first*. That agenda is determined by the social and political issues of the day. It then sets tax policy based on the same considerations. At no point does Congress say: "We have X dollars to spend, so how do we allocate those funds?"

That discussion takes place in every board room and at every kitchen table in America, but *never* takes place in congressional hearing rooms. If it did, there's no way we would have a $20 trillion (and growing) national debt.

Make no mistake about it. The fact that your taxes are high has nothing whatsoever to do with whether the rich guy living on the hill is paying all his taxes or not. The blame for high taxes lies solely and exclusively with irresponsible government.

And make no mistake about this: the IRS is gearing up for an attack on America's business owners. And please note that this is *their* word, *not* mine. Indeed, the proposal is for a *"robust attack"* on our businesses. It will be interesting to see what our national deficit looks like after the IRS successfully crushes America's small businesses.

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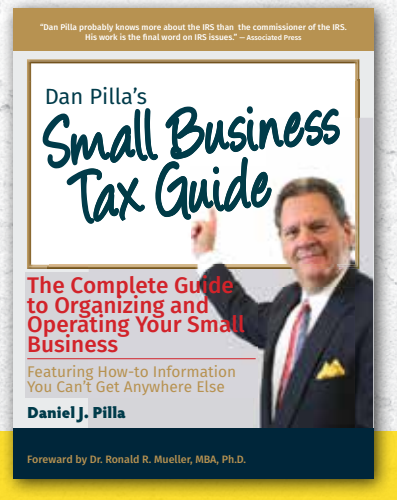

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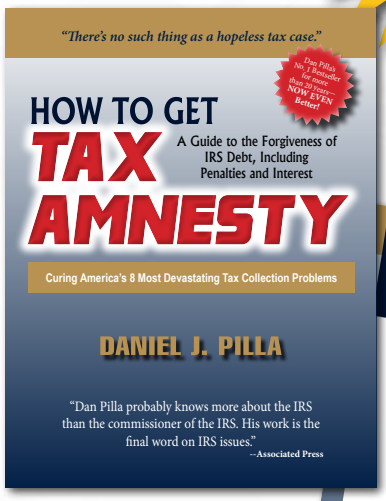

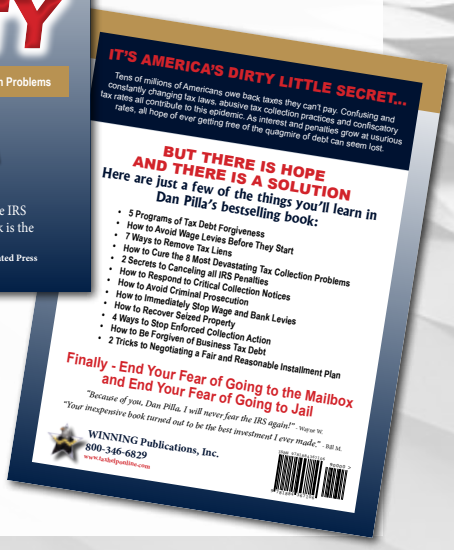

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Bankruptcy Discharge and Late Returns

Recent Case Analysis and Case Survey

BY SCOTT MACPHERSON

In May 2020, I reported in *Pilla Talks Taxes* on the case of *In re Kline*, 581 B.R. 597 (Bankr. W.D. Ark. 2018), where the court held that a late return is not a "return" for purposes of a bankruptcy discharge. The court held that a late-filed return fails the definition in *11 U.S.C. § 523(a)*. That section commands that in order to constitute a return for bankruptcy purposes, a return must meet the requirements of "non-bankruptcy law." One such requirement is that the return must be filed on time. I chastised the court for basing its holding upon an objectively-false and irrational analysis. See the April-May 2018 issue of *PTT*.

In 2020, a panel of judges in the 11th Circuit case of *In re Shek*, 947 F.3d 770 (11th Cir. 2020), agreed with me, and agreed with the *amicus curiae* brief written by John A. E. Pottow, a renowned law school professor at the University of Michigan and author of a bankruptcy textbook. The panel decimated the argument supporting the *Kline* holding by way of reversing the holding of the case before it. The *Shek* court held that a late return can be a "return" for purposes of a bankruptcy discharge.

I should clarify that *Shek* concerned Massachusetts state income taxes, not federal. However, I see nothing in the facts of *Shek*, or in the court's analysis, that makes the holding inapplicable to federal income taxes. In point of the fact, the court discussed federal tax law.

One might notice that Massachusetts is not under the 11th Circuit. That discrepancy is explained by the simple facts of the case. Shek lived in Massachusetts. He filed his 2008 Massachusetts income tax return seven months late (in November 2009). He then moved to Florida, which is in the 11th Circuit. In 2015 he filed chapter 7 bankruptcy and received a discharge order.

The Massachusetts Dept. of Revenue resumed collection activities after the discharge order. Because of that, Shek file a motion with the bankruptcy court for a determination of dischargeability. The court held that his state tax debt was discharged. Massachusetts appealed, arguing that because the tax return was late it failed the definition in the so-called "hanging paragraph" of *§ 523(a)(19)+* (that is, the unnumbered paragraph following (a)(19)). The state argued that the language of the hanging paragraph dictated that the tax debt was not discharged.

For reference, the hanging paragraph reads:

> For purposes of this subsection, the term "return" means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law.

The government made two arguments. The first was that the phrase "applicable filing requirements" includes the relevant temporal deadline for filing a tax return. If a person does not timely file his return, then he did not comply with all "applicable filing requirements." Thus, the statutory definition fails and as such,

the tax debt is not discharged. This is the so-called "one-day-late rule" because it prohibits discharge of a tax debt with respect to which a return was filed even as little as one day late. *Shek* at 775.

That's a syllogism: a return must comply with "applicable filing requirements," and a filing deadline is an "applicable filing requirement." Therefore, a return that does not meet its filing deadline has not complied with "applicable filing requirements." "[This argument] has some force to it," the court said. "All three of our sister circuits to have considered this question have held that the plain language of the hanging paragraph requires DOR's interpretation." *Id.* at 775 (with citations to cases in the 1st, 5th, and 10th Circuits).

But the court dismantled that syllogism by denying that "applicable filing requirements" includes filing deadlines. The court could do that by application of the axiom that all words in a statute must have meaning:

> We must strive, if possible, to give meaning to every word of the Code. See, e.g., *United States v. Menasche*, 348 U.S. 528, 538-39, 75 S. Ct. 513, 99 L.Ed. 615 (1955). This means we must look for an interpretation of "applicable" that distinguishes the set of "applicable filing requirements" from the set of all "filing requirements." Any interpretation that does not account for this word risks rendering it superfluous. *Id.* at 776.

Said another way, if the phrase "filing requirements" without the adjective "applicable" encompasses the temporal deadline, and of course it does, then Congress must have had something else in mind when it included the adjective "applicable." The court found that other meaning in the dictionaries cited by the Supreme Court in *Ransom v. FIA Card Servs., N.A.*, 562 U.S. 61 (2011): "appropriate, relevant, suitable or fit."

For example, "applicable" filing requirements could refer to considerations like a return's form and contents—aspects of the putative return that have a material bearing on whether or not it can reasonably be described as a "return"—but not to more tangential considerations, like whether it was properly stapled in the upper-left corner, or whether it was filed by the required date. This approach makes common sense; in a definition of what constitutes a "return," it makes sense that the term "applicable" would relate to matters that are relevant to the determination of whether the document at issue can reasonably be deemed a "return." *Id.* at 776.

Rephrased, the government interpreted "applicable filing requirements" to mean those filing requirements that apply to a given taxpayer, but the court pointed out that, per the Supreme Court's definition, it could also mean those filing requirements that are "relevant" or "appropriate" to the task of defining a "return"—that is, those that deal with what a return is. "Statutory context, however, makes clear that only the latter interpretation accords with § 523 as a whole." *Id.* at 776.

The court continued:

> Statutory provisions are not written in isolation and do not operate in isolation, so we cannot read them in isolation. The plain meaning of a statutory provision derives not only from the "particular statutory language at issue," but also "the language and design of the statute as a whole." *Id.* at 776-77 (citing *K Mart Corp. v. Cartier, Inc.,* 486 U.S. 281 (1988)).

And further the court stated:

> "Because legal drafters should not include words that have no effect, courts avoid a reading that renders some words altogether redundant." *Reading Law* at 176. This surplusage canon obliges us, whenever possible, to disfavor an interpretation when that interpretation would render a "clause, sentence, or word ... superfluous, void, or insignificant." *Id.* at 777; [internal citations omitted].

The government's reading of the hanging paragraph violated those principles, so the *Shek* court rejected the government's reading.

The court also pointed out that in 2005, when Congress added the hanging paragraph, it left § 523(a)(1)(B)(ii) unchanged. That portion of the statute provides that a late-filed return can qualify for discharge if the return is filed more than two years before the bankruptcy. "The one-day-late approach would render § 523(a)(1)(B)(ii) a near nullity. ... There is a clear conflict between DOR's interpretation of the hanging paragraph and *§ 523(a)(1)(B)(ii)." Id.* at 777.

The government tried to argue that the one-day-late approach does not completely eradicate the statute, because *§ 6020(a)* returns and equivalent state-law returns would still fall into that statutory exception. Thus, according to the government, *§ 523(a)(1)(B)(ii)* is not surplusage because it still bars discharge of some returns. The *Shek* court was not impressed with that reasoning, because it knew that a § 6020(a) return is "atypical" and is made only in "the most unusual circumstances." It quoted the Supreme Court saying that the surplusage canon applies when an interpretation would render a clause, sentence, or word superfluous, void, or insignificant, which the government's reading does. *Id.* at 778 (quoting *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001)). Thus, the one-day-late rule cannot be what Congress intended.

Lastly, the court noted that its interpretation of the hanging paragraph was in harmony with the principle that "exceptions to discharge should be confined to those plainly expressed." *Kawaauhau v. Geiger*, 523 U.S. 57, 58 (1998). And where possible, courts should always construe exceptions to discharge "in favor of the debtor, and recognize that the reasons for denying a discharge must be real and substantial, not merely technical and conjectural." *In re Miller,* 39 F.3d 301, 304 (11th Cir. 1994) (internal citations and quotations omitted).

The government then argued that Massachusetts tax law (which is "applicable nonbankruptcy law") defines "return" in part by reference to whether a putative return was "duly filed," and "duly filed" encompasses a temporal requirement. Thus, if a putative return is not timely filed, then it was not duly filed, so it fails the definition under state law. "Therefore, the 'applicable nonbankruptcy law' defines a 'return' as, in part, a timely filing." *Id.* at 779.

The court denied that "duly filed" necessarily includes timeliness. It noted that, per Black's Law Dictionary, the term means "in a proper manner; in accordance with legal requirements." The traditional legal adverb for "time sensitivity" is "timely." *Id.* at 780. But without explicitly accepting one definition over the other, the court took notice that Massachusetts has several statutes explicitly addressing late-filed returns, and the statutes all treat late-filed returns as "returns." Thus, the government's argument was false. *Id.* at 780.

All that analysis accomplished, the court deliberated over whether to apply the *Beard*-test definition of a "return" or the Massachusetts definition to this *state* income tax return. The court chose to dodge that question because the outcome was the same either way: under Massachusetts law a late return is still a return, and the parties stipulated the elements of *Beard* in the bankruptcy court, so both tests were met. For a discussion of the Beard elements, see page 176 of ***How to Get Tax Amnesty.***

Ultimately, Shek's return was deemed a return for purposes of § 523: "We hold that the bankruptcy court's discharge included Shek's tax return debt." *Id.* at 781. I find the question of *Beard* vs. Massachusetts law odd, though, in that a *state* income tax return is surely defined by *state* law. But, the important part is that the court concluded "that *§ 523* does not incorporate a mandatory precondition that a tax return must be timely filed to be dischargeable." *Id.*

Out of the eleven numbered circuit Courts of Appeal plus the District of Columbia, ten of them have now faced the question of discharging tax debts in bankruptcy where the tax return was late. The most recent cases in each jurisdiction are as follows:

1st Circuit: *Fahey*, 779 F.3d 1 (Feb. 18, 2015) (MA state tax; no discharge because late return violates

the "shall be made on or before ..." statutory due date and thus fails the hanging paragraph of § 523(a)(19)+); *Pendergast,* 2015 WL 3388354 (May 1, 2015) (MA state tax; followed *Fahey* to deny discharges where returns were filed late).

2nd Circuit: no known case as yet.

3rd Circuit: *Giacchi*, 856 F.3d 244 (2017) (federal tax; no discharge because late post-assessment return violates the *Beard* test).

4th Circuit: *Moroney*, 352 F.3d 902 (2003) (federal tax; no discharge because late post-assessment return violates the *Beard* test).

5th Circuit: *McCoy*, 666 F.3d 924 (2012) (MS state tax; no discharge because late return violates the "shall be filed on or before April 15th ..." statutory due date and thus fails the hanging paragraph of § 523(a)(19)+).

6th Circuit: *Hindenlang*, 164 F.3d 1029 (1999) (federal tax; no discharge because a late return that serves no tax purpose violates the *Beard* test).

7th Circuit: *Payne*, 431 F.3d 1055 (2005) (federal tax, pre-BAPCPA; no discharge because late post-assessment return violates the Beard test; strong dissent however).

8th Circuit: *Colsen*, 446 F.3d 836 (2006) (winner, pre-BAPCPA; post-SFR late return counts as a return because on its face it appeared to be a return, and in fact the IRS accepted the late return and abated some of the debt according to what it showed).

But see *Kline*, 2018 WL 813313 (W.D. Ark. 2018) (AR state tax; explicitly rejected *Colsen*; no discharge because late return violates the "shall be filed as follows" statutory due date and thus fails the hanging paragraph of § 523(a)(19)+).

9th Circuit: *Smith*, 828 F.3d 1094 (2016) (federal tax; no discharge because late post-SFR return violates the *Beard* test).

10th Circuit: *Mallo*, 774 F.3d 1313 (2014) (federal tax; no discharge because post-assessment late return does not comply with the tax-law filing deadline and thus it violates the hanging paragraph of § 523(a)(19)+).

11th Circuit: *In re Shek*, 947 F.3d 770 (January 23, 2020) (MA state income tax; late return is a "return" under state law and therefore tax debt was discharged); but see also *Justice*, 817 F.3d 738 (2016) (federal tax; no discharge because late post-assessment return violates the *Beard* test).

D.C. Circuit: no known case as yet.

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How You Can Ask Dan Pilla a Question

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Write the word "newsletter" in the subject line.

Federal Funds Always Come With Strings Attached

We are Bribed With Our Own Money

BY DR. MERRILL MATTHEWS *

It has to be the biggest legal financial scam there is: The federal government takes our tax dollars, extracts a healthy portion for itself, and then gives us back part of that money—but only if we do what the federal government says. Strangely, most voters seem to embrace this process and eagerly vote for those politicians who excel in perpetrating the scam.

President Biden has decided to tell hospitals and nursing homes that receive federal funds for Medicare and Medicaid patients that their employees must be vaccinated or risk losing their federal funding.

It's an important reminder that federal money ALWAYS comes with strings attached. The only question is when and for what purpose the feds will jerk those strings. Covid-19 has exposed the jerk once again.

In this case I'm not addressing whether the federal government has the constitutional authority to mandate workers be vaccinated—its own employees or those of private sector businesses. The U.S. Supreme Court will have to settle that issue.

Nor are I am addressing whether hospital and nursing home employees should be vaccinated. (I think they should.)

Our focus is on the decades-old practice of the federal government handing out billions of taxpayer dollars to states, cities and even businesses, and then using those funds as leverage—blackmail?—to coerce those entities to do the feds' bidding.

For example, in the wake of the Arab oil embargo, in 1974 Congress passed legislation setting a top highway speed of 55 miles per hour—and made a portion of federal highway funding contingent on states adopting that speed limit.

The only good thing to come out of that law was rocker Sammy Hagar's 1984 hit "I Can't Drive 55." (Nobody else could either.)

The Republican Congress repealed that law in 1995, letting states determine their own speed limits. But Congress has taken similar steps with motorcycle helmets and the legal drinking age.

And health care. In the Affordable Care Act, Democrats tried to make all federal Medicaid funds for states contingent on expanding their Medicaid program. The Supreme Court nixed that effort.

Of course, holding federal funds hostage to the federal jerk wouldn't be so effective if there weren't so much money involved.

According to the Tax Policy Center, "The federal government distributed about $721 billion (about 16 percent of its budget) to states and localities in fiscal year 2019, providing about one-quarter of these governments' total revenues." (Visit this link to see which states receive the most money per capita.)

Our alternative: Cut federal tax rates dramatically in order to stop—or at least minimize—Washington politicians and bureaucrats from using tax dollars they take from us to buy our votes when they give some of that money back.

Don't want the federal government telling you what to do? Don't give Washington the money it uses to bribe us.

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