



Robert W. Wood

THE TAX LAWYER

TAXES 4/16/2015

IRS Targeting Investigation Is Probed By Senator Grassley

Sen. Chuck Grassley, Chairman of the Judiciary Committee has asked the Justice Department and the Treasury Inspector General for Tax Administration for an update. Just what is going on with the investigation of alleged misconduct by IRS personnel, including Lois Lerner? He isn't alone wanting to know. Sen. Grassley asked a series of questions about the investigative status of the IRS employees' conduct, directing his inquiry to Sally Quillian Yates, Acting Deputy Attorney General of the Department of Justice, and J. Russell George, Treasury Inspector General for Tax Administration.

Without hyperbole, Sen Grassley ask logical questions and is entitled to some answers:

“ Dear Acting Deputy Attorney General Yates and Mr. George:

I am writing in regard to the ongoing criminal investigation into the alleged misconduct by Internal Revenue Service personnel, including Ms. Lois Lerner, in connection with their handling of applications for tax-exempt status by certain conservative organizations. In May of 2013, Attorney General Holder announced that he had ordered the investigation. In January of 2014, the Wall Street Journal, citing unnamed law-enforcement officials, reported that the FBI did not at that time plan to file any criminal charges as a result of the investigation, but noted that the case was ongoing and would likely remain open for months.

On November 3, 2014, the Department of Justice filed a sworn declaration by Mr. Nelson D. Hermilla, an official in the Department's Civil Rights Division, in a civil case in the U.S. District Court for the District of Columbia. In that declaration, Mr. Hermilla stated that the Justice Department “is currently conducting” the investigation of alleged IRS misconduct, further stating:

The investigation is being conducted by career attorneys in the Civil Rights Division and the Public Integrity Section of the Criminal Division, as well as agents from the Federal Bureau of Investigation and the Treasury Inspector General for Tax Administration.”

In order to evaluate the extent to which your organizations are actively investigating this issue, please provide written answers to the following questions by May 15, 2015:

1. Since January of 2014, who has been assigned to the investigation from each of the offices cited in Mr. Hermilla's declaration?
2. When were they assigned, and by whom?

3. How many hours has each attorney or agent identified above worked on the investigation since being assigned to it? How many hours since January of 2014?

4. Prior to being assigned to this investigation, had any of these assigned attorneys or agents previously had contact with any of the IRS employees or offices under investigation? If so, please provide a detailed explanation of the nature and extent of the prior contacts.

5. Has a litigation hold or other preservation effort been instituted to ensure that all potentially relevant parties preserve all possible evidence, including electronically stored information that could otherwise be damaged or erased absent such preservation efforts? If so, please provide a copy. If not, please explain why not.

If you have any questions about this request, feel free to contact Patrick Davis of my Committee staff at (202) 224-5225. Thank you for your attention to this important matter.

Sincerely,

Charles E. Grassley

Chairman, Senate Committee on the Judiciary

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.