



Written by [Raven Clabough](#) on March 22, 2017

Watchdog Group: IRS Policy That Caused Targeting Scandal Still in Place

A government watchdog has learned that the same policy that the Internal Revenue Service used to target conservative and Tea Party tax exemption applications remains in place today, which ultimately means that the agency may continue to discriminate against political opponents without breaking any rules.



Since 2013, dozens of conservative groups have filed lawsuits against the IRS over the agency's illegal targeting of Tea Party and other conservative groups that applied for tax-exempt 501(c)(4) "social welfare" organization status between 2010 and 2012. During that time period, those groups faced additional audits and scrutiny by the federal agency. The audits cost the organizations tens of thousands of dollars and thousands of employee hours, and ultimately delayed or prevented altogether the groups from receiving of tax-exempt status.

But according to the Cause of Action Institute, a D.C.-based government watchdog group, in a report made public on Wednesday, the agency's targeting of those groups in fact adhered to policy and was not a violation of it. The problem is the policy, not its execution, according to the group.

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Cause of Action first discovered this two years ago after subpoenaing thousands of pages of documents from the IRS. The group learned that the targeting of conservative groups was the direct result of instructions outlined in the employee handbook, the *Internal Revenue Manual*, which eventually enabled high-ranking IRS officials to delay applications based on political motivation without necessarily breaking any rules.

The IRS handbook asks employees to halt tax-exempt applications that are "likely to attract media or congressional attention" and prepare "sensitive case reports" for their supervisors if a case falls into several categories, including those that are deemed "newsworthy, or that have the potential to become newsworthy."

In fact, it was on this basis that the first Tea Party group had been targeted by Cincinnati-based IRS tax specialist Jack Koester, who referred a Tea Party group's tax application to his supervisor one year after the Tea Party rallies began. That application then continued to be passed up the chain of command until it reached Washington, where officials were supposed to determine a resolution.

Cause of Action noted in 2015 that all of this movement was "solely based on the determination by two



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IRS employees that the tea-party cases were newsworthy and the subject of media attention.” That became the standard protocol for these types of applications and a spreadsheet that eventually grew into the “Be on the Lookout List” was formed, on which Tea Party cases were placed.

During the FBI investigation, agents learned that targeted applicants were sent to Group 7822, which consisted of approximately a dozen individuals specifically “for the Tea Party cases to be held in inventory while the agent waited to receive guidance from the Washington office.”

Another agent told the FBI that it was with Group 7822 that those applications were virtually left to die on the vine, as D.C. is a “black hole.”

Cause of Action Institute contends that despite the Obama administration’s claims that the IRS targeting scandal was the result of bad judgment on the part of a small group of employees, it was the direct result of the agency’s policy.

“Targeting was — and is — IRS policy, not a violation of it,” the report said. “In halting the applications, preparing such reports and referring the matter to supervisors, including political appointees, IRS employees behaved exactly as agency rules dictated.”

The group contends that so long as these policies remain untouched, American taxpayers may continue to be targeted.

The report released on Wednesday raises concerns that the very same policy used by the IRS to target conservative groups remains intact and that it could allow the continual targeting of political opponents. “Seven years after the targeting scandal began, the rule that enabled this inexcusable behavior still exists,” the report said. “Until that rule is removed from the internal manual used by all IRS employees, targeting of political opponents will remain a very real threat.”

The report indicates that officials can continue to utilize the “vague and open-ended” policy “to selectively delay and obstruct those applications receiving higher scrutiny without a way to hold the officials accountable for their decisions.”

The group adds that the policy allows for too much discretion and bias. Under these rules, an employee could simply halt an application’s progress after one minor news story. “Issues that attract ‘media or congressional attention’ are usually political in nature, and reliance on such a criterion means that the process itself cannot avoid partisan bias,” the report continued.

Craig Engle, founder of the bipartisan political-law group at the Washington law firm Arent Fox, made a similar observation about the “newsworthy” criterion set forth in the handbook. If the manual “requires the national office to do something” about cases it deems newsworthy, the agency virtually “created a task for itself that it would be impossible to administer evenhandedly, let alone on a bipartisan basis.”

It is perhaps for this reason that Tea Party applications are being denied after lengthy waits. The American Center for Law and Justice (ACLJ), which is representing several Tea Party groups in a case against the IRS, contends that the lengthy deliberations and denials of Tea Party applications are evidence that the IRS is continuing its corrupt practices of singling out conservative groups.

And though conservative groups may still be targeted as a result of political motivation, Cause of Action contends that employees at the IRS can use the policies set forth in the agency’s handbook to target any political opponents without reprimand.

As the IRS has the authority to change its policy without legislation, the watchdog group asserts that the manual should have already undergone revisions to avoid another scandal. “Given the amount of



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criticism the IRS has received regarding its targeting practices, it is hard to believe the agency has not yet taken the steps needed to remedy the problem,” the report said.

When the IRS was cleared of any wrongdoing by the Department of Justice in 2015 after its investigation, Assistant Attorney General Peter Kadzik said in a letter to the House Ways and Means Committee, “The Department of Justice’s exhaustive probe revealed no evidence that would support a criminal prosecution. What occurred is disquieting and may necessitate corrective action — but it does not warrant criminal prosecution.”

Two years later, it seems no such corrective action has taken place.



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