



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

June 6, 2014

VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
United States Senate
Russell Senate Office Bldg., Room SR-269
Washington, D.C. 20510-2202

Dear Senator Levin:

This is in response to your letter of May 28, 2014, regarding the Subcommittee's investigation into oversight by the Internal Revenue Service (IRS) of § 501(c)(4) groups that engage in campaign activity. As part of this investigation, the Subcommittee reviewed the Treasury Inspector General for Tax Administration's (TIGTA) audit report entitled, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," Audit Report No. 2013-10-053. You asked us to respond to five questions. Our responses to your questions follow:

1. *Is it correct that the TIGTA audit found no evidence of political bias in how the IRS selected and reviewed 501(c)(4) applications filed by groups engaged in campaign intervention activities?*

The Office of Audit asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Exempt Organizations (EO) Director; and Determinations Unit personnel whether the inappropriate criteria were influenced by any individual or organization outside the IRS. We reported that, "all of these officials stated that the criteria were not influenced by any individual or organization outside the IRS." I also testified before Congress that TIGTA found no evidence of political bias during this audit. However, it is important to note that the matter is being further reviewed.

2. *The TIGTA audit engagement letter stated the audit's "overall objective" was to examine the "consistency" of IRS actions in identifying and reviewing 501(c)(4) applications, including whether "conservative groups" experienced "inconsistent treatment." What conclusion did the TIGTA audit reach regarding whether conservative groups experienced inconsistent treatment by the IRS in comparison with liberal or progressive groups?*

TIGTA's engagement letter actually stated that the overall objective of the audit was "to assess the consistency of the EO function's identification and review of applications for tax-exempt status involving political advocacy issues." Our overall objective was not to determine whether conservative groups experienced inconsistent treatment. Appendix I of our report shows that we, "determined whether the actions taken by the EO function to identify applications for tax-exempt status of organizations potentially involved in political campaign intervention were consistent" by reviewing all 298 potential political cases identified as of May 2012 that IRS forwarded to their team of EO specialists, as well as statistical samples of applications that the IRS did not forward to its team of EO specialists. In all, we reviewed more than 600 cases to determine if the applications involving political advocacy issues received consistent treatment. Our report concludes that:

"The inappropriate and changing criteria may have led to inconsistent treatment of organizations applying for tax-exempt status. For example, we identified some organizations' applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention. All applications that were forwarded to the team of specialists experienced substantial delays in processing."

Our audit report does not include the terms "conservative," "liberal," or "progressive," and TIGTA did not make any characterizations of the political views of any organizations.

3. *At a June 3, 2013 hearing before the House Appropriations Subcommittee on Financial Services and General Government, in response to a question about whether TIGTA's audit had "found any political motivation in reviewing tax-exempt applications," you testified:*

"But in the instance of the political activity matter, we did not uncover instances of groups that could readily be identified as being, you know, liberal, you know, for lack of a better term, that were treated in a manner that these Tea Party cases were."

Did you mean that the TIGTA audit uncovered instances where liberal groups were treated in a different manner than Tea Party groups? If so, please describe those instances and in what ways the liberal groups were treated differently.

In the audit report, TIGTA did not characterize any organizations as liberal or conservative. Nor did we assess whether liberal groups were treated in a manner different than Tea Party groups. Our audit report used the terms Tea Party, 9/12, or Patriots because those were the terms the IRS represented it was using to select cases for further review for potential significant political campaign intervention. As stated in our audit report: “We identified some organizations’ applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention.”

In my testimony before the House Appropriations Subcommittee on Financial Services and General Government, I was conveying that, in the audit report, we did not characterize the political views of any organizations. Many of the names of the organizations used terms not readily categorized on the political spectrum, and we did not identify any objective criteria that we could use to label these groups in a manner that meets government auditing standards.

4. *Did the Be on the Look Out (BOLO) lists issued by the IRS ask IRS agents to be on the lookout for applications filed by progressive and liberal groups?*

As we stated in our audit report, we did not review the use of other named organizations or terms on the BOLO listings to determine if their use was appropriate, nor did our audit make any characterizations of the political views of any organizations. During our audit, we used the “Emerging Issues” section of the BOLO listing, which the IRS informed us was the criteria it used to identify potential political campaign intervention cases during the time period covered by our audit. However, the term “Progressives” appears on the BOLO listing in a section labeled “Historical.” This BOLO entry refers to § 501(c)(3) organizations. The three “Progressive” cases included in the 298 potential political cases that were forwarded to the team of specialists as of May 2012 were § 501(c)(4) organizations. While we have multiple sources of information corroborating the use of Tea Party and other related criteria we described in our report, including employee interviews, e-mails, and other documents, we found no indication in any of these sources that “Progressives” was a term used to refer cases for scrutiny for political campaign intervention during the time period covered by our audit.

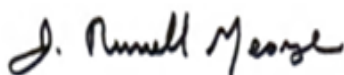
The Honorable Carl Levin
June 5, 2014
Page Four

5. *In his interview with the Subcommittee, Assistant Inspector General Gregory Kutz told the Subcommittee that all 501(c)(4) applications within the advocacy category of cases appeared to have received the same treatment by the IRS. Do you agree?*

Based on the recollection of Mr. Kutz, the response of “same treatment” would have referred to the delays in processing and tracking by the IRS of these cases. Specifically, as stated in our audit report, all applications (including 89 applications for § 501(c)(3) status) that we reviewed that were forwarded to the IRS team of EO specialists experienced substantial delays in processing. In addition, all of the 298 potential political cases that we reviewed were recorded on a tracking sheet by the IRS. However, it is important to note that no two applications were treated exactly the same since the information provided by applicants in each application differed. For example, for 296 of these cases,¹ as of December 17, 2012, 108 applications had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 cases were open from 206 to 1,138 calendar days (some crossing two election cycles). In addition, the IRS Determinations Unit sent applicants requests for information that we later (in whole or in part) determined to be unnecessary for 98 (58 percent) of 170 organizations that received additional information request letters.

We hope this information is helpful. If you or your staff has any questions, please contact me at (202) 622-6500, or Acting Deputy Inspector General for Audit Michael McKenney at (202) 622-5916.

Sincerely,



J. Russell George
Inspector General

cc: The Honorable John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations

¹ By December 17, 2012, two cases were no longer being processed by the team of EO specialists.