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House Considers Bill To Stop IRS Targeting, Fire IRS Employees Who Do

The House Committee on Ways and Means is busy with a bill that could change the IRS. [H.R. 709](#), the Prevent Targeting at the IRS Act, calls for firing IRS employees who take certain official actions for political purposes. The fact that such a bill has been introduced makes you wonder. Isn't that the law already? Not really.

Everyone wants to feel secure that they will be dealt with fairly by the IRS. The tax system is full of special rules, and no one can master them all. Thus, one taxpayer may be treated very differently from another who is seemingly in the same position. That probably isn't fair, but don't confuse this with fundamental *procedural* fairness and non-discrimination. That is at the heart of the IRS targeting debate, and why the issue is so terribly important to the tax system as a whole.



Lois Lerner, former director of the Tax Exempt and Government Entities Division at the IRS, exercises her Fifth Amendment Right against self incrimination during a hearing of the House Oversight and Government Reform Committee on Capitol Hill March 5, 2014 in Washington, DC. The committee held the hearing to see if the IRS has been targeting US citizens based on their political beliefs. (Photo credit: BRENDAN SMIALOWSKI/AFP/Getty Images)

The last big legislative shakeup of the IRS was in 1998, in the [IRS Restructuring and Reform Act of 1998](#). It includes rules requiring the IRS to terminate an employee for certain proven violations committed by the employee in connection with performing official IRS duties. These firing violations under existing law include:

1. Willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;
2. Providing a false statement under oath material to a matter involving a taxpayer;
3. With respect to a taxpayer, taxpayer representative, or other IRS employee, the violation of any right under the U.S. Constitution, or any civil right established under titles VI or VII of the Civil Rights Act of 1964, title IX of the Educational Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, sections 501 or 504 of the Rehabilitation Act of 1973 and title I of the Americans with Disabilities Act of 1990;
4. Falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or a taxpayer representative;
5. Assault or battery on a taxpayer or other IRS employee, but only if there is a criminal conviction or a final judgment by a court in a civil case, with respect to the assault or battery;
6. Violations of the Internal Revenue Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee;
7. Willful misuse of section 6103 for the purpose of concealing data from a Congressional inquiry;
8. Willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause;
9. Willful understatement of Federal tax liability, unless such understatement is due to reasonable cause; and
10. Threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

How does this list work in practice? The 1998 law says the IRS Commissioner can determine that mitigating factors exist. What's more, the IRS Commissioner has discretion—and he alone has it—to say whether those factors mitigate against terminating the IRS employee. The IRS Commissioner also has sole discretion to establish a procedure to determine whether an individual should be referred for such a determination by the Commissioner.

It does seem rather one-sided and not very automatic. And so the proposal being considered by the House would make it more clear. The proposed law would expand the scope of the violation concerning an IRS employee threatening to audit a taxpayer for the purpose of extracting personal gain or benefit. It would also cover an IRS employee who threatens to audit someone for political purposes.

The proposal requires the IRS to terminate an employee who, for political purposes or personal gain, undertakes official action with respect to a taxpayer or, depending on the circumstances, fails

to do so, delays action or threatens to perform, delay or omit such official action. An 'official action' here would include an audit or examination.

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