



Robert W. Wood

THE TAX LAWYER

TAXES 12/02/2014

Horrible Bosses, IRS Edition

People joked about horrible bosses long before [Horrible Bosses](#), [Horrible Bosses 2](#), and [The Office](#). I'm guessing that at least some employees over at the IRS may not be too impressed with their own leadership. I mean big issues, not relatively harmless but kitschy things like [Star Trek](#), Gilligan's Island or [line dancing videos](#). Perhaps there may have been some mistakes from regular employees, but the bosses surely have the most explaining to do.

The news that the [lost or destroyed Lois Lerner emails](#) were actually not lost or destroyed, for one. Remember, when the IRS brass said they looked *really* hard, and spent \$10 million (of taxpayer money!) trying to find those emails? After a year of investigation, they belatedly said they were lost, hard drives were recycled, etc. Anyhow, now they will be sorted, cataloged and released, which is good.

Some people are upset that money is being spent on a 'witch hunt' that reveals not even [a smidgen of corruption](#). Others aren't so sure. The Treasury Inspector General for Tax Administration has confirmed that, on top of the backed-up email horde, there are also nearly 2,500 documents relating to investigations of the improper disclosure of confidential taxpayer information by the IRS to the White House.

More than 18 months ago, an [angry President Obama sacked the IRS chief, Steven Miller](#). That was after the story broke that Tea Party and other conservative groups were [targeted for extra scrutiny](#). 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.

What about the rank and file? Thousands of dedicated IRS employees are doing their best to fairly administer the tax system. They have had their positions undermined by the awful bumbling (or worse) the IRS scandal over the last 18 months has revealed. Rank and file employees probably don't like to be maligned either. Remember those 'rogue employees' in Cincinnati doing things they shouldn't?

Lois Lerner—the former IRS official at the heart of Tea Party targeting—supposedly didn't even direct them, though she remains silent. She was held in [contempt of Congress](#) for refusing to testify, but hasn't been prosecuted. Yet after her long silence, in an [exclusive interview](#) with Politico she said did nothing wrong and considers *herself* the victim. She bristled at any suggestion she had anything to do with destroying emails, [switching to texts](#), or letting her own political views influence her treatment of Tea Party "a__holes."

In the midst of all this, many Americans could use a little reassurance on key points:

We Want To Be Dealt With Fairly. Given all the many complex and special rules in the tax law, one taxpayer can be treated very differently from another seemingly in the same position. That isn't fair. We also need fundamental *procedural* fairness and non-discrimination. On the whole, the IRS does an incredible job administering our horribly unwieldy tax laws. If you are not being dealt with fairly and respectfully, complain, ask for a manager or go to the IRS Taxpayer Advocate's Office.

We Don't Want Others To Get Away with Anything. We all know that many people manipulate tax rules. It's almost a point of pride to outsmart the tax man. Some rich people and huge companies pay too little. Some people of low and modest income pay too much. Some people prey on others too unsophisticated to know better. Reform is needed, but this is mostly Congress' job, not the IRS'.

We Want Our Private Information Kept Private. This is a big challenge for the IRS and others in government. With technology and e-filing, it is a huge danger. Leaks should be dealt with severely and more safeguards are needed.

We Want IRS Employees To Be Policed. If you have a bad experience with an IRS employee, report it. The IRS does care. Some employees are disciplined or even fired. See [IRS Non-Retaliation Policy](#). That's one reason much of the recent stories at the top are so disturbing. Unreasonable or abusive requests may happen, and you need to speak up.

We Don't Want More Complex Tax Laws. For the most part, complexity isn't the IRS's fault. Congress passes tax laws and fundamental reform must start with them. Sometimes the IRS makes it worse. The IRS should do a better job of streamlining and explaining tax rules to make them easier.

Since the IRS is made up of humans, sometimes the IRS is unreasonable or wrong. Richard Nixon supposedly asked the IRS to audit his political enemies. There has been no proof yet that President Obama tried to influence the IRS in the Tea Party targeting scandal. But it's not unreasonable to want to get to the bottom of it once and for all.

Consider that in [United States v. Clarke](#), Michael Clarke accused the IRS of issuing a summons as payback for resisting an audit. Mr. Clarke wanted to question the IRS Agent in court about the targeting, but the IRS refused. A unanimous Supreme Court gave Mr. Clarke the right to seek an evidentiary hearing about the motives of IRS officials. Sometimes we all want answers.

The IRS has a very hard job to do, and in general, does it well and fairly. But that is precisely why this is so important. We need fairness and faith in the tax system restored. We shouldn't need a Freedom of Information Act lawsuit to get it.

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.