New Banking and Health Care Laws Bound to Lead to Black Markets While Ending Financial Privacy

July 21, 2010 - One of the basic principles of good government policy is to make sure that businesses and individuals are both willing and able to comply with them. Unfortunately, Congress has been on a mad rush to pass a variety of legislation that is generally unpopular with both businesses and the public. The new health care and more recent banking legislation are good examples. Both bills are already having unintended effects which are likely to only get worse as time goes on. In the end, as Americans are hit with a variety of new taxes and fees, one of the results will most assuredly be a large growth spurt in the underground economy as new black markets for goods, services and even banking itself emerge.

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Nobody read the health care reform bill before it was passed by Congress. In fact, House Speaker Nancy Pelosi (D-CA) actually said, "We have to pass the bill so that you can find out what is in it." Such is the incompetence of those in Washington.

As it turns out, Congress was looking for ways to pay for the bill. So one of those elected brainiacs decided that it would be a good idea to force businesses to issue a 1099 - a tax reporting form sent to the IRS - for every purchase in excess of $600 made within a calendar year. The new policy begins in 2012. Congress believes that a lot of purchases are made but never reported as taxable income. They may be correct, but they really didn't think the new policy through.

Under the law, businesses include individuals that are self employed. This means that anyone making their living on their own will have to issue 1099s when they have relatively minor repairs made on their car, buy a new laptop - even if it comes from a place like Best Buy - or spend more than $600 for client entertainment at a local restaurant.

A study by the Tax Policy Center indicated that most US businesses currently issue around 12 1099s each year and they invest 30 minutes per form. They expect that number to jump to more than 200 1099s each year and more than 100 hours of work.

On January 1st, 2011 federal tax rates are set to jump with the top tax rate going back to 39%. This makes for a toxic combination that will encourage tax fraud, especially in the service industry. The first thing that jumps to mind is that it will be cheaper, and a lot more efficient, for some businesses to negotiate discounts with their service suppliers than to issue large numbers of 1099s simply so they can write off their expenses. Likewise, it will be less expensive for those suppliers to accept discounted rates than to pay the taxes on their charges. Simply put, the new reporting structure in combination with higher tax rates will encourage fraud.

At the same time, millions of new people will be filing reports with the IRS for purchases that they make. The IRS has already admitted that they don't have the personnel to review all of these documents. This means that it is quite likely that some individuals will issue 1099s for purchases that they never made in order to take additional tax write offs.

All of this with absolutely no assurance that the government will collect more tax money.

Congress has also passed and today the President signed a new financial reform law. While it is being hailed as "sweeping reform" that will stabilize the economy and help consumers, it is so poorly structured that it will incentivize driving transactions underground.

One of the primary things that the bill does is tax big banks. But anyone who has taken a course in economics knows that corporations don't pay taxes. Anything that companies are billed for by the government gets passed down to consumers in the form of higher prices. In fact, calling for higher taxes on businesses is the same thing as saying, "Please raise your prices." In this case, the new law is likely to end a long list of banking benefits such as free checking and no-annual-fee credit cards. ACCESS is aware of at least one banking institution - actually a credit union - which is eliminating the use of ATM cards for clients that don't maintain a savings account. And because you have to maintain a minimum balance in your checking account or pay a fee, the charge for having ATM access is actually quite high.

The bill also contains language that gives the government access to virtually every single transaction that consumers make, whether they are by credit card, debit card or check. The only way to avoid having purchases tracked is to use cash.

The purpose of this section of the law is supposedly to allow the new Consumer Financial Protection Agency formed by the bill to monitor banking activity to insure that lenders are treating clients "fairly". In actuality, the law signals the end to any sense of financial privacy that consumers have. The unintended result is that anyone who wants to keep the government out of their business is going to start using cash a lot more. Yes, that means that the government will be able to see if you made a withdrawal or cashed a check, but they won't know what you used the money for, whether it be going to the movies or buying an ounce or two of gold.

But as the government is trying to protect you from some financial predators, they are ignoring others. The bill does nothing to regulate Fannie Mae and Freddie Mac; two organizations at the center of recession. Nor does it regulate pay-day loans operators which charge absolutely criminal interest rates. Any rational analysis of the legislation can only lead to the conclusion that the bill is about controlling the financial behavior of the buying public and the financial protection has little or nothing to do with the reasons behind its passage.

Each one of these legislative monstrosities is more than 2,000 pages long. It is quite likely that we will be learning about the downsides of both bills for a long time to come as new surprises rear their ugly heads. What is clear is that the policies to be implemented in both cases are poorly crafted. That should be no surprise though. Most of the people writing those policies have spent little or no time in the private sector, and have no experience in running a business. As a result, we all lose. Honest businesses will comply and prices will go up. Dishonest businesses will not comply and taxes will go unpaid. And consumers are the ones that will be left holding the bag.

byJim Malmberg

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