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Listen In On IRS 'Extra Scrutiny' Recordings

You may be tired of the Tea Party targeting scandal. Since the story broke, the IRS has also been criticized for a host of problems, from conference and travel expenses, silly team-building videos and more. See [Step Up IRS? IRS Dance Video Even Worse Than Star Trek](#). Yet what started the ball rolling remains the targeting of conservative political groups. And it won't die. See [IRS Inspector Shellacs Oversight Committee About Tea Party](#).



Tea Party flag (Photo credit: futureatlas.com)

Republicans still smell a rat. Ways and Means Committee Chairman Dave Camp (R-Mich.) [released](#) portions of an interview between congressional investigators and an IRS tax exemption agent. The IRS is setting aside all applications for tax-exempt status from Tea Party groups for secondary screening, the agent suggested, even if there is no evidence of political activity.

In response, Democrats say the Republicans are making a mountain out of a mole hill. Congressman Sander Levin (D-MI), also of the Ways and Means Committee, released his own excerpts. See [Democrats look to defuse GOP's latest IRS accusation](#). Rep. Levin also issued a statement:

“House Republicans are at it again trying to twist the facts to fit their political narrative. This particular screener is not singling out applications but rather sending all potential political advocacy cases for secondary screening out of an abundance of caution. The Republicans should stop trying to distort facts to gain a political advantage and instead focus on fixing the 501(c)(4) guidance problem. I call on Chairman Camp, in the future, to release the full context of any exchanges and not carve out parts around 6103 confidential tax information to try to fit the Republican narrative.” See [Levin Releases Additional Excerpts from Ways and Means Interviews](#).

Rep. Levin released this pithy dialog for our reading pleasure:

COMMITTEE: Today, currently, how do you analyze advocacy cases. If, for example, Tea Party of Arkansas came in today, how would you handle it?

IRS AGENT: Well, the BOLO list doesn't exist anymore.

COMMITTEE: Sure.

IRS AGENT: If a political advocacy case came in today, I would give it — or talk about it to my manager because right now we really don't have any direction or we haven't had any for the last month and a half.

COMMITTEE: Yeah. If you see a case today, and there is no reference to “Tea Party,” but the applicant organization indicates in its application, the 1024, that it is going to engage in political activity, what would you do with that case?

IRS AGENT: I would send it to the secondary screening, political advocacy.

COMMITTEE: Okay. So you wouldn't take that case to your manager, would you?

IRS AGENT: Well, I don't know that the policy Well, if I saw one now, I would.

COMMITTEE: You would bring it to your manager?

IRS AGENT: The reason being, I would want her concurrence that this See, with the BOLO gone, I want to make sure I do the right thing when I am looking at a case. I would want to make sure that it is handled according to EO Determinations policy. Do you understand what I am trying to say?

COMMITTEE: I think what you are telling me is that out of an abundance of caution, you would bring this

IRS AGENT: Yes. Yes.

COMMITTEE: to your manager today. Okay.

COMMITTEE: If I could just follow up. So in the past when the BOLO existed, they would automatically go to Group 7822 [secondary screening group], correct?

IRS AGENT: Yes, uh huh. Prior to the 7823 being created.

COMMITTEE: Right. Replacing 7822. And now the process is sort of, as you say, out of an abundance of caution if it's a political advocacy case, including Tea Party cases, you will take it to your manager and then your manager will say send it over to 7823. Right?

IRS AGENT: That's correct.

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COMMITTEE: If you saw — I am asking this currently, if today if a Tea Party case, a group — a case from a Tea Party group came in to your desk, you reviewed the file and there was no evidence of political activity, would you potentially approve that case? Is that something you would do?

IRS AGENT: At this point I would send it to secondary screening, political advocacy.

COMMITTEE: So you would treat a Tea Party group as a political advocacy case even if there was no evidence of political activity on the application. Is that right?

IRS AGENT: Based on my current manager's direction, uh-huh.

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COMMITTEE: Is it easy to distinguish between lobbying and political activity just sort of based on the application? Just your initial screening of an application?

IRS AGENT: It's not real easy.

COMMITTEE: And so that's why usually you would send that on to a secondary screening?

IRS AGENT: Yes. Advocacy.

COMMITTEE: Uh huh.

IRS AGENT: Are you talking political advocacy?

COMMITTEE: Sure.

IRS AGENT: Are you talking specific to a

COMMITTEE: Not specific to a group, just in general.

IRS AGENT: It's not an easy thing to determine.

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.