

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

March 23, 2016

The Honorable Jacob Lew
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Lew:

Last August, members of the House Ways and Means Oversight Subcommittee, including Chairman Roskam and Ranking Member Lewis, wrote the Department of the Treasury regarding Randy and Karen Sowers' petition for the return of their funds seized by the IRS. We urged Treasury, the Internal Revenue Service, and the Department of Justice to grant that petition and review other cases in which the IRS seized funds on the suspicion that the bank account holders violated the structuring statute¹ and return funds as appropriate in cases that do not meet the IRS's current policy that the funds must have come from an illegal source. *See* attached letter.

Four months later, on December 2, 2015, Committee staff contacted the IRS and DOJ requesting a briefing on the status of the review process. The agency staff response led us to believe that Treasury, IRS, and the DOJ had not yet taken any action to commence the review process. The agencies delayed meeting with Subcommittee Chairman Roskam until February 12 this year—more than two months after the staff initially requested the meeting.

At that meeting, IRS Criminal Investigation Chief Richard Weber and DOJ Criminal Division Chief of Staff David Bitkauer told Chairman Roskam that the agencies were unsure they legally could review closed cases and that, even if they did have the legal authority to review the cases, the agencies may not have created or maintained a sufficient evidentiary record that would allow them to determine whether remitting funds would be justified. Moreover, they said, even if the agencies reviewed cases and determined that justice would require remitting the funds, there may be no money available to make the victims whole.

¹ 31 U.S.C. § 5324 (prohibiting structuring of financial transactions to avoid IRS reporting requirements).

Letter to the Honorable Jacob Lew
March 23, 2016
Page 2 of 3

The Subcommittee is troubled by the agencies' response. The agencies' representatives at that meeting did not provide any legal reasoning for why such a review would be illegal, and they seemed unconcerned that the IRS and DOJ's actions in these cases unfairly harmed American citizens and have undermined Americans' trust in their government.

One week after that meeting, we were pleased to learn that the IRS decided to return more than \$100,000 to one petitioner, Ken Quran. The other pending petitions of which we are aware, including the Sowers petition, are currently under the DOJ's jurisdiction, because the property owners challenged the seizure of their funds in court. To date, we have heard of no action taken on those petitions.

We again urge Treasury, IRS, and DOJ to give all due consideration to all pending petitions and to remit funds as appropriate. We also ask that the agencies establish a process to review all similarly-situated cases to determine if funds should be remitted. As part of that process, we request that all known property owners whose funds were seized on a suspicion of structuring prior to the implementation of the IRS's October 25, 2014, policy receive notice of the review and the opportunity to submit a petition for remittance of funds. If a property owner fails to submit a petition, however, we ask that the lack of a petition not weigh against the merits of remitting their funds if otherwise appropriate.

As the IRS and DOJ agreed during the meeting with Chairman Roskam, please provide us with the following information by April 6, 2016:

1. An update on the status of the review process, including whether it will move forward and, if so, the standards and procedures that will be used to review cases;
2. If the agencies identify any cases in which property was seized prior to the implementation of the IRS's October 25, 2014 announcement, and the agencies would remit funds except that the money already has been spent elsewhere, (a) how many such cases exist; (b) how much money should be remitted to the property owners; and (c) why the agencies currently do not have access to funds to remit to the property owners;
3. Whether there are any cases in which property was seized before the implementation of the October 25, 2014 policy on suspicion of structuring that have not been resolved; and
4. DOJ and IRS's policies and practices regarding case file retention for cases involving IRS civil asset forfeiture authority, including how long, in what format, and where case files are maintained.

Letter to the Honorable Jacob Lew
March 23, 2016
Page 3 of 3

Thank you for your assistance with these requests and in helping bring justice to these American citizens.

Sincerely,



Peter J. Roskam
Chairman




John Lewis
Ranking Member



Patrick Meehan
U.S. House of Representatives



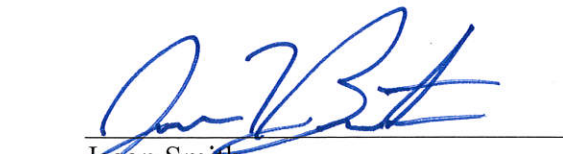
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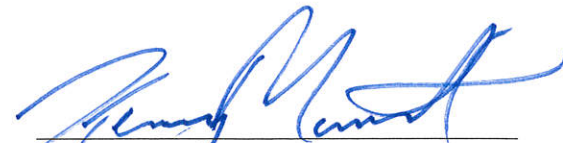
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