



DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

June 26, 2013

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515-6348

Dear Representative Levin:

This letter is in response to letters dated June 24, 2013 and June 26, 2013 regarding our recent audit report entitled "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." We appreciate the opportunity to clarify our recent report in response to your questions.

TIGTA's audit report focused on criteria being used by the Internal Revenue Service (IRS) during the period of May 2010 through May 2012 regarding allegations that certain groups applying for tax-exempt status were being targeted. We reviewed all cases that the IRS identified as potential political cases and did not limit our audit to allegations related to the Tea Party. TIGTA concluded that inappropriate criteria were used to identify potential political cases for extra scrutiny – specifically, the criteria listed in our audit report. From our audit work, we did not find evidence that the criteria you identified, labeled "Progressives," were used by the IRS to select potential political cases during the 2010 to 2012 timeframe we audited. The "Progressives" criteria appeared on a section of the "Be On the Look Out" (BOLO) spreadsheet labeled "Historical," and, unlike other BOLO entries, did not include instructions on how to refer cases that met the criteria. 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 other materials that "Progressives" was a term used to refer cases for scrutiny for political campaign intervention.

Based on the information you flagged regarding the existence of a "Progressives" entry on BOLO lists, TIGTA performed additional research which determined that six tax-exempt applications filed between May 2010 and May 2012 having the words "progress" or "progressive" in their names were included in the 298 cases the IRS identified as potential political cases. We also determined that 14 tax-exempt applications filed between May 2010 and May 2012 using the words "progress" or "progressive" in their names were not referred for added scrutiny as potential political cases. In total, 30 percent of the organizations we identified with the words "progress" or "progressive" in their names were processed as potential political cases. In

comparison, our audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases during the timeframe of our audit.

The following addresses the specific questions presented in your June 24, 2013 letter:

- Please describe in detail why your report dated May 14, 2013 omitted the fact that "Progressives" was used.

Our audit did not find evidence that the IRS used the "Progressives" identifier as selection criteria for potential political cases between May 2010 and May 2012. The focus of our audit was on whether the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications, and 3) requested unnecessary information from targeted groups. We determined the IRS developed and used inappropriate criteria to identify applications from organizations with the words Tea Party in their names. In addition, we found other inappropriate criteria that were used (e.g., 9/12, Patriots) to select potential political cases that were not included in any BOLO listings. The inappropriate criteria used to select potential political cases for review did not include the term "Progressives." The term "Progressives" appears, beginning in August 2010, in a separate section of the BOLO listings that was labeled "TAG [Touch and Go] Historical" or "Potential Abusive Historical." The Touch and Go group within the Exempt Organizations function Determinations Unit is a different group of specialists than the team of specialists that was processing potential political cases related to the allegations we audited.

- Did you investigate whether the criteria "Progressives" in the BOLO lists was developed in the same manner as you did for "Tea Party"? If not, why?

TIGTA did not audit how the criteria for the "Progressives" identifier were developed in the BOLO listings. We did not audit these criteria because it appeared in a separate section of the BOLO listings labeled as "Historical" (as described above) and we did not have indications or other evidence that it was in use for selecting potential political cases from May 2010 to May 2012.

- Please also explain why footnote 16 on page 6 was included in the audit report.

Footnote 16 was included in our report because TIGTA was aware of other named organizations being on BOLO listings that were not used for selecting cases related to political campaign intervention. TIGTA added this footnote to disclose that we did not audit whether the use of the other named organizations was appropriate.

Following the publication of our audit report, we communicated information

regarding other names on the BOLO listings to Acting Commissioner Daniel Werfel, and, to the extent authorized by Title 26 U.S.C. § 6103, the Senate Committee on Finance and the House Committee on Ways and Means.

- If your organization overlooked the existence of the "Progressives" identifier, please describe in detail the process by which your organization investigated the BOLO lists created and circulated by the EO Determinations Unit.

As part of our audit, we reviewed the section of the BOLO listings that related to the specific criteria that the IRS stated were used to identify potential political cases for additional scrutiny. TIGTA also found that certain criteria (e.g., Patriots, 9/12, education of the public by advocacy/lobbying to "make America a better place to live," etc.) used to select potential political cases were not in any BOLO listings.

- Your report states that TIGTA "reviewed all 298 applications that had been identified as potential political cases as of May 31, 2012." (See page 10 of your report.) Your report includes the following breakdown of the potential political cases by organization name: (1) 96 were "Tea Party," "9/12," or "Patriots" organizations; and (2) 202 were "Other." Why did your report not identify that liberal organizations were also included among the 298 applications you reviewed?

TIGTA did not make any characterizations of any organizations in its audit report as conservative or liberal and believes it would be inappropriate for a nonpartisan Inspector General to make such judgments. Instead, our audit focused on the testing of 296 of the 298 potential political cases (two case files were incomplete) to determine if they were selected using the actual criteria that should have been used by the IRS from the beginning to screen potential political cases. Those criteria were whether the specific applications had indications of significant amounts of political campaign intervention (a term used in Treasury's Regulations). For 69 percent of the 296 cases, TIGTA found that there were indications of significant political campaign intervention, while 31 percent of the cases did not have that evidence. We also reviewed samples of 501 (c)(4) cases that were not identified as potential political cases to determine if they should have been. We estimate that more than 175 applications were not appropriately identified as potential political cases.

TIGTA's audit report determined that certain cases were referred for potential political review because their names used terms in the IRS selection criteria. We could not tell why other organizations were selected for additional scrutiny because the IRS did not document specifically why the cases were forwarded to a team of specialists. TIGTA recommended that the IRS do so in the future.

- Why did your testimony before the Committee on Ways and Means, the Oversight and Government Reform Committee, and the Senate Finance Committee not include a discussion of this aspect of the 298 applications?

When I testified, I attempted to convey that our report did not characterize organizations as conservative or liberal and I believe it would be inappropriate for a nonpartisan Inspector General to make such judgments.

- In the course of your audit, what did you discover about the processing of cases with the "Progressives" identifier? Were the cases processed in the same manner as the cases with the "Tea Party" and associated terms identifiers? Or were they processed differently?

TIGTA's audit did not review how TAG Historical cases (including the "Progressives" identifier) were processed because we did not find evidence that the IRS used the TAG Historical section of the BOLO listings as selection criteria for potential political cases between May 2010 and May 2012.

- If you are now auditing or investigating the processing of tax-exemption applications with the "Progressives" identifier, please provide the date that you started the audit or investigation and documentation to support this assertion. We also would like to know if you have briefed and alerted anyone at the IRS or Department of Treasury of such audit or investigation.

TIGTA's Office of Audit made a referral to our Office of Investigations on May 28, 2013 stating that our recently issued audit report noted the use of other named organizations on the BOLO listings that were not related to potential political cases reviewed as part of our audit. TIGTA's Office of Audit requested the Office of Investigations investigate to determine: 1) whether cases meeting the criteria on the "watch list" [a particular section of the BOLO listings] were routed for any additional or specialized review, or were simply referred to the same group for coordinated processing; 2) how many (if any) applications were affected by use of these criteria; 3) who was responsible for the inclusion of these criteria on the BOLO lists; and 4) whether these criteria were added to the BOLO for an improper purpose.

TIGTA also discussed the BOLO listings with the Acting Commissioner of the IRS on May 28, 2013, and expressed our concerns and the importance of the IRS following up on this matter. We notified the Acting Commissioner of our review of this matter on that date. In addition, I informed the Department of the Treasury's Chief of Staff and General Counsel about this matter.

Pursuant to authorization under Title 26 U.S.C. § 6103, we also provided these BOLO listings to House Ways and Means Committee Majority staff and the Senate Finance Committee Majority and Minority staff on June 7, 2013. We spoke to staff from House Ways and Means Committee Majority staff on the BOLOs on June 6 and June 11, 2013, and Senate Finance Committee Majority and Minority staff on June 10, 2013. We informed the staff we met with of our ongoing review of this matter.

Because of Privacy Act and Title 26 U.S.C. § 6103 restrictions, TIGTA cannot comment specifically on the status of any ongoing investigation. TIGTA will continue its efforts to provide independent oversight of IRS activities and accomplish its statutory mission through audits, inspections and evaluations, and investigations of criminal and administrative misconduct.

In your June 26, 2013 letter, you raised concerns about statements attributed to TIGTA sources by members of the media. Many of the press reports are not accurate. Please rely on our statements in this letter, my testimony, and our published materials for an accurate portrayal of our position.

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 E. McKenney at 202-622-5916.

Sincerely,



J. Russell George
Inspector General