



Robert W. Wood

THE TAX LAWYER

TAXES 9/14/2015

IRS Gets Sued Over Bonuses To Lois Lerner

For more than two years, the IRS targeting scandal has been one dissembling excuse after another. Rogue employees in Cincinnati! Oops, the emails are gone! Lois won't testify! We can't be expected to perform with the IRS budget being slashed! IRS can't hand over *anything* without violating taxpayer confidentiality. Lois's dog did it! This was a spontaneous demonstration to a video!

You name it, we've heard it. So I was delighted to read that the mysterious [IRS bonuses are the subject of a FOIA suit](#). On June 20, 2013, weeks after the targeting story broke from Lois Lerner herself (before she took the Fifth), the IRS paid out \$70 million in bonuses. Ms. Lerner received \$42,000, part of her [\\$129,300 in bonuses](#). Former Commissioner Miller (!) received \$100,000. If anyone can get to the bottom of the CIA-like IRS, it is Tax Analysts, which has a long tradition of suing the agency.



As noted by Tax Analysts President Chris Bergin:

6 I would argue that suing the IRS for information we believe should be in the public domain is unfortunately nothing new for Tax Analysts. My point is that the IRS better start understanding the need for it to embrace transparency before it becomes a shell of itself. The days of hiding its internal operations from the public must come to an end. To get the funding it needs and deserves, the IRS must become much more accountable to the people it serves. And forget the politicians who promise to rid us of the IRS. For my money they're just banking on the hatred that exists for this agency. Ask them what would replace the IRS and they don't have a rational answer. For the IRS, sunshine is not just the best disinfectant — it is the only way an agency with a mostly proud history can earn back its trust and viability. If not, we are all in desperate trouble.”

The generous bonuses are only one piece of this mess, of course. Yet it seems downright bizarre that the head or heart of the IRS targeting scandal Lois Lerner was being richly *rewarded*. [Records](#) obtained under the Freedom of Information Act reveal [her \\$129,000 in bonuses](#) between 2010 and 2013, averaging \$43,000 a year—on top of her regular salary. She was collecting handsomely [while she presided over alleged discrimination against conservative nonprofits](#).

The IRS scandal broke in May 2013, but started in January 2010. That's when the Supreme Court found it unconstitutional in [Citizens United](#) to ban free speech by corporations, unions and other organizations. In August 2010, the IRS [distributed a list](#) asking for extra scrutiny for Tea Party organizations applying for tax exempt status. Lerner even met with the DOJ about *prosecuting* conservative groups.

Amid reports of targeting, [former IRS Commissioner Shulman testified](#) there was “absolutely no targeting” of conservative or Tea Party organizations by the IRS. [Mr. Shulman then stepped down](#) as Commissioner, replaced by Steven Miller. On May 10, 2013, during a bar meeting, Ms. Lerner admitted targeting, calling it “absolutely incorrect, insensitive, and inappropriate.” Four days later, on May 14, 2013, the Inspector General [issued a report](#) confirming the targeting.

The next day, Acting IRS Commissioner [Steven Miller resigned](#). Ms. Lerner professed her innocence, then [took the Fifth](#). She was placed on [administrative leave](#), and shortly thereafter retired with full pension. The

House held Ms. Lerner in contempt of Congress. Only then—on June 13, 2014, Friday the 13th—did the IRS *first* say it lost Lerner’s emails from 2009 to 2011. The IRS said hard drives and backups were destroyed, spending millions to try to recover them.

On September 22, 2014, Ms. Lerner breaks her silence to [Politico](#), saying that she is the victim. In November-December 2014, the Inspector General recovers 30,000 backed up Lerner emails. In FOIA litigation, court ordered documents show that the DOJ met with Ms. Lerner in 2010 about conservative groups. The IRS and Inspector General decline to provide documents revealing taxpayer private data, though the White House may have received them.

On February 3, 2014, President Obama told Fox there was “[not a smidgen of corruption](#)” at the IRS. And those republicans made the IRS waste a lot of money! Over 250 IRS employees spent 100,000 hours, costing taxpayers at least \$14 million. If IRS employees were targeting without direction from their bosses, perhaps they shouldn’t get bonuses? Every American should want to get to the bottom of this once and for all.

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.