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Recovered IRS Emails Can't Be Revealed Because Of Privacy...That Was Already Breached

For over 18 months, we've been wondering about those 'lost' IRS emails. Would they surface and if so, what they would show? Targeting? Profanity? Nothing? It was a whole year into the Congressional investigation before the IRS *first* said they were 'lost,' a bizarrely belated "oh by the way...."

Think you could file your tax return a year late next year? Would the IRS show some compassion? Unlikely. Yet it turns out those ~~lost, destroyed~~, found, and now warehoused emails *still* can't be reviewed by the media or anyone else. Why? Because they contain confidential taxpayer information, that's why.

So says the IRS watchdog known as [TIGTA](#), the Treasury Inspector General for Tax Administration. The Inspector General has done great works this year and often pokes at the IRS behemoth to improve it. But the Inspector General is in a tough spot over this privacy issue.

We thought the news that the [lost or destroyed Lois Lerner emails](#) were *actually* not lost or destroyed meant we would get to the bottom of this once and for all. How else could we see if the President's supporters are right? They say this is a 'witch hunt' that reveals not even [a smidgen of corruption](#), a phrase Mr. Obama himself repeated to [Fox News](#) in February. But once again, we're in the dark. Talk about a Catch-22.



The non-profit group [Cause of Action](#) began investigating whether the IRS was improperly sharing taxpayer information with the White House in 2012. Cause of Action filed a Freedom of Information Act request for any correspondence between the IRS and White House about tax returns for individuals or businesses. When the IRS said ‘no,’ the group [filed a lawsuit](#).

A judge finally ruled that the IRS *must* turn over any relevant documents to Cause of Action. But that puts in Inspector General back in the hot seat. TIGTA admits it has [thousands of pages of responsive documents](#). However, TIGTA says it can’t release them because they contain confidential taxpayer information. That sure sounds telling already, even if we can’t see them!

After all, why would communications between the IRS and the White House contain taxpayer information? A key question is whether any officials at the White House ever asked anyone at the IRS to transmit private taxpayer information to the White House in violation of law. Moreover, regardless of whether the White House asked for any taxpayer information, did the IRS ever transmit any?

The DOJ emailed Cause of Action about delivering some of the documents December 1st, with the remainder by December 15th. But now it’s not clear what will happen and how confidentiality concerns will be addressed. The data may seem unimportant, and hopefully it will turn out to be.

Still, any alleged transgression of these rules is serious. The multiple mixed explanations of what happened, and the multiple refusals by one of the key players to testify, leave many American taxpayers wondering what happened. In addition, let us not forget the thousands of dedicated IRS employees doing their best to fairly administer the tax system.

They can’t be happy with the way their agency looks. Personally and professionally, their positions are undermined by all of this. The IRS and the Inspector General need to work to get this resolved

so we can—with appropriate redactions—see the documents, whatever they reveal. The White House should help too, especially given all the platitudes about transparency.

White House Press Secretary Josh Earnest said he the administration “very closely” adheres to rules that ensure the IRS operates without political interference. “I can tell you that, as a rule, that the Obama administration has been very rigorous in following all of the rules and regulations that govern proper communication between Treasury officials and White House officials and the Internal Revenue Service,” [Mr. Earnest said](#).

Perfect, then there’s no smidgen of a problem with full disclosure, right? We’ll see, but with appropriate legal protections, that’s what we need: to see, to see it all, out in the open. It may be the only way many Americans are going to have their faith restored in the fairness of our tax system. That’s no catch phrase, and it shouldn’t be a Catch-22 either.

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.