



Robert W. Wood

THE TAX LAWYER

TAXES 8/24/2015

Hillary Clinton's Ashley Madison-Like Comeuppance

Regardless of whether you want Mrs. Clinton to be President, you have to admit that her email oops is deepening. It is fueled by her seeming amazement that *anyone* but Fox News could find it remotely relevant. This is hardly crisis management worthy of the White House Situation Room. Mrs. Clinton recently joked that she liked Snapchat. With that service, she said, messages disappear *by themselves!* She has also shrugged off questions about her private server being wiped clean, mirthfully saying, “Like a cloth or something?”

For Candidate Clinton, no one can Swift Boat the presumptive Democratic nominee as well as she can. Ever since the belated [disclosure](#) that Mrs. Clinton used *exclusively* private email while Secretary of State, growing questions of credibility—and over whether she compromised national security—have gotten worse. Her incomplete and opaque responses have fueled public disbelief. Despite growing belief that [Hillary's email defense is total BS](#), the U.S. State Department has generally supported her claims that she did not send or receive *then* classified emails—classified when she sent or received them—on her unsecured private account.



Until now. With what are now clearly “Classified,” stamps—so denominated at *some point* at least—Reuters revealed in an [exclusive story, that dozens of Clinton emails were classified from the start](#). If nothing else, Reuters reports that some of Mrs. Clinton’s emails from her official role are filled with a type of information the U.S. government and the department’s own regulations *automatically* deem classified. Yes, classified then, at the time they were sent and received.

Reuters says this is so from the start, regardless of whether they are marked as classified or secret. The report reveals at least 30 email threads from 2009, representing scores of individual emails, that include what the State Department’s own “Classified” stamps now identify as so-called ‘foreign government information.’

Any information, written or spoken, provided in confidence to U.S. officials by their foreign counterparts counts. This is presumed classified, in part to protect national security and the integrity of diplomatic interactions. So says U.S. regulations.

Think of it like marital infidelity. By definition, it is a hush-hush topic, not something anyone wants revealed about themselves. It is why in dozens of embarrassing hacks and data dumps, the Ashley Madison one is so captivating. Horrifying or amusing, it hits home.

Speaking of which, in 2014, [Ashley Madison featured Hillary Clinton on a billboard](#). It was timed for her [Hard Choices](#) book tour, though timing today

might be even better. Mrs. Clinton joined the ranks of JFK, President Clinton and FDR, who were also featured in the affairs site's advertisements. They had affairs, albeit not through the auspices of Ashley Madison. But secrecy is secrecy, and meanwhile, an operative banned from the State Department, [Sidney Blumenthal](#), turned up too. According to Mrs. Clinton, he is just an old friend.

Why not use yet another private email account? And speaking of gaffes, don't forget the Clinton Foundation. Yes, it is a charity, but it is inextricably entwined with politics, State Department personal emails, and speech-making. There have been many "oops" moments from the Foundation, including statements that it would amend at least the three years of its taxes when Mrs. Clinton was Secretary of State. That belated announcement came only after it was reported that the Foundation had gross errors in its filings.

It failed to disclose the millions of dollars in government funding it received during Mrs. Clinton's State Department-private email-years. Of course, those private emails were just for convenience. House Republican have asked whether businesses used an association with the Clinton Foundation to advance business? How about politics?

Many an American taxpayer is probably wondering about the tax errors, even though former President Bill Clinton pooh-poohed them. If the IRS catches you before you correct your mistake, an amendment may not fix it. It is an interesting paradigm to compare now that the Bill, Hillary and Chelsea Clinton Foundation announced amending multiple years of tax returns.

To anyone with a thinner coating of Teflon, the subject would be embarrassing: donations by foreign governments while Mrs. Clinton was Secretary of State. Mrs. Clinton resigned from the Foundation's board after she announced her Presidential run. But upon becoming Secretary of State, Mrs. Clinton *promised* that the Foundation would stop accepting donations from foreign governments. It turns out there were exceptions.

It also turned out—another oops—that the Foundation's IRS tax filings were less than transparent. This is all rather inconvenient and surely better discussed privately. But isn't that why one goes on Ashley Madison and uses private email?

For alerts to future tax articles, follow me on Forbes. 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.