

STEWART, PLLC

777 Main Street, Suite 600
Fort Worth, Texas 76102
817-887-8467

Scott E. Stewart
Email: sestewart1@earthlink.net

Facsimile: 817-887-8001
Mobile: 817-715-6188

May 14, 2014

Via Certified Mail, Return Receipt Requested

Ms. Pamela S. Tompkins
Disclosure Manager and FOIA Public Liaison
Internal Revenue Service
Disclosure Scanning Operation – Stop 93A
Post Office Box 621506
Atlanta, Georgia 30362-3006

**Re: Freedom of Information Act (FOIA) Request for
Ray G. Clark, Taxpayer Identification Number [REDACTED], and
Judith A. Clark, Taxpayer Identification Number [REDACTED],
IRS Form 1040, U.S. Individual Income Tax Return, for Their
2008 Tax Period**

Dear Ms. Tompkins:

This letter is a request under the provisions of the Freedom of Information Act (5 U.S.C. Section 552) and Treasury Regulation Section 601.702, for copies of all of the documents relating to the joint IRS Form 1040, U.S. Individual Income Tax Return, of Ray G. Clark, Taxpayer Identification Number [REDACTED] and Judith A. Clark, Taxpayer Identification Number [REDACTED], (collectively referred to herein as the “Clarks”) for their 2008 tax period, the Internal Revenue Service examination thereof (referred to herein as the “examination”), and certain other matters. I have enclosed a copy of the properly executed IRS Form 2848, “Power of Attorney and Declaration of Representative,” for each of the Clarks that has been duly filed with the Central Authorization File as proof of my identity and to establish my right to disclosure of the requested records pursuant to Treasury Regulation Section 601.702(c)(5)(iii)(C). When used herein, the term “document” or “documents” means any writings in any form whether of paper, electronic, or other medium, for example, memoranda, correspondence, opinion letters, e-mail, contracts, agreements, invoices, computations, billing records, bank records, ledgers, books, and records. This request includes, but is not limited to:

1. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to the selection of the Clarks for examination,
2. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to requests from anyone outside of the Internal Revenue Service for documents regarding the Clarks or the provision to anyone outside of the Internal Revenue Service of documents regarding the Clarks,



STEWART, PLLC

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3. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to the Clarks being singled out for threats, harassment, or intimidation by the Internal Revenue Service or other governmental organizations, political parties or groups, or organizations related to the Internal Revenue Service, other governmental organizations, or political parties or groups,
4. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to another taxpayer, including (but not limited to) lists of donors to tax-exempt organizations or political parties or candidates, in connection with additional scrutiny of the Clarks,
5. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to the Clarks (1) being discriminated against for their political affiliations or religious beliefs, (2) being intimidated, harassed, or threatened to suppress the freedom of speech rights of the Clarks, or (3) otherwise being denied the exercise of their constitutional rights,
6. the Examination Division Administration File for the examination, including, but not limited to, all workpapers, notes, documents, transmittal letters, descriptions or recordings of interviews, telephone call slips, or other material prepared or accumulated relative to the examination,
7. any files relative to the examination that may have been retained by specialist agents, either as specialty case files, desk files, or as group files, which are not otherwise included in the Examination Division Administrative File, including any workpapers, notes, documents, memoranda, transmittal letters, descriptions or recordings of interviews, telephone call slips, or other materials prepared or accumulated relative to the examination,
8. any files relative to the examination that may have been prepared by independent consultants (including economists, engineers, and other independent specialists), which are not otherwise in the Examination Division Administrative File, including any workpapers, notes, documents, memoranda, transmittal letters, descriptions or recordings of interviews, telephone call slips, or other material prepared or accumulated relative to the examination,
9. any files relative to the examination that include information and documents obtained pursuant to summons issued to third parties which are not otherwise included in the Examination Division Administrative File,

STEWART, PLLC

Internal Revenue Service Disclosure Scanning Operation
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10. a list of all information relative to the examination that is maintained electronically that identifies the information subject matter and format (*e.g.*, tape, disc, or CD ROM), and
11. all other workpapers, notes, documents, memoranda, transmittal letters, recordings, telephone call slips, and other material or information in your possession or control in connection with the assessment by the Internal Revenue Service of income tax or interest or penalty thereon against the Clarks arising from the examination.

We are aware that the Internal Revenue Service has a destruction policy for documents of a certain age and, therefore, we request that appropriate measures be taken to ensure that the requested documents are not destroyed.

Pursuant to Treasury Regulation Section 601.702(f)(4), Scott Stewart, PLLC, Scott E. Stewart, and the Clarks agree, without any further authorization from any of such parties, to pay and to be jointly and severally liable for the fees, charges, costs, or expenses determined in accordance with Treasury Regulation Section 601.702(f)(5), including (but not limited to) fees, charges, costs, or expenses for searching for, reviewing, making deletions from records, and copying documents.

If it is determined that any requested document or record or any portion thereof will not be disclosed, please provide me with the nonexempt records and with the nonexempt portions of the remaining records. If any requested record or portion thereof is not disclosed, also please provide me with an index and a detailed description of each record or portion thereof not disclosed and a statement describing the statutory basis for not disclosing each record or portion thereof.

Please send the requested records and other correspondence to me at the address in the letterhead of this letter. Please do not hesitate to let me know if I may provide further information regarding this request or otherwise be of assistance. Thank you for your prompt consideration of and attention to this Freedom of Information Act request.

Sincerely,



Scott Engel Stewart

Enclosures

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777 Main Street, Suite 600
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Internal Revenue Service
Disclosure Scanning Operation – Stop 93A
Post Office Box 621506
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**Re: Freedom of Information Act (FOIA) Request for
Ray G. Clark, Taxpayer Identification Number [REDACTED], and
Judith A. Clark, Taxpayer Identification Number [REDACTED]
IRS Form 1040, U.S. Individual Income Tax Return, for Their
2009 Tax Period**

Dear Ms. Tompkins:

This letter is a request under the provisions of the Freedom of Information Act (5 U.S.C. Section 552) and Treasury Regulation Section 601.702, for copies of all of the documents relating to the joint IRS Form 1040, U.S. Individual Income Tax Return, of Ray G. Clark, Taxpayer Identification Number [REDACTED] and Judith A. Clark, Taxpayer Identification Number [REDACTED] (collectively referred to herein as the “Clarks”) for their 2009 tax period, the Internal Revenue Service examination thereof (referred to herein as the “examination”), and certain other matters. I have enclosed a copy of the properly executed IRS Form 2848, “Power of Attorney and Declaration of Representative,” for each of the Clarks that has been duly filed with the Central Authorization File as proof of my identity and to establish my right to disclosure of the requested records pursuant to Treasury Regulation Section 601.702(c)(5)(iii)(C). When used herein, the term “document” or “documents” means any writings in any form whether of paper, electronic, or other medium, for example, memoranda, correspondence, opinion letters, e-mail, contracts, agreements, invoices, computations, billing records, bank records, ledgers, books, and records. This request includes, but is not limited to:

1. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to the selection of the Clarks for examination,
2. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to requests from anyone outside of the Internal Revenue Service for documents regarding the Clarks or the provision to anyone outside of the Internal Revenue Service of documents regarding the Clarks,

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Internal Revenue Service Disclosure Scanning Operation
May 14, 2014
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3. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to the Clarks being singled out for threats, harassment, or intimidation by the Internal Revenue Service or other governmental organizations, political parties or groups, or organizations related to the Internal Revenue Service, other governmental organizations, or political parties or groups,
4. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to another taxpayer, including (but not limited to) lists of donors to tax-exempt organizations or political parties or candidates, in connection with additional scrutiny of the Clarks,
5. all documents, transmittal letters, descriptions or recordings of discussions, telephone call slips, or other material prepared or accumulated relative to the Clarks (1) being discriminated against for their political affiliations or religious beliefs, (2) being intimidated, harassed, or threatened to suppress the freedom of speech rights of the Clarks, or (3) otherwise being denied the exercise of their constitutional rights,
6. the Examination Division Administration File for the examination, including, but not limited to, all workpapers, notes, documents, transmittal letters, descriptions or recordings of interviews, telephone call slips, or other material prepared or accumulated relative to the examination,
7. any files relative to the examination that may have been retained by specialist agents, either as specialty case files, desk files, or as group files, which are not otherwise included in the Examination Division Administrative File, including any workpapers, notes, documents, memoranda, transmittal letters, descriptions or recordings of interviews, telephone call slips, or other materials prepared or accumulated relative to the examination,
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9. any files relative to the examination that include information and documents obtained pursuant to summons issued to third parties which are not otherwise included in the Examination Division Administrative File,

Pursuant to Treasury Regulation Section 601.702(f)(4), Scott Stewart, PLLC, Scott E. Stewart, and the Clarks agree, without any further authorization from any of such parties, to pay and to be jointly and severally liable for the fees, charges, costs, or expenses determined in accordance with Treasury Regulation Section 601.702(f)(5), including (but not limited to) fees, charges, costs, or expenses for searching for, reviewing, making deletions from records, and copying documents.

If it is determined that any requested document or record or any portion thereof will not be disclosed, please provide me with the nonexempt records and with the nonexempt portions of the remaining records. If any requested record or portion thereof is not disclosed, also please provide me with an index and a detailed description of each record or portion thereof not disclosed and a statement describing the statutory basis for not disclosing each record or portion thereof.

Please send the requested records and other correspondence to me at the address in the letterhead of this letter. Please do not hesitate to let me know if I may provide further information regarding this request or otherwise be of assistance. Thank you for your prompt consideration of and attention to this Freedom of Information Act request.

Sincerely,

A handwritten signature in cursive script that reads "Scott Engel Stewart". The signature is written in black ink and extends across the width of the page.

Scott Engel Stewart

Enclosures

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777 Main Street, Suite 600
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Ray G. Clark, Taxpayer Identification Number [REDACTED], and
Judith A. Clark, Taxpayer Identification Number [REDACTED]
IRS Form 1040, U.S. Individual Income Tax Return, for their
2010 Tax Period**

Dear Ms. Tompkins:

This letter is a request under the provisions of the Freedom of Information Act (5 U.S.C. Section 552) and Treasury Regulation Section 601.702, for copies of all of the documents relating to the joint IRS Form 1040 U.S. Individual Income Tax Return, of Ray G. Clark, Taxpayer Identification Number [REDACTED], and Judith A. Clark, Taxpayer Identification Number [REDACTED] (collectively referred to herein as the “Clarks”) for their 2010 tax period, the Internal Revenue Service examination thereof (referred to herein as the “examination”), and certain other matters. I have enclosed a copy of the properly executed IRS Form 2848, “Power of Attorney and Declaration of Representative,” for each of the Clarks that has been duly filed with the Central Authorization File as proof of my identity and to establish my right to disclosure of the requested records pursuant to Treasury Regulation Section 601.702(c)(5)(iii)(C). When used herein, the term “document” or “documents” means any writings in any form whether of paper, electronic, or other medium, for example, memoranda, correspondence, opinion letters, e-mail, contracts, agreements, invoices, computations, billing records, bank records, ledgers, books, and records. This request includes, but is not limited to:

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Please send the requested records and other correspondence to me at the address in the letterhead of this letter. Please do not hesitate to let me know if I may provide further information regarding this request or otherwise be of assistance. Thank you for your prompt consideration of and attention to this Freedom of Information Act request.

Sincerely,



Scott Engel Stewart

Enclosures



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

June 12, 2014

Scott Stewart, PLLC
777 Main Street, Suite 600
Fort Worth, TX 76102

Re: Ray and Judith Clark

Dear Mr. Stewart:

I am responding to your Freedom of Information Act (FOIA) request dated May 14, 2014 that we received on May 20, 2014.

You asked for the examination administrative file for the 2008 tax year. I am closing this request as the documents for the 2008 tax year will be provided with the 2010 request, our case number F14141-0019.

If you have any questions please call Senior Disclosure Specialist Jean Pelzl ID # 1000729874, at 605-377-1608 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F14141-0017.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean Pelzl".

Jean Pelzl
Senior Disclosure Specialist
Disclosure Office 12





PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

June 12, 2014

Scott Stewart, PLLC
777 Main Street, Suite 600
Fort Worth, TX 76102

Re: Ray and Judith Clark

Dear Mr. Stewart:

I am responding to your Freedom of Information Act (FOIA) request dated May 14, 2014 that we received on May 20, 2014.

You asked for the examination administrative file for the 2009 tax year. I am closing this request as the documents for the 2009 tax year will be provided with the 2010 request, our case number F14141-0019.

If you have any questions please call Senior Disclosure Specialist Jean Pelzl ID # 1000729874, at 605-377-1608 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F14141-0020.

Sincerely,

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Jean Pelzl
Senior Disclosure Specialist
Disclosure Office 12





PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

June 16, 2014

Scott Stewart
777 Main Street, Suite 600
Fort Worth, TX 76102

In Re: Ray and Judith Clark - 2010

Dear Mr. Stewart:

I am responding to your Freedom of Information Act (FOIA) request dated May 14, 2014 that we received on May 20, 2014.

I am not able to send the information you requested by June 18, 2014, which is the 20 business-day period allowed by law. The FOIA allows an additional ten-day statutory extension in certain circumstances. To complete your request I require the additional time to:

- Search for and collect the requested records from other locations
- Search for, collect, and review a large volume of records
- Consult with another agency or Treasury component
- Consult with business submitters

We have extended the statutory response date to July 2, 2014, after which you can file suit. An administrative appeal is limited to a denial of records, so it does not apply in this situation. I apologize for any inconvenience caused by this delay.

You may file suit after July 2, 2014. Your complaint will be treated according to the Federal Rules of Civil Procedure applicable to actions against an agency of the United States. These procedures require that the IRS be notified of the pending suit through service of process, which should be directed to:

Commissioner of Internal Revenue
Attention: CC:PA: Br 6/7
1111 Constitution Avenue, NW
Washington, DC 20224



The FOIA process provides access to existing records. Extending the time period for responding to your request will not delay or postpone any administrative, examination, investigation or collection action.

If you have any questions please call Senior Disclosure Specialist Jean Pelzl ID # 1000729874, at 605-377-1608 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F14141-0019.

Sincerely,

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Jean Pelzl
Senior Disclosure Specialist
Disclosure Office 12



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

July 1, 2014

Scott Stewart
777 Main Street, Suite 600
Fort Worth, TX 76102

In Re: Ray and Judith Clark

Dear Mr. Stewart:

I am responding to your Freedom of Information Act (FOIA) request dated May 14, 2014 that we received on May 20, 2014.

On June 16, 2014 I asked for more time to obtain the records you requested. I am still working on your request and need additional time to review the records. I will contact you by August 4, 2014 if I am still unable to complete your request.

Once again, I apologize for any inconvenience this delay may cause.

If you have any questions please call Senior Disclosure Specialist Jean Pelzl ID # 1000729874, at 605-377-1608 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F14141-0019.

Sincerely,

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Jean Pelzl
Senior Disclosure Specialist
Disclosure Office 12





PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

August 4, 2014

Stewart, PLLC
Attn: Scott Stewart
777 Main Street, Suite 600
Fort Worth, TX 76102

In Re: Ray and Judith Clark

Dear Mr. Stewart:

I am responding to your Freedom of Information Act (FOIA) request dated May 14, 2014 that we received on May 20, 2014.

On July 1, 2014 I asked for more time to obtain the records you requested. I am still working on your request and need additional time to review the records. I will contact you by August 18, 2014 if I am still unable to complete your request.

Once again, I apologize for any inconvenience this delay may cause.

If you have any questions please call Senior Disclosure Specialist Jean Pelzl ID # 1000729874, at 605-377-1608 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F14141-0019.

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Jean Pelzl
Senior Disclosure Specialist
Disclosure Office 12





PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

August 6, 2014

Stewart, PLLC
Attn: Scott Stewart
777 Main Street, Suite 600
Fort Worth, TX 76102

Re: Ray and Judith Clark

Dear Mr. Stewart:

I am responding to your Freedom of Information Act (FOIA) request dated May 14, 2014 that we received on May 20, 2014.

I am providing your documents in electronic format. The enclosed CD contains your documents and is encrypted. The password to open the files is being mailed separately. The fee for copying the released documents is \$25.00 (minimum fee for electronic media over 1,000 pages).

Please send your check or money order in the amount of \$25.00 payable to the Treasury of the United States to the address below with the enclosed Fee Payment stub. We must receive your payment within 35 days from the date of this letter. Fees paid are reimbursement for services performed and are not refundable. If you fail to pay the fees, your name and your client's names will be added to the FOIA Non-Payment list, and no future requests will be processed until all fees are paid in full.

You asked for a copy of the IRS examination administrative file for the 2008, 2009, and 2010 tax years (in separate requests) and listed 11 specific items which would be included in the administrative file. Our records indicate you submitted prior FOIA requests dated May 20, 2013. We are providing documents dated and/or created after that date. As previously communicated to you, we are combining the three separate requests into one response. Due to the amount of e-mail traffic for these entities, the majority of e-mails for Mr. and Mrs. Clark are being provided in our response to F14140-0077 for Motivating Graphics.

Of the 2,083 pages located in response to your request, I am enclosing 1,917 pages. I am withholding 75 pages in part and 166 pages in full for the following reasons (some may have more than one exemption):

I withheld information under FOIA exemption (b)(3). The withheld portions are the tax information of (an) other taxpayer(s). FOIA exemption (b)(3) requires us to withhold



information that is specifically exempted from disclosure by another law. The law supporting this exemption is Internal Revenue Code section 6103(a). I removed information that is outside the scope of your power of attorney/authorization/request from the enclosed documents.

I withheld information under FOIA exemption (b)(7)(A). This portion of FOIA exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could interfere with enforcement proceedings.

Disclosure of this information is also exempt under FOIA subsection (b)(3) supported by Internal Revenue Code section IRC Section 6103(e)(7), because release would impair federal tax administration.

I deleted the Discriminant Information Function (DIF) score from the enclosed records. Release of the DIF score would seriously impair IRS assessment, collection, and enforcement proceedings. FOIA exemption (b)(3), supported by Internal Revenue Code section 6103 (b)(2) and (e)(7) exempts this information from release. Disclosure of this information would also reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E).

I withheld information under FOIA exemption (b)(7)(E). This portion of FOIA exempts from disclosure records or information compiled for law enforcement purposes to the extent their production would reveal:

- Techniques and procedures for law enforcement investigations or prosecutions
- Guidelines for law enforcement investigations or prosecutions, if release could reasonably be expected to risk circumvention of the law.

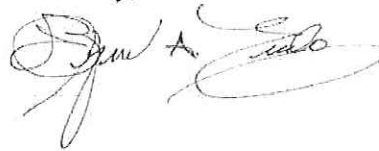
I withheld information under FOIA exemption (b)(5). This portion of FOIA exempts from disclosure inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. There are three primary privileges covered by this exemption:

- The deliberative process privilege protects documents that reflect the pre-decisional opinions and deliberations that play a direct part in the process of making recommendations on legal or policy matters.
- The attorney work product privilege protects documents prepared by an attorney or other Service employee during litigation or in reasonable contemplation of litigation, and
- The attorney-client privilege protects confidential communications between an attorney and a client relating to a legal matter for which the client has sought professional advice.

The redacted portion(s) of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

If you have any questions please call Senior Disclosure Specialist Jean Pelzl ID # 1000729874, at 605-377-1608 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. The case numbers for the related cases are: 2008 – F14141-0017 and 2009 – F14141-0020. Please refer to case number F14141-0019.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron D. Endo", written in a cursive style.

Byron D. Endo
Disclosure Manager
Disclosure Office 12

Enclosure
Responsive Records
Notice 393
Fee Payment Stub

Please return this enclosure with your payment for **Freedom of Information Act (FOIA)** fees to:

Internal Revenue Service
Disclosure Scanning Operation – Stop 93A
Post Office Box 621506
Atlanta, GA 30362

Please make check or money order payable to the Treasury of the United States. Include the word **FOIA** in the memo portion of your payment.

Title: Payment
Case #: F14141-0019
SSN/EIN: 265-86-2622 & 400-82-2260
Name Control: CLAR

**Information on an IRS Determination to Withhold Records Exempt From
The Freedom of Information Act – 5 U.S.C. 552**

Appeal Rights

You may file an appeal with the Internal Revenue Service (IRS) within 35 days after we (1) deny you access to a record in whole or in part; (2) have made an adverse determination as to your category as a requester; (3) deny your request for a fee waiver or reduction; or (4) have advised you that no records responsive to your request exist. You may file an appeal within 10 days when a request for expedited processing has been denied.

Your appeal **must** be in writing, must be signed by you, and must contain:

Your name and address,
Description of the requested records,
Date of the request (and a copy, if possible),
Identity of the office and contact on the response letter, and
Date of the letter denying the request (and a copy, if possible)

Mail your appeal to: **IRS Appeals**
Attention: FOIA Appeals
M/Stop 55202
5045 E. Butler Ave.
Fresno, California 93727-5136

Judicial Review

If we deny your appeal, or do not address an issue raised in your appeal within 20 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal, you may file a complaint in United States District Court in the district in which (1) you reside; (2) your principal place of business is located; (3) the records are located; or (4) the District of Columbia. A complaint may be filed within 10 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal if your appeal is from an adverse determination of a request for expedited processing. If you choose to file suit before receipt of a final determination by the Appeals office, the administrative appeals process may cease.

The rule for effecting service of judicial process upon the Internal Revenue Service is set forth in Federal Rule of Civil Procedure 4(i). In addition to service upon the United States, as set forth in Rule 4(i)(1), service must be made upon the Internal Revenue Service by registered or certified mail as set forth in Rule 4(i)(2)(A).

The address of the Internal Revenue Service is: Internal Revenue Service, Attention CC:PA, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Exemptions

The Freedom of Information Act, 5 U.S.C. 552, does not apply to matters that are:

- (b)(1) • specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under such executive order,
- (b)(2) • related solely to the internal personnel rules and practices of an agency,
- (b)(3) • specifically exempted from disclosure by statute (other than section 552b of this title), provided that the statute:

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Note: Internal Revenue Code sections 6103 and 6105 are statutes which qualify for exemption 3 treatment. Section 6103 protects the confidentiality of tax returns and information pertaining to a taxpayer collected by the IRS. Section 6105 protects information obtained from a foreign country under a tax treaty.

STEWART, PLLC

777 Main Street, Suite 600
Fort Worth, Texas 76102
817-887-8467

Scott E. Stewart
Email: sestewart1@earthlink.net

Facsimile: 817-887-8001
Mobile: 817-715-6188

September 5, 2014

Via Federal Express

IRS Appeals
Attention: FOIA Appeals
M/Stop 55202
5045 E. Butler Avenue
Fresno, California 93727-5136

RE: Ray G. Clark, Taxpayer Identification Number _____, and Judith A. Clark, Taxpayer Identification Number _____ Case Numbers F14141-0017, F14141-0019, and F14141-0020

Dear Sir or Madam:

This letter is to exercise appeal rights under the Freedom of Information Act, 5 U.S.C. 552, due to the denial of access to records in whole or in part and, in regards to your required information:

Taxpayer's name and address: Ray G. Clark and Judith A. Clark
9894 Boat Club Road
Fort Worth, Texas 76179-6001

Description of requested records: 166 pages withheld in full and 75 pages withheld in part as further described in my enclosed request letter dated May 14, 2014, your enclosed response letter dated August 6, 2014, and herein.

Date of the requests: May 14, 2014 – Please see enclosed request letter.

Identity of the office and contact on the response letter: Senior Disclosure Specialist Jean Pelzl, ID # 1000729874, Phone Number 605-377-1608, Internal Revenue Service, Centralized Processing Unit - Stop 93A, P.O. Box 621506, Atlanta, GA 30362.

Date of the letter denying request: August 6, 2014 – Please see enclosed response letter.

Please note that your response withholds 166 pages in full and 75 pages in part without providing a description of the documents that were withheld in full or the analysis for why the 75 pages that were withheld in part were withheld by you. Without a description of the documents



STEWART, PLLC

IRS Appeals
September 5, 2014
Page 2 of 2

that were withheld in full or an explanation of how a statutory exception applies to the 75 pages that were withheld in part, it is not possible to challenge with further particularity or specificity your denial of the withheld records. Please provide sufficient particularity and specificity in regards to the one hundred and sixty-six (166) pages that were withheld in full and the reasons that they were withheld and analysis as to why the seventy-five (75) pages that were withheld in part were withheld.

Please do not hesitate to let me know if I may provide further information or otherwise be of assistance. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Scott E. Stewart". The signature is written in a cursive style with a long horizontal stroke extending to the right from the end of the name.

Scott E. Stewart

Enclosures

9/5/2014

FedEx Ship Manager - Print Your Label(s)

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Scott Stewart
Law Office of Scott E Stewart
777 Main Street
Suite 600
Fort Worth, TX 76102

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ActWgt: 1.0 LB
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Delivery Address Bar Code



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FOIA Appeals
IRS Appeals
5045 E BUTLER AVE
MStop 55202
FRESNO, CA 93727

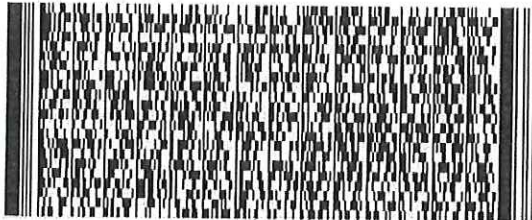
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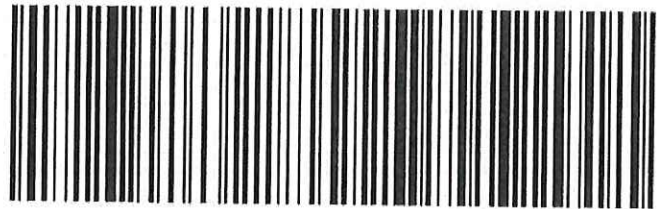
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Internal Revenue Service
Appeals Office
P.O. Box 24018
Fresno, CA 93779-4018

Department of the Treasury

Person to Contact:

Ennie Harrison
Employee ID Number: 1000157537
Tel: 559-500-7071
Fax: 559-497-5918

Date: SEP 30 2014

Refer Reply to:

AP:CO:FRC:EMH

SCOTT STEWART
777 MAIN ST SUITE 600
FORT WORTH TX 76102

In Re:

Freedom of Information Act

Tax Period(s) Ended:

FOIA# F14141-0019
Ray & Judith Clark

SCOTT STEWART:

This letter is in response to your appeals request dated September 5, 2014 for Freedom of Information Act (FOIA) information. Your original FOIA request was dated May 14, 2014; you asked for a copy of the IRS examination administrative file for the 2008, 2009 and 2010 tax years and listed 11 specific items which would be included in the administrative file.

We reviewed the case carefully. You requested for each year separately for the years 2008, 2009 and 2010. Records also indicated you submitted a prior request on May 20, 2013. We have reviewed the response of the Senior Disclosure Specialist Jean Pelzl; on her letter dated August 6, 2014 she informed you the documents sent to you were dated or created after May 30, 2014. She also stated she combined the three separate requests into one response. We determined the response is appropriate under the circumstance. Appeals responsibility concerning the appeal of FOIA cases is limited to a de novo review to ensure the documents withheld or redacted for the specific requester and documents requested fall within the FOIA exemption(s) cited. Appeals only have jurisdiction over the denial of documents in response to a FOIA request. We address the adequacy of the search, the appropriateness of the redactions and documents withheld through determined FOIA exemptions. Our written notice is your determination that the redacted information was properly withheld through the FOIA exemptions cited. Our sole responsibility is to determine if the documents were properly withheld under the FOIA.

There were 2,083 pages located in response to your request, and the Senior Disclosure Specialist Jean Pelzl enclosed 1,917 pages; withheld are 75 pages in part and 166 pages in full, for reasons stated on the letter dated August 6, 2014. Some of the pages withheld had more than one exemption.

On your Appeals Request Letter dated September 5, 2014 you requested we provide you with sufficient particularity and specificity in regards to one hundred sixty six (166) pages that was withheld in full and the reasons they were withheld and analysis as to why the seventy five (75) pages that were withheld in part were withheld. This request describes the Vaughn Index.



You are not entitled to receive a Vaughn index during the administrative process as the courts do not require the submission of such an index prior to the time when a dispositive motion is filed. See, e.g., Edmond v. U.S. Attorney, 959 F. Supp. 1, 5 (D.D.C. 1997) (rejecting, as premature, request for Vaughn Index when agency had not processed plaintiff's request), Tannehill v. Dept. of the Air Force, No. 87-1335, slip op. at 1 (D.D.C. Aug. 20, 1987) (noting that standard practice is to await filing of agency's dispositive motion before deciding whether additional indexes will be necessary); Miscavige, 2 F.3d at 369 ("The plaintiff's early attempt in litigation of this kind to obtain a Vaughn Index...is inappropriate until the government has first had a chance to provide the court with the information necessary to make a decision on the applicable exemptions."). Therefore, any effort to compel an agency to prepare a Vaughn Index prior to the filing of the agency's dispositive motion is typically denied as premature.

As a courtesy to you, we reviewed the redacted documents and found the exemptions appropriate.

FOIA subsection (b)(3) states that the disclosure provisions of the FOIA do not apply to matters specifically exempted by statute from disclosure, provided that such statute:

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

I.R.C. Section 6103 has been held to be a subsection (b)(3) statute under the FOIA. Church of Scientology v. IRS, 484 U.S. 9 (1987); Chamberlain v. Kurtz, 589 F.2d 827 (5th Cir. 1979), cert. denied, 444 U.S. 842 (1979). When disclosure of return information will seriously impair Federal tax administration, it may be withheld. Chermack v. IRS, 81-1 USTC Paragraph 9337 (N.D. Tex. 1981). It has been determined that the disclosure of some of the information withheld would impair Federal tax administration by interfering with the pending administrative proceedings; and, therefore, this information is exempt from disclosure pursuant to exemption (b)(3) in conjunction with I.R.C. Section 6103(e)(7).

FOIA subsection (b)(5) exempts "inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." The Supreme Court has held that the attorney work-product and the attorney-client privileges fall within the ambit of the (b)(5) exemption of the FOIA. NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 149 (1975).

The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. See Hickman v. Taylor, 329 U.S. 495, 509-10 (1947). Its purpose is to protect the adversarial trial process by insulating the attorney's preparation from scrutiny. See Jordan v. Department of Justice, 591 F.2d 753, 775 (1978) (en banc).

The attorney-client privilege concerns "confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice." Mead Data Cent., Inc. v. Department of the Air Force, 566 F.2d 242, 252 (D.C. Cir. 1977).

FOIA subsection (b)(7)(A) exempts from disclosure records or information compiled for law enforcement purposes if the production of such law enforcement records could reasonably be expected to interfere with pending or prospective law enforcement proceedings. The term "law enforcement" refers to enforcement through civil, criminal, or regulatory proceedings. Subsection (7)(A) applies "whenever the government's case in court would be harmed by the premature release of the evidence or information," NLRB v. Robbins Tire & Rubber Co., 473 U.S. 214, 232 (1978), or where the disclosure would impede any necessary investigation prior to the proceeding, National Public Radio v. Bell, 431 F. Supp. 509, 514-15 (D. D.C. 1977). In the instant case, disclosure would interfere with the pending administrative proceedings.

FOIA Exemption (b)(7)(E) affords protection to all law enforcement information which "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." 5 U.S.C. 552(b)(7)(E). See also Becker v. IRS, 34 F.3d at 405; PHE, Inc. v. Dept. of Justice, 983 F.2d 248, 251 (D.C. Cir. 1993) ("Release of FBI guidelines as to what sources of information are available to its agents might encourage violators to tamper with those sources of information and thus inhibit investigative efforts."). The redacted data would disclose a law enforcement technique utilized by the Service.

FOIA Exemption 3 is being asserted in conjunction with I.R.C. Section 6103(b)(2) to withhold the DIF scores. Section 6103 of the Internal Revenue Code has been determined to be a (b)(3) statute. Church of Scientology v. IRS, 484 U.S. 9 (1987); Chamberlain v. Kurtz, 589 F.2d 827 (5th Cir. 1979), cert. denied, 444 U.S. 842 (1979). Subsection 6103(b)(2), in relevant part, provides:

Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

DIF scores constitute standards used for the selection of returns for examination. It has been determined that release of DIF scores would seriously impair assessment, collection, or enforcement under the internal revenue laws, by permitting, through analysis of the data to which the scores relate, identification of the particular data items used to develop standards used by the Internal Revenue Service in selecting returns for examination. Accordingly, FOIA exemption (b)(3) in conjunction with I.R.C. Section 6103(b)(2), provides statutory authority for withholding this material. Long v. IRS, 742 F.2d 1173 (9th Cir. 1984). See also, Gillin v. IRS, 980 F.2d 819 (1st Cir. 1992) (per curiam).

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and the Office of Disclosure as a non-exclusive alternative to litigation. The Office of Appeals is not a part of this mediation process. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have

the authority to handle requests made under the Privacy Act of 1974. If you disagree with the Appeals determination and wish to pursue mediation, you may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448

The FOIA requires us to advise you of the judicial remedies granted in the act. You may file a complaint in the United States District Court for the District which you reside, or have your principal place of business, or in which the agency records are located, or in the District of Columbia.

Sincerely,

J. Carillo
Acting AMM
for P. Perez
Appeals Team Manager