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In 'Lost' Trove Of IRS Emails, 2,500 May Link White House To Confidential Taxpayer Data

The recent news that the [lost or destroyed Lois Lerner emails](#) were actually not lost or destroyed surprised some people. That they will now be sorted, cataloged and released provokes mixed reactions. It has some Republicans upset that more wasn't done and more transparently. It has some Democrats upset that more money is being spent on what see as a witch hunt that reveals not even [a smidgen of corruption](#). Despite the 18 months of dissembling about who did what and when, the latter reaction may be premature.

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. Yes, the White House.

Why should the White House be getting confidential taxpayer information? That is a good question. If the facts show such data was transmitted, even under the most charitable interpretation, you would think every American would want to know what happened.



The Inspector General for Tax Administration has seemed to be a white knight in the sometimes tawdry (and often inflammatory) email and targeting scandal that has roiled the IRS over 18 months. Yet on this particular issue, the Inspector General is being questioned too. An advocacy group called Cause of Action sued the Inspector General under the Freedom of Information Act for information about communications between the White House and the IRS.

Eventually, the court ordered that office to reveal whether the documents existed. Finally, the Obama administration has agreed to release the documents. A key question is whether any officials at the White House have ever asked anyone over at the IRS to transmit private taxpayer information to the White House in violation of law. Another question, regardless of whether the White House asked for any taxpayer information, is whether the IRS ever transmitted any.

With talk of targeting for more than 18 months, those of fair questions. The Obama administration consistently resisted responding, but has finally had to relent. In an [email](#) to Cause of Action, the Department of Justice has proposed deadlines for turning over documents next month. The DOJ states that it anticipates delivering some of the documents December 1st, and the remainder by December 15th.

The data may seem unimportant, and hopefully it will turn out to be. Still, the privacy protections for taxpayer data held by the IRS are among the most sensitive parts of the tax law. That makes any alleged transgressions of these rules serious. It makes this topic arguably the worst part of the IRS scandal so far.

According to the U.S. Supreme Court in a decision reaching back to 1819, the power to tax includes the power to destroy. The current administration's pooh-poohing, including its 'no smidgen of corruption' remark [to Fox News in February](#), does little to help. We have been feted to multiple mixed explanations of what happened, to multiple participants who may or may not have said or done something, to multiple refusals by one of the key players to testify. Such shifting sands leave us wondering.

The defiance and hubris from at least some at the IRS itself has been as disturbing. It has hardly seemed to be the kind of "we're here to serve" attitude one might reasonably have expected. Some are even wondering about that whole separation of powers thing we learned about in civics or history class. American taxpayers should want to know what happened.

So should thousands of dedicated IRS employees who are doing their best to fairly administer the tax system. Their position is undermined by the awful bumbling (or worse) the IRS scandal over the last 18 months has revealed. Any way you look at it, the tax system, and therefore our country, suffers badly. 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.