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Are Criminals Outsmarting The IRS?

With the IRS scandals of the last 18 months, it might seem that we have lost control of our tax system. The IRS is an essential part of our government, which can't run without taxes. So having it fairly and efficiently run is pretty important. More than 18 months ago, an [angry President Obama sacked the IRS chief](#), Steven Miller. That was inevitable after the story broke that Tea Party and other conservative groups were [targeted for extra scrutiny](#). The cover-up was worse than the crime, especially for an agency that must rely on taxpayers self-assessing their taxes.

More than 18 months ago, Mr. Obama said (in this [transcript](#)) that the IRS needed new leadership while it faced a broad probe of its conduct. The President promised full cooperation with congressional investigations. For new leadership "that can help restore confidence," President Obama [picked John Koskinen as next Commissioner](#). He came to office having no tax knowledge and no tax experience, but was an avowed turnaround specialist.



Whatever Mr. Koskinen's skills, the agency hasn't yet come back to smooth sailing. With alleged targeting, bonus controversies, systemic lien and collection errors and more, the agency looks incompetent to many outsiders. Whatever one's political views, it doesn't exactly inspire confidence. The different stories surrounding the [lost or destroyed Lois Lerner emails](#) alone do not leave everyone as certain as the President that there is not [a smidgen of corruption](#). Perhaps the President will be proven right—I hope so.

But it still is no way to run a railroad. Taxpayers deserve better, and so do the thousands of IRS honest and hard working IRS employees. The 18 months of dissembling started when a comparatively unknown Lois Lerner was speaking at a bar association meeting May 10, 2013. She planted a question in the audience so she could get out ahead of the [TIGTA report](#) documenting IRS targeting. It may have been well-intentioned but came off as duplicitous. 18 months later, we're *still* waiting for the final word, though now we are told that [2,500 previously undisclosed documents may link to the White House](#).

Although no one in their right mind would turn over the tax system to criminals, a [new report](#) by the Treasury Inspector General for Tax Administration ([TIGTA](#)) might make you think twice about criminals and taxes. It turns out that convicted criminals are doing just fine with their taxes—from prison. The IRS admits that prisoner tax fraud is a problem, and it's getting far worse. No smidgens here.

Tax fraud by prisoners has skyrocketed, with fraudulent refund claims by prisoners soaring to 137,000 totaling \$1 billion in 2012. Just look at the growth. Five years before, there were only 27,000 claims and \$166 million in refunds. And that number is going to keep climbing unless the IRS gets its act together. The [TIGTA report](#) blames the IRS, not the prisoners. Criminals will be criminals, but the IRS knows better, knows the scams are being perpetrated, and isn't acting quickly or carefully to fix them.

The Inspector General says, "It is incumbent upon the IRS to act aggressively to prevent tax fraud wherever it occurs, particularly behind bars." To the IRS' credit, it did block about \$936 million of the \$1 billion in 2012. Still, it paid out about \$70 million in bad refunds. In some cases, inmates rake in hundreds of thousands if not millions. Dwayne Selvey, a North Carolina inmate, claims to have defrauded the government out of nearly \$4 million over a decade.

The Inspector General suggested a number of steps the IRS should take to prevent more money from getting into the wrong hands. They include sharing all the data with federal or state prison officials. The Inspector General blames the IRS for not submitting prisoner fraud reports to Congress in a timely manner. Plus, the reports issued by the IRS are not complete, the Inspector General claims.

If those emails are any indication, maybe disclosure is tough for this IRS. On this issue, though, the IRS now claims to be in touch with state governors, the Federal Bureau of Prisons and state departments of correction. But collaborating to prevent prisoner tax fraud could be tough. A few years ago, some [prison inmates registered with the IRS as tax preparers](#).

In fact, another study by the TIGTA said over 300 prisoners registered, 43 serving life. States get hit too. An operation run by Kavin Santos, also known as [Steven Augustine](#), allegedly involved hundreds of New York tax-credit applications with phony and stolen Social Security numbers. It was started at Rikers Island Correctional Facility in Queens.

With all of the dismaying news, it is worth remembering that how much we believe in the tax system is critical. Part of the reason we comply with the tax laws is fear that we'll be viewed as [willful](#) if we don't. But we all fill our returns and send in money, and that isn't about fear. We need confidence that the tax system is fair—and being fairly and competently administered—for it to work.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.