

# Exclusive: The Absence of Evidence is Evidence

“SHOULD NOT SOMEONE BE GOING TO JAIL?”

by Joseph DeMaio, ©2014



Did the sharing of confidential taxpayer information with White House personnel violate federal law in the absence of Obama’s signature, as required by [26 U.S. Code § 6103](#)?

(Aug. 11, 2014) — Long ago in the sad, sordid staining of the Nation by the regime now headquartered at 1600 Pennsylvania Avenue, it became crystal clear that the fundamental “change” to be wrought was that of giving new definition to the terms “lawless,” “arrogant,” “venal” and even “treasonous.” The regime has succeeded in redefining these terms beyond even its own wildest fantasies.

Let us review: last year, it was suggested [here](#) that it would be interesting to see how the IRS would respond to a Freedom of Information Act request for the actual document – personally signed by the president – seeking the disclosure of confidential tax information to the president or his designee.

The federal statutory provision authorizing this narrow exception to disclosure of otherwise confidential information of taxpayers is found in [26 U.S.C. § 6103\(g\)\(1\)](#). Disclosures not made in conformity with that statute are declared by Congress to be felonies. It remains to be seen, of course, whether Attorney General Holder – after seeking counsel from the editorial board at Pravda on the Hudson – could distinguish between a felony and a petty offense if committed by a member of the regime or one of its apparatchiks.

But I digress.

The statute in question specifies that, upon written request by the president, “signed by him personally,” the secretary of the treasury can disclose otherwise confidential “return or return information” to the president or designated persons specifically named in the request. The request must state “(A) the name and address of the taxpayer whose return or return information is to be disclosed; (B) the kind of return or return information which is to be disclosed; (C) the taxable period or periods covered by such return or return information; and (D) the specific reason why the inspection or disclosure is requested.”

Absent compliance with that statute, any such disclosures would implicate one or more additional federal laws providing for resultant punishments. Under the internal revenue code, persons making such unauthorized disclosures, and including those relaying or repeating such disclosures to other unauthorized persons, could be subject to felony prosecution under 26 U.S.C. § 7213(a). If the unauthorized disclosures were made by or to federal employees, the punishments upon conviction could amount to a fine of up to \$5,000 and/or imprisonment for up to five years.

The statute also provides that, if the offense is “committed by any officer or employee of the United States, he [or she] shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.”

And if that were not enough under the internal revenue code, such unauthorized disclosures by federal officers or employees could also implicate prosecutions under the federal criminal code, [18 U.S.C. §1905](#). Violation of that statute carries the sanction of a fine and/or imprisonment up to one year and, in addition, requires that the person so convicted “shall be removed from office or employment.” Fear not, potential violators: Holder and the editorial board at the NYT have your back.

Against that cheery backdrop, consider this: on October 9, 2013, appearing before Congressman Darrell Issa’s House Oversight and Government Committee, IRS Obamacare (lower case intended) official Sarah Hall Ingram testified regarding certain [emails](#) which had been obtained by the Committee. Those emails, heavily redacted when received by Issa’s staff, were exchanged between and among members of the White House and officials in the IRS during July 2012 and specifically referenced the general taxpayer confidentiality protection statute, 26 U.S.C. § 6103.

Indeed, the image of the numeral “6103” is prominently displayed in white type centered on each black redaction rectangle where presumably confidential tax information originally existed, but was later redacted from the emails before arriving in Issa’s office. Plainly, at minimum, the IRS officials knew about the confidentiality provisions of 26 U.S.C. § 6103 and the fact that the emails presented to Congressman Issa were redacted with the signal that the concealment related to information being withheld pursuant to “6103.”

Stated otherwise, the “6103” redactions – there are twenty-two (22) distinct and separate instances of “6103” black redaction boxes just in the seven (7) emails at issue – merely underscore that the original, pre-redacted emails between officials or employees at the

White House and officials or employees at IRS must have contained confidential information. Were the contrary the case, there would have been no need for 22 separate and distinct “6103” redactions.

Interestingly, among the individuals listed on the redacted emails (some recipients are blanked out as “Redacted for Privacy (OGR)”.... really?) is one Lois Lerner. The other individuals in the emails are identified as either senders or recipients of the emails. Interested P&Email readers may want to peruse the link to the Issa copies posted above to see who those other people are.

Accordingly, if the original emails from the IRS to White House personnel contained confidential information to begin with – necessitating subsequent redaction prior to delivery of same to Congressman Issa’s Committee – the question naturally arises: did the White House, and specifically the president through his “personal signature” as required by the law, comply with the requirements of 26 U.S.C. § 6103(g)(1) in order to shield the president and/or his designees, agents and employees from the prosecutions authorized under the law?

The answer now seems to be: no.

Specifically, following up on the question posed regarding a FOIA request, the fearless and intrepid editor of The Post & Email made exactly the FOIA request needed and posed it to the Department of the Treasury (the blanket “cover” for the IRS). On or about August 4, 2014, said editor received the IRS response:



PRIVACY, GOVERNMENTAL  
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

August 4, 2014

Sharon Rondeau, Editor  
The Post & Email  
PO Box 195  
Stafford Springs, CT 06076

Dear Ms. Rondeau:

This is our final response to your Freedom of Information Act (FOIA) request dated June 30, 2014, that we received on July 7, 2014.

You asked for any and all written requests personally signed by President Barack Obama pursuant to 26 U.S.C. § 6103(g)(1) during the period January 1, 2009 through June 30, 2014. You also requested any reports submitted to the Joint Committee on Taxation under 26 U.S.C § 6103(g)(5) regarding any 26 U.S.C. § 6103(g)(1) request. We found no documents specifically responsive to either portion of your request.

You have a right to appeal our response. We have enclosed Notice 393 explaining your appeal rights.

If you have any questions please call Tax Law Specialist Denise Higley ID #0142331 at 801-620-7638 or write to: Internal Revenue Service, HQ Disclosure, 2980 Brandywine Road, Stop 211, Chamblee, GA 30341. Please refer to case number F14189-0028.

Sincerely,

John H. Davis, Jr.  
Deputy Associate Director  
Disclosure HQ

Enclosure  
Notice 393

Not only does it appear that the president did not execute the request which would seemingly have otherwise been required for the disclosure of "6103-protected" information in the White House emails now with Congressman Issa, no report otherwise required under 26 U.S.C. § 6103(g)(5) was filed, either. That statute states: "[w]ithin 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests."

So, from the foregoing, it appears that (a) confidential tax information was included in emails exchanged between the White House and IRS in July 2012; (b) copies of redacted (and “redacted for privacy (OGR)” emails were turned over to Congressman Issa’s committee indicating that the reason for most of the redactions was “6103;” (c) no record of a personally-signed request for the information by the president was signed before (or after) the information was obtained by White House personnel; and (d) no report containing the information required under 26 U.S.C. 6013(g)(5) was ever filed. Which prompts (e): should not someone be going to jail?

If these conclusions are wrong, they need to be pointed out. Perhaps Jack Maskell at the [Congressional Research Office](#) might be assigned the task.

It has been observed that the absence of evidence is itself evidence. More precisely, the absence of evidence that something should exist is, in fact, evidence of its absence or potential non-existence. Stated otherwise, if the White House/IRS emails now in Congressman Issa’s possession prove anything, it is that in the absence of the immunizing effect that the personally-signed requests required by 26 U.S.C. § 6103(g)(1) would have provided – too late now – do not be surprised if at some point additional subpoenas are issued and more invocations of the e-mail sender/recipients’ Fifth Amendment rights are forthcoming.

In closing, remember: absent the discovery of some congressional backbone with respect to impeachment, the regime may well remain in place until January 2017. If you think the damage that has already been inflicted upon the Nation in the last 5+ years is bad, think of the regime’s urgency to complete the destruction with only 2+ years remaining. So many scandals, so little time. And without chief marionette manipulator Harry Reid controlling of the Senate, it could be more difficult.

If you want to slow the pace at which the destruction proceeds, think very carefully about how you cast your vote in November. Very carefully.

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**Editor’s Note:** This writer observes that the response from the Department of the Treasury was written on Obama’s purported birthday of August 4.