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Congress of the United States

U.S. House of Representatives

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May 14, 2013

Mr. Steve Miller
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Acting Commissioner Miller,

We are deeply troubled by the recent admission of the Internal Revenue Service (IRS) that the agency has been singling out organizations for additional review based on their political beliefs. Despite repeated calls for cooperation, the agency failed to be completely truthful in its responses to the Committee during its nearly two-year long investigation of this matter, and in testimony before the Committee. It is especially concerning that only now is the IRS admitting these discriminatory practices on the eve of public admonishment by the Treasury Inspector General for Tax Administration (TIGTA).

As the Committee on Ways and Means continues its investigation into these IRS practices, we request that the IRS provide the following information by May 21, 2013:

1. It has been widely reported and acknowledged by the agency that the IRS has been singling out conservative-leaning political organizations since 2010 through a series of filter terms. Key IRS officials have had knowledge of these practices since at least 2011, yet no mention of this knowledge was made to the Ways and Means Committee (Committee), despite the fact that the Committee initiated an inquiry in June 2011 related to reports that the IRS was singling out conservative groups and their donors about contributions to these organizations. From June 2011, the Committee has been engaged in an open investigation concerning the specific issue of groups being singled out by the IRS based on their political views. Who knew about the targeting of conservative groups, when did they become aware of such activities, when did you find out, and what actions did you take upon learning of these activities? Provide all documents and communications relating to these activities.
2. Did the IRS single out other organizations based on their political views? If so, what were the criteria or search terms used? Provide all documents and communications relating to the preparation of these search criteria. Specifically, provide a list of all

search terms and key words used – including specific documentation of how those search terms and key words changed, if at all, from 2010 when the searches were first initiated, through 2012 when changes to searches were reportedly ordered by IRS leadership.

3. Media reports have detailed that the IRS conducted special reviews of organizations whose missions involve Israel. Did the IRS undertake special reviews of these and other organizations whose activities contradict or are inconsistent with the Administration's policies? If so, provide all documents and communications relating to these practices.
4. Did the IRS at any time notify the Treasury Department of the targeting of conservative or any other groups? Provide all documents and communications between the IRS and Treasury on this matter.
5. Did the IRS at any time notify the White House of the targeting of conservative or any other groups? Provide all documents and communications between the IRS and the White House on this matter.
6. What steps has the IRS taken to prevent the discriminatory or political targeting of individuals and organizations by the agency in the future? Provide all documents and communications relating to ending these practices.
7. Has the IRS taken any disciplinary action against the employees and managers that engaged in the targeting of conservative groups? Provide all documents and communications relating to these disciplinary actions.
8. The IRS, through its officials, is legally and ethically bound to tell the truth to Congress and the American people. In this situation, the IRS had a continuing obligation to update and correct information provided to Congress if it was later determined to be incomplete or inaccurate. Why did your agency fail to be completely forthcoming with the Committee in its responses to the Committee's ongoing investigation, and in testimony before the Committee, regarding the IRS's practice of targeting conservative groups? Provide all documents regarding the preparation of responses to the Committee's investigation, and the preparation of testimony before the Committee.
9. Who approved, prepared, or was consulted in the preparation of the IRS's responses to the Committee, including responses dated July 1, 2011, November 18, 2011, March 12, 2012, March 23, 2012, April 26, 2012, and June 15, 2012?
10. On March 22, 2012, former IRS Commissioner Douglas Shulman testified before the Subcommittee on Oversight. At this hearing, he was asked directly by Subcommittee Chairman Boustany about press allegations that the IRS was targeting certain Tea Party groups across the country requesting what was described as "onerous document requests" and delaying approval for tax exempt status. Commissioner Shulman responded to this question by stating that "[t]here is absolutely no targeting." It has come to our attention that Commissioner Shulman was briefed directly by the Treasury Inspector General for Tax Administration in May 2012 on this issue. Why didn't the former Commissioner update his testimony or inform the Members of this information?

11. In your testimony before the Oversight Subcommittee on July 25, 2012, you were directly asked about the reports that the IRS had been targeting conservative groups, to which you responded "I am aware that some 200 501(c)(4) applications fell into this category [the determination letter process]. We did group those organizations together to ensure consistency, to ensure quality." It has come to our attention that you were briefed on this issue in May 2012. If at the time of the hearing you knew that IRS personnel had targeted groups for extra scrutiny based on their political beliefs, why didn't you share all of this information with the Subcommittee at that time?
12. We understand that the Director of the Exempt Organizations Office, Ms. Lois Lerner, was first briefed on the IRS targeting issue on June 29, 2011. On May 8, 2013, Ms. Lerner, testified before the Subcommittee on Oversight. During this hearing, she was asked about the IRS's oversight of political activities by Congressman Crowley. At no point within this discussion did Ms. Lerner provide any information to the Subcommittee Members about the targeting issue or pending TIGTA audit. Given that the topic of political activities was discussed at the hearing, why didn't Ms. Lerner, on May 8th, provide the Subcommittee with the information she shared at the American Bar Association conference two days later? After she shared the information at the American Bar Association conference, why didn't she update her testimony or share all of the information she had on the issue with the Members?
13. Why did the IRS attempt to group applications from these organizations together? Has this been done in the past for other types of issues? If so, please identify the issues. Was the grouping that is the topic of this letter politically motivated? Are Section 501(c)(4) organizations required to apply to the IRS for tax-exempt status?

If you have any questions, please contact Committee staff at 202-225-5522.

Sincerely,


DAVE CAMP
Chairman


SANDER LEVIN
Ranking Member

House Committee on Ways & Means Document Production Instructions

1. In complying with this request, you shall produce all responsive records that are in your possession, custody, or control.
2. Records responsive to the request shall not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request shall be read also to include them under that alternative identification.
4. Each record produced shall be produced in a form that renders the record capable of being copied.
5. When you produce records, you shall identify the paragraph or clause in the Committee's request to which the records respond.
6. Records produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that records were not stored with file labels, dividers, or identifying markers, they shall be organized into separate folders by subject matter prior to production.
7. Each folder and box shall be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, shall be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a record that any other person or entity also possesses a non-identical or identical copy of the same document.
9. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), you shall consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format shall be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above. Records produced in an electronic format shall also be produced in a searchable format.
10. In the event that a record is withheld on any basis, you shall provide the following information concerning the document: (a) the reason the record is not being produced; (b) the type of record; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other. Note that Congressional requests are not limited by FOIA exemptions or common law privileges.
11. If any record responsive to this request was, but no longer is, in your possession, custody, or control, you shall identify the record (stating its date, author, subject and recipients) and explain the circumstances by which the record ceased to be in your possession, custody, or control.

12. If a date or other descriptive detail set forth in this request referring to a record is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you shall produce all records which would be responsive as if the date or other descriptive detail were correct.

13. This request is continuing in nature and applies to any newly-discovered record. Any record not produced because it has not been located or discovered by the return date shall be produced immediately upon location or discovery subsequent thereto.

14. All records shall be bates-stamped sequentially and produced sequentially.

15. Records shall be delivered to 1136 Longworth House Office Building. You shall consult with Committee staff regarding the method of delivery prior to sending any material.

16. Upon completion of the document production, you shall submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all records in your possession, custody, or control which reasonably could contain responsive documents; and (2) all records located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

Definitions

1. The term "records" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, whether classified or unclassified, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meeting or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "records in your possession, custody, or control" means (a) records that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) records that

you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) records that you have placed in the temporary possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.

4. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.