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'Lost' Lois Lerner Emails Found Despite 'No Backup' Claims. IRS Has No Comment

If you are an American taxpayer, the idea that your political (or other?) views could impact your taxes is pretty frightening. When you consider the power to tax—which includes the power to destroy—the mere suggestion of targeting is abhorrent. It's one reason all the denials—including President Obama's 'no smidgen of corruption' remark [to Fox News in February](#)—inflare rather than quell debate.

First, there was no targeting by the IRS. Then there was, but only by those rogue IRS employees down in Cincinnati. Then, there was a spontaneous uprising from a YouTube video (oops sorry, wrong he scandal). There was confusion about how to apply the tax law, but not political, and not from above. Then, top IRS Official Lois Lerner refused to testify.

IRS Commissioner Miller seemed defiant too and was sacked. Then, there was a year-long Congressional investigation *before* the IRS *finally* admitted the 2009 through 2011 Lois Lerner's emails 'disappeared.' Then, the backups ~~didn't work~~ were recycled. Then, the *new* IRS Commissioner said the IRS needs a bigger tech budget.



(AP Photo/Lauren Victoria Burke, File)

Now, not the IRS but the Treasury Inspector General for Tax Administration has found the 30,000 ~~missing~~ ~~lost~~ destroyed emails. They aren't sorted yet, and who knows what they will reveal. Numerous IRS officials testified that the backup tapes were recycled and the emails were gone. Turns out they were ~~misinformed~~ ~~mislead~~ mistaken. It isn't only Congress that was asked over and over to buy the IRS "we have nothing" mantra. The IRS has said it in court too.

But now, the Inspector General discovered the potential emails among 744 [disaster recovery](#) tapes, finding up to 30,000 of Lois Lerner's emails from the key 2009 to 2011 period. They could reveal nothing, or they could be smoking guns. But all taxpayers should care since transparency and integrity are key to our system.

The IRS audits, sends bills, imposes penalties, files liens and levies. But incredibly, most of the money the IRS collects is self-assessed. We all fill out tax returns and voluntarily send in money. Part of the reason we comply may be fear that we'll be viewed as [willful, risking jail](#) if we don't. Yet how much we believe in the system is critical to making it work.

What do most people think of the IRS these days? I don't mean your personal feelings when you get a letter from the IRS, even one via certified mail foretelling something serious. Or a knock on the door from the IRS with badges, maybe even guns. Anyone who has been through any of that knows it is unsettling even if you come out fine.

The fairness of the tax system and its administration is far more important than any one audit or tax dispute. And how people behave is likely to be influenced by how this drama plays out. Despite being held in [contempt of Congress](#) for refusing to testify, Ms. Lerner has not been prosecuted. Scholars debate whether her refusal is constitutionally protected.

Yet after her long silence, in an [exclusive interview](#) with Politico, Ms. Lerner said she did nothing wrong and she considers herself the victim. She bristled at any suggestion she had anything to do with destroying emails, [switching to texts](#) to avoid being traced, letting her own liberal views influence her treatment of tea party a_holes, etc. Perhaps she will be vindicated and truly did nothing wrong.

Perhaps, but American taxpayers deserve an explanation. So do thousands of dedicated IRS employees. The vast bulk of them are doing their best and helping not hurting the system. Their position is undermined by the awful bumbling and worse the IRS scandal over the last 18 months has revealed. Some of the public may not be able to get past the apparent stonewalling. Some of the public may wonder if they would get a pass from the IRS if their hard drive ate their tax records.

But anyway you look at it, the tax system suffers badly. Some taxpayers take their distrust to the courts, as with [True the Vote's lawsuit against the IRS](#). And NetJets has asserted that the IRS "wiped clean a number of computer hard drives containing e-mails and other electronic documents that the government was required to produce." Some taxpayers may not go to court, but may fudge their taxes, figuring the system is not fair anyway.

We need fairness and faith in the tax system restored. Perhaps we're now one step closer to 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.