



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

August 8, 2016

Cause of Action Institute
Ryan Mulvey
1875 Eye Street, NW, Suite 800
Washington, D.C. 20006

Dear Mr. Mulvey:

This is our final response to your two Freedom of Information Act requests dated June 22, 2016, both of which were received by our office on June 28, 2016. Both requests seek Joint Committee on Taxation (JCT) records.

Specifically, in the request to which our office assigned case number F16180-0047, for the time period of January 21, 2009 to the date of the request, you asked for all communications between the IRS and the JCT that contain certain terms, including "@irs.counsel.treas.gov"; "@irs.gov"; and "6103", etc. In the request to which our office assigned case number F16180-0049, again for the time period January 21, 2009 to the date of the request, you asked for the following: (1) All records transmitted between the IRS and the JCT, and all communications concerning such transmissions, which do not contain a legend restricting their use or dissemination; (2) all communications between IRS PGLD personnel, as well as other effected IRS functions and components, and the JCT concerning any determinations to disclose or withhold IRS records that were the subject of a JCT oversight inquiry; (3) all records generated or maintained by the IRS in the normal course of its operations that were subsequently provided to the JCT in response to a general oversight inquiry; (4) all records generated or maintained by the IRS in the normal course of its operations that were subsequently provided to the JCT as part of IRS general oversight responsibilities, but which were not provided in response to a JCT inquiry; and (5) all records created by or originating at the JCT but which were provided to the IRS and are maintained by the IRS in any agency records system, including but not limited to the E-trak Communications and Correspondence tracking system.

Any records responsive to either of these requests, to the extent they exist, are non-agency Congressional records that are not subject to the FOIA.

Even if these records were subject to the FOIA, which they are not, the FOIA requires that requests (1) "reasonably describe" the records sought and (2) be made in accordance with published agency rules. 5 U.S.C § 552(a)(3)(A). IRS regulations at Treas. Reg. § 601.702(c)(5)(i), require that the request describe the documents in sufficient detail to enable us to locate the records "without placing an unreasonable burden upon the IRS."

A request for "any and all communications or documents" between the IRS and the JCT, or any other similarly broad request, would be unreasonably burdensome for the IRS to process, given the number of documents that might meet this description. Courts have agreed that requests seeking "any and all" records are not valid. See, for example, *Dale v. IRS*, 238 F. Supp. 2d 99, 104-05 (D.D.C. 2002), where the court held that request seeking "any and all documents . . . that refer or relate in any way" to requester failed to reasonably describe records sought and "amounted to an all-encompassing fishing expedition of files . . . at taxpayer expense."

If you have any questions, please call Tax Law Specialist, Aaron Edelman, ID # 1001393988, at (267) 941-6315 or write to: Internal Revenue Service, Disclosure Office #2, P.O. Box 621506, Stop 211, Atlanta, GA 30362-3006. Please refer to case numbers F16180-0047 & F16180-0049.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey V. Austin".

Jeffrey V. Austin
Disclosure Manager
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