

THE WALL STREET JOURNAL.

- [OPINION](#)
- [REVIEW & OUTLOOK](#)

How the IRS Snoops on the Innocent

The Justices say the tax agency can secretly get bank records for a debtor's lawyers.

By [The Editorial Board](#)

May 19, 2023 6:50 pm ET



PHOTO: MANDEL NGAN/AGENCE FRANCE-PRESSE/GETTY IMAGES

Republicans have made political hay out of President Biden's plan to supersize the IRS, and here's another bumper crop: The Supreme Court held this week that revenue agents who are chasing a debt have almost unbounded power to secretly obtain bank records on people in a delinquent taxpayer's orbit, even his lawyers. Reversing this is up to Congress.

The feds say Remo Polselli owes \$2 million. In searching for his assets, the IRS demanded that [Wells Fargo](#), JPMorgan Chase and Bank of America turn over records on his wife and

a law firm where he was a longtime client. The agency notified neither Mrs. Polselli nor the law firm, which means they legally had no right to object. The law says no notice is required for IRS summonses “in aid of the collection” of an assessment “against the person with respect to whose liability the summons is issued.”

A conservative appellate judge argued in a dissent that what the law really means in context is that the IRS can secretly get records for accounts in which the delinquent taxpayer has a “legal interest.” Under this reading, Mr. Polselli would get no notice or opportunity to quash a summons on his bank, but the law firm certainly would. Alas, that approach convinced none of the Justices.

“This argument does not give a fair reading to the phrase ‘in aid of the collection,’” Chief Justice John Roberts writes for a unanimous court in *Polselli v. IRS*. Even if the summonses “did not reveal bank accounts in which Mr. Polselli has a legal interest, they could lead to assets parked elsewhere.” Yet the Justices acknowledge the privacy concerns.

“We do not dismiss any apprehension about the scope of the IRS’s authority to issue summonses,” [the Chief writes](#). “Tax investigations often involve the pursuit of sensitive records. In this case, for instance, the IRS sought information from law firms concerning client accounts.” Then what is the limiting principle? “The Government proposes a test turning on reasonableness,” he writes. But the Court leaves that question for another day.

How exactly are innocent citizens supposed to challenge the “reasonableness” of a summons they don’t know exists? Mrs. Polselli and the law firm found out that the IRS was seeking their information only because the banks told them. This puts businesses in the position of having to choose whether to squeal and anger the IRS or keep quiet and alienate clients.

The Supreme Court has said what the bad law is, and Congress should add this to its agenda on the IRS. Mr. Polselli ought to pay his taxes. Still, agents shouldn’t get to Hoover up blameless people’s bank records with no real judicial review, on the mere suspicion that Mr. Polselli wrote a check to somebody in his Rolodex.

Copyright ©2023 Dow Jones & Company, Inc. All Rights Reserved.

[\[Return to head of page\]](#)

