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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR  
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June 25, 2014

The Honorable Ron Wyden  
Chairman  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington DC 20515

Dear Chairman Wyden:

We write to you today to request that you convene, as soon as practicable, a hearing of the Senate Finance Committee so as to make a full, public inquiry into the alleged loss of emails and other electronic information by the Internal Revenue Service (IRS) of certain key current and former IRS employees.

For better than a year, the Committee has been conducting a bipartisan investigation into the possible political targeting by the IRS of groups seeking tax exemption. During the course of that investigation, Republican and Democrat Committee Staff have reviewed over 750,000 pages of email communications and other documents produced by the IRS, and interviewed 30 current and former employees of the IRS and the Treasury Department. Throughout the investigation, IRS Commissioner Koskinen and his predecessor, Principal Deputy Commissioner Werfel, as well as IRS staff, have given us steady assurance that the IRS is cooperating to the fullest extent possible with the Committee's requests for the information vital to this investigation, including the email and other documents of a number of key IRS employees.

On Friday June 13, 2014, the IRS, in response to a request that it confirm that it had produced to the Committee all relevant information requested by it during the course of the investigation into the allegations of political targeting, revealed to the Committee that it could not locate much of Lois Lerner's email from 2009 to June 2011. From nearly the onset of this investigation, our bipartisan investigators have focused on the actions of Lois Lerner, former Director of the IRS Office of Exempt Organizations. Ms. Lerner has rejected the possibility of speaking to Committee investigators, thereby heightening the Committee's need to review her email. Moreover, the period during which Ms. Lerner's emails have gone missing, 2009 to June 2011, is the time frame that Committee investigators have identified as the most critical to their inquiries.

The revelation made by the IRS on June 13, 2014 regarding Ms. Lerner's missing emails was referenced, almost in passing, on page 15 of an obtuse, 27-page letter penned by the IRS

describing its data collection efforts. IRS staff informed Committee Staff on Monday, June 16, 2014, that the IRS had first become aware of the missing Lerner emails in February 2014, but could not, or would not, explain why the IRS waited until June 13, 2014 to share this information with the Committee. Commissioner Koskinen was called to meet with you and Senator Hatch on Monday, June 16, 2014 to explain the missing emails and stated to you then that he first became aware of the issue regarding Ms. Lerner's emails approximately three weeks ago. The IRS' failure to inform the Committee months or even weeks ago about the missing emails raises serious questions about its commitment to cooperate with this investigation.

To compound matters further, on Tuesday June 17, 2014, we learned through a press release from the House Ways and Means Committee that for various periods of time, the email of six additional IRS employees had also been allegedly lost by the IRS, including another figure central to the investigation, Nikole Flax, former Deputy IRS Commissioner for Services and Enforcement and Chief of Staff to the IRS Acting Commissioner. While IRS personnel shared this astounding news with staff of the House Committee on Ways and Means on Monday June 16, 2014, those very same IRS personnel failed to convey this news to our Committee Staff in a meeting held on that very same day.

Additionally, we learned in a letter from the White House dated Wednesday, June 18, 2014, that the IRS informed the Treasury Department of the loss of Ms. Lerner's emails as early as April 2014, and that the Treasury Department, in turn, notified the White House of the lost emails in April 2014. While the IRS took immediate measures to inform the Treasury Department and the White House of these problems, we are at a loss to understand why it failed to move with similar deliberation in informing the Senate Finance Committee.

The IRS' dilatory revelation of the loss of these emails and its incomplete and confusing explanations to both Committee Staff and to you and to Senator Hatch warrant, in the strongest possible terms, a hearing by the Senate Finance Committee to investigate the circumstances surrounding these missing emails. Many questions remain unanswered for which we, and the American public, demand answers. For example, is the account provided by the IRS regarding the loss of these emails accurate? Can those emails be recovered from any other source? Have the email records of any other employees identified as custodians for the purposes of our bipartisan investigation been lost? What steps were taken to recover the lost emails? Could other reasonable measures have been taken by the IRS to reclaim the lost emails? When did the IRS first learn about the loss of this information? Where are the allegedly damaged hard drives?

The thoroughness of the Committee's bipartisan investigation into the allegations of political targeting by the IRS, the supportability of its findings, and the soundness of its recommendations for changes at the IRS are dependent upon the answers to these questions. Accordingly, we urge you to convene a hearing as soon as possible during which time IRS Commissioner Koskinen and other IRS officials responsible for its data collection efforts can provide answers to these and other related questions.

Sincerely,

Orin Hatch

Chuck Grassley

Mike Crapo

Pat Roberts

Michael B. Enzi

John Cornyn

John Thune

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Rob Portman

Pat Romney