

HOME (/)  
ABOUT  
JOURNAL (/ABOUT)  
MASTHEAD (/NEW-PAGE)  
PROSPECTIVE MEMBERS (/PROSPECTIVE-MEMBERS)  
SUBSCRIBE (/SUBSCRIBE)  
STAFF RESOURCES (/STAFF-RESOURCES)  
PUBLICATIONS  
PUBLICATION ARCHIVE (/PUBLICATION-ARCHIVE)  
VOLUME 1 (2009) (/VOLUME-1-2008-2009)  
VOLUME 2 (2010) (/VOLUME-2-2009-2010)  
VOLUME 3 (2011) (/VOLUME-3-2010-2011)  
VOLUME 4 (2012) (/VOLUME-4-2011-2012)  
VOLUME 5 (2013) (/VOLUME-5-2012-2013)  
VOLUME 6 (2014) (/VOLUME-6-2013-2014)  
VOLUME 7 (2015) (/VOLUME-7-2014-2015)  
VOLUME 8 (2016) (/VOLUME-8-2015-2016)  
VOLUME 9 (2017) (/VOLUME-9-2016-2017)  
VOLUME 10 (2018) (/VOLUME-10-2018)  
SYMPOSIUM  
INFORMATION (/SYMPOSIUM)  
BLOG  
FULL BLOG (/FULL-BLOG)  
BLOG ARCHIVE (/BLOG-ARCHIVE-1)  
  
SUBMISSIONS (/SUBMISSIONS)

September 28, 2013 (/full-blog/2013/09/irs-uses-old-horse-law-to-police.html)

## IRS Uses Old Horse Law to Police Federal Tax Return Preparers (/full-blog/2013/09/irs-uses-old-horse-law-to-police.html)



(<https://static.squarespace.com/static/53fe85a0e4b0516a0c4fed1a/54002444e4b0123f9872f024/54002444e4b0123f9872f0bb/1409295434542/1000w/>)

*Image Source ([http://theequestriannews.com/2011/02/01/irs-smackdown/tax-\\_moneyhorse\\_clipped/](http://theequestriannews.com/2011/02/01/irs-smackdown/tax-_moneyhorse_clipped/))*

By: Yvette DeLaGuardia, Staff Member

On Tuesday, for the first time in United States history, the Obama administration defended its attempts to regulate the tax return preparation business.[1] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn1](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn1)) The administration's efforts, based on a statute that dates back to 1884, have caused tension between tax-return preparers and the Obama administration.[2] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn2](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn2)) The law that is the source of the tension is the Horse Act of 1884.[3] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn3](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn3))

In 1884, Congress enacted the statute to address the "equine deception" problems that were occurring after the Civil War.[4] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn4](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn4)) At that time, the United States government was spending a lot of money compensating individuals claiming their horses were lost or killed during the Civil War. The "equine deception" involved was due to the agents of the individuals exaggerating the value of the horses.[5] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn5](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn5))

When the statute was first enacted in 1884, it gave the Secretary of Treasury the authority to regulate

“the admission of attorneys and agents who represented claimants before the Treasury Department.”[6] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn6](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn6)) However, the statute has been revised several times since its initial enactment and it currently gives the Secretary of Treasury the authority to “regulate the practice of representatives of persons before the Department of Treasury....”[7] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn7](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn7))

The United States government only applied the statute to “certified public accounts and attorneys representing taxpayers in audits, appeals and other proceedings” up until 2011. Now, the Obama administration is using the Horse Act of 1884 to support its position that the IRS has the authority to regulate anyone who prepares another individual’s federal tax return. This has caused small tax preparers to bring suits against the IRS for acting outside of its authority. These individuals further claim that compliance with the IRS’ licensing regulations is too expensive and will eventually force them to choose between upping their prices and shutting down.[8] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftn8](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftn8))

While the IRS has a legitimate interest in supervising and regulating the process by which federal tax returns are completed, it seems like a bit of a stretch for the IRS to use a statute enacted to prevent fraudulent claims of horse loss for the purpose of regulating small, part-time tax preparers.

[1] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf1](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf1)) Paul Caron, IRS Relies on 1884 ‘Dead Horse’ Statute to Justify Takeover of Tax Return Preparer Industry, Tax Professor Blog (Sept. 26, 2013, 3:48 PM), [http://taxprof.typepad.com/taxprof\\_blog/2013/09/irs-relies.html](http://taxprof.typepad.com/taxprof_blog/2013/09/irs-relies.html) ([http://taxprof.typepad.com/taxprof\\_blog/2013/09/irs-relies.html](http://taxprof.typepad.com/taxprof_blog/2013/09/irs-relies.html)).

[2] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf2](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf2)) Jacob Gershman, IRS Dispute with Tax Preparers is a Horse of a Different Color, The Wall Street Journal Law Blog (Sept. 26, 2013, 3:50 PM) [http://blogs.wsj.com/law/2013/09/26/irs-dispute-with-tax-preparers-is-a-horse-of-a-different-color/mod-wsj\\_nview\\_latest](http://blogs.wsj.com/law/2013/09/26/irs-dispute-with-tax-preparers-is-a-horse-of-a-different-color/mod-wsj_nview_latest) ([http://blogs.wsj.com/law/2013/09/26/irs-dispute-with-tax-preparers-is-a-horse-of-a-different-color/mod-wsj\\_nview\\_latest](http://blogs.wsj.com/law/2013/09/26/irs-dispute-with-tax-preparers-is-a-horse-of-a-different-color/mod-wsj_nview_latest)).

[3] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf3](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf3)) Id.; see also § 330(a)(1).

[4] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf4](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf4)) Id.

[5] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf5](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf5)) Id.

[6] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf6](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf6)) History of Enrolled Agents, <http://www.oreca.org/Help/History%20of%20EA-1.pdf> (<http://www.oreca.org/Help/History%20of%20EA-1.pdf>) (last visited Sept. 26, 2013).

[7] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf7](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf7)) § 330(a)(1).

[8] ([http://www.blogger.com/blogger.g?blogID=8202935745006855383#\\_ftnf8](http://www.blogger.com/blogger.g?blogID=8202935745006855383#_ftnf8)) See supra note 2.

♥ 0 Likes < Share

COMMENTS (0)

Newest First   Subscribe via e-mail

Preview   POST COMMENT...

Newer Post

It's a Beautiful Day in the Neighborhood:  
“Good Neighbor Provisions” versus Federalism  
in the Clean Air Act (/full-blog/2013/10/its-  
beautiful-day-in-neighborhood-good.html)

Older Post

Can Drones Atone by Making Swords into  
Plowshares? (/full-blog/2013/09/can-drones-  
atone-by-making-swords-into.html)

SEARCHABLE ARCHIVE (/PUBLICATION-ARCHIVE-1)

631 SOUTH LIMESTONE, LEXINGTON, KY

40508 (859) 257-4747 [BLOG.KJEANRL@GMAIL.COM](mailto:blog.kjeanrl@gmail.com) (MAILTO:BLOG.KJEANRL@GMAIL.COM)