

The Intelligence Revenue Service



By Paul Engel

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- What happens when the Internal Revenue Service becomes a spy agency?
- Why is Congress so interested in using the IRS to know just about every transaction you make?
- Is there more behind this new 1099-K than meets the eye?

There are few things more universally feared and hatred than the IRS. When I'm asked about unconstitutional government agencies and point out that the IRS does exercise a power delegated to the United States, most people are gravely disappointed. Of course, while the IRS may legally exist, that does not mean that everything they do is constitutional.

The recent IRS rule to gather data from those in the gig economy went far beyond what is constitutional. While the Sixteenth Amendment does allow Congress to collect taxes on income from any source without apportionment to the states, the IRS used the threat of unreasonable searches to "encourage" compliance. For those of us who read and study the Constitution, we can see that this is just the latest in a long line of abuses this agency has engaged in. Let's face it, this \$600 reporting requirement is less about collecting taxes and more about gathering intelligence on the American population.

Thank You Congress

When talking to small business owners, the thing most people complain about is the paperwork.

Form 1099-K, Payment Card and Third-Party Network Transactions, is an IRS information return used to report certain payment transactions to improve voluntary tax compliance. You should receive Form 1099-K by January 31 if, in the prior calendar year, you received payments:

- *From all payment card transactions (e.g., debit, credit, or stored-value cards), and*
- *In settlement of third-party payment network transactions above the minimum reporting thresholds as follows:*
 - *For returns for calendar years prior to 2022:*
 - *Gross payments that exceed \$20,000, **AND***
 - *More than 200 such transactions*
 - *For returns for calendar years after 2021:*
 - *Gross payments for goods or services that exceed \$600, **AND***
 - *Any number of transactions*

[Understanding Your Form 1099-K](#)

Don't you like the kind words? Form 1099-K is to improve voluntary tax compliance. Then why did the same IRS warn that failure to report transactions on a 1099-K could trigger an audit? The original reporting rule for the IRS was for payments greater than \$20,000 or more than 200 transactions in a year.

The American Rescue Plan of 2021 changed the reporting threshold for third-party settlement organizations, including payment apps and online third-party settlement organizations. The new threshold requires reporting of transactions in excess of \$600 per year; changed from the previous threshold of an excess of 200 transactions per year and an excess of \$20,000. TPSOs are required to report payments for goods and services.

The law is not intended to track personal transactions such as sharing the cost of a car ride or meal, birthday or holiday gifts, or paying a family member for a household bill.

[Understanding Your Form 1099-K](#)

Lowering the reporting threshold down to \$600 came not from the IRS, but from Congress, but it didn't start there. The Biden administration created this rule in 2021, requiring we report all business transactions over \$600 to the IRS. This was illegal, since there was no law to make that change. At this point, does anyone really expect the current occupant of the Whitehouse to act like a President when he's spent so much time acting like a king without any repercussions? However, the plan to change the reporting standards drew so much criticism that the administration pulled it. That doesn't mean they forgot about it, only that they had to look for another way to get what they want. Enter the American Rescue Plan, another gigantic piece of legislation pulling in as many wishlist items for big government as they could. One of those was this \$600 snooping requirement.

Back in 2021, Treasury Secretary Janet Yellen claimed the requirement for banks to report \$600 transactions was to deal with fraud. She estimated they could raise more than \$460 billion over the next decade just from what they found by snooping into your bank transactions. So the first reason for this change is simple greed. What the Whitehouse couldn't get the banks to do, Congress is extorting online payment processors to do for them. Namely, to spy on the American people.

We already know that the federal government gathers up huge amounts of data about us, both directly and indirectly. There's cellphone tracking data, data collected from the apps we use, from security cameras, and from the tracking of our web usage. Most of this data is collected by others, but the federal government expects these third parties to simply hand

the data over when they ask or when presented with a subpoena. This is exactly what the Treasury proposed banks do in 2021, and what Congress expects from apps like PayPal, Venmo, etc. It seems to be a very rare occasion when a government official is actually required to get a warrant to gain access to this treasure trove of information about you, but more on that later. One of the ways the feds collect data about you is through your finances. Every paycheck you receive gets reported to the IRS, including what you made, how much you protected through tax-deferred contributions, and how much was held back to pay your taxes. Once a year you hand over data on how you spent what money you earned, in an attempt to minimize what you pay in taxes. Most Americans may not be aware of how much information the IRS collects about how you use your money through your bank.

We've all probably received a 1099-INT for a bank account. This is to make sure the feds know how much money you made in interest. Some may have received a 1099-DIV to report how much you made through dividends on your investment accounts. And yes, bank transactions above a certain size are reported to the IRS as well. All to make sure you are following the law. Have you ever considered what laws the IRS may be breaking in creating these rules?

Since the states ratified the Sixteenth Amendment in 1913, delegating to Congress the ability to collect taxes on income from any source without apportionment, it makes sense that We the People would have to report our income in order to pay those taxes. And since Congress loves to manipulate the American people with their voluminous and convoluted tax laws, we voluntarily hand over information on what we do with that income in an attempt to minimize our tax liability. Does Congress have the legal authority to order an executive agency (the Internal Revenue Service), to search your records for criminal activity without probable cause? Not according to the Fourth Amendment.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[U.S. Constitution, Amendment IV](#)

Contrary to what the courts have said, the Fourth Amendment isn't about your right to privacy, though that's not to say privacy isn't an issue when dealing with the Fourth Amendment. Courts have routinely decided that searches are reasonable because you did not attempt to keep certain information private. The problem is, the courts have the burden of proof backwards. The Constitution does not say you have a right to be secure from searches unless government is running an investigation. It says the search must be reasonable.

Conformable or agreeable to reason; just; rational.

[Reasonable – Webster's 1828 Dictionary](#)

So what would make a search both just and rational? To answer that, let's take the government out of the equation and ask that question again. If you had a business arrangement, would it be just for your partner to simply rifle through your financial records to make sure you are not cheating? Or imagine you're in an airport or train station. Would it be reasonable for your fellow passengers to rummage through your bags to see if you've committed a crime? I would hope all of you would say no. So if it's unreasonable for your neighbor to go through your property or records without cause, how can they empower government to do it for them? That is why, outside of modern judicial theory, the test for reasonableness required probable cause.

Apparent facts discovered through logical inquiry that would lead a reasonably intelligent and prudent person to believe tha

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an accused person has committed a crime, thereby warranting his or her prosecution, or that a Cause of Action has accrued, justifying a civil lawsuit.

Probable Cause – The Free Legal Dictionary

Notice, there must be facts discovered through logical inquiry that leads a reasonable person to believe that a crime or other cause of action has happened. There must be a specific reason for the search, not simply a general desire. This is the exact opposite of these rules suggesting that it is reasonable for government to search your property or records without previously discovered facts. What these reporting requirements are is a Writ of Assistance:

Writs of Assistance

What is a writ of assistance? They actually come from our days as colonies of the British Empire.

a writ authorizing officers of the British crown to search any premises for smuggled goods.

Writ of Assistance – The Free Legal Dictionary

These writs were used by the British government to investigate people in search of a crime rather than investigating a crime in search of the guilty party. In 1761, Massachusetts lawyer James Otis argued against such writs.

I was desired by one of the Court to look into the books, and consider the question now before them concerning writs of assistance. I have accordingly considered it, and now appear, not only in obedience to your order, but likewise in behalf of the inhabitants of this town, who have presented another petition, and out of regard to the liberties of the subject. And I take this opportunity to declare, that whether under a fee or not (for in such a cause as this I despise a fee) I

will to my dying day oppose with all the powers and faculties God has given me, all such instruments of slavery on the one hand, and villainy on the other, as this writ of assistance is.

James Otis, Speech Against Writs of Assistance

James Otis was willing to oppose these terrible writs to his dying day. Sadly, the American people seem more than willing to roll over and accept them. The very justification for these rules, to search for crime, is proof of the fact that they are writs of assistance. Now Congress has lowered themselves to snoop through your records for anything as small as \$600. Just how much of your money, paid in taxes, is being used to enslave you and your fellow Americans under such writs? A worst scenario would be if you don't comply with these illegal writs, then the IRS threatens you with another violation of your rights protected under the Fourth Amendment: An audit.

Tax Audit

Few things strike terror in the heart of small business owners more than that dreaded letter from the IRS, telling you to provide records for a tax audit.

- 1. An examination of records or financial accounts to check their accuracy.*
- 2. An adjustment or correction of accounts.*
- 3. An examined and verified account.*
- 4. A thorough examination or evaluation:*

Audit – The Free Legal Dictionary

What no one seems to recognize is that the IRS is legally required, in order to get your records, to obtain a warrant. Even if a government actor has probable cause that you have committed a crime, there are only two ways they can perform such a search without your consent: With a warrant or with an exigent circumstance.

An exigent circumstance, in the criminal procedure law of the United States, allows law enforcement, under certain circumstances, to enter a structure without a search warrant or, if they have a “knock and announce” warrant, without

knocking and waiting for the owner’s permission to enter. It must be a situation where people are in imminent danger, evidence faces imminent destruction, or a suspect’s escape is imminent.

[Exigent Circumstance – The Free Legal Dictionary](#)

An exigent circumstance is one where the situation is so urgent that a delay cannot be allowed. There must be an imminent danger for people, that evidence may be destroyed, or subject may escape. Government actors cannot simply claim an exigent circumstance. They must be able to articulate, before a judge, why the situation was so urgent as to not allow time for a warrant to be obtained.

Why is the need for a warrant so important? Just look at what a government actor must do in order to procure one.

... and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[U.S. Constitution, Amendment IV](#)

Not only must the government have probable cause, but someone must, under oath or affirmation, show what the cause is and that it is real. This is important, since lying under oath is a criminal offense. Furthermore, the warrant must be specific about where a search may take place and what can be seized. In short, the government actor has the burden of proof that the search is reasonable. Compare that to the claims by Treasury Secretary Yellen and the IRS, that these searches are

reasonable because they may find unpaid taxes. I think you'll agree with James Otis that writs of assistance appear,

... to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law book.

James Otis, Speech Against Writs of Assistance

Conclusion

You may have noticed when we looked at the IRS's explanation of the 1099-K form that the \$600 rule has been suspended for the 2022 calendar year. There are two things you need to realize. First, the \$600 reporting rule is still in place for the 2021 calendar year. And second, the IRS has only postponed the new reporting requirement, not eliminated it.

On Dec. 23, 2022, the IRS announced that calendar year 2022 will be treated as a transition year for the reduced reporting threshold of \$600.

Understanding Your Form 1099-K

That means we can expect this intrusion into our lives to reappear in 2023. For that, and many more reasons, I suggest every American familiarize themselves with two Amendments. First, as I've already quoted, the Fourth Amendment with its protections against unreasonable searches and requirements for warrants. Second, the Fifth Amendment, especially the protection about self-witness.

...nor shall be compelled in any criminal case to be a witness against himself...

U.S. Constitution, Amendment V

Courts have long recognized this right to extend not only to criminal cases, but to investigations. We've all heard the Miranda warning, which starts with the words "You have the

right to remain silent.” Since any IRS audit could lead to criminal charges, I personally plan not only to keep my mouth shut, but avoid being a witness against myself, including voluntarily providing evidence from my papers. Granted, I am not a lawyer, so I would suggest you get some advice from one before you decide how you proceed if the need ever arises. As John Jay noted:

Every member of the State ought diligently to read and to study the constitution of his country, and teach the rising generation to be free. By knowing their rights, they will sooner perceive when they are violated, and be the better prepared to defend and assert them.

John Jay, First Chief Justice of the supreme Court of the United States

That way you will sooner recognize when your rights are being violated. Will you be prepared to defend and assert them?

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