



Andrew Jackson Society

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The Honorable Harry Reid
Majority Leader
United States Senate
S-221
Washington, DC 20510

July 2, 2007

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230
Washington, DC 20510

Dear Senator Reid and Senator McConnell:

The Andrew Jackson Society understands that Congress intended FOIA, in conjunction with the Taxpayer Bill of Rights, to be a means of leveling the playing field when taxpayers interact with the IRS. Over the past several years, when requesting FOIA information, AJS associates and/or their clients have repeatedly experienced what amounts to routine obstructions on the part of the IRS. To correct these abuses the House passed, by a substantial margin, H.R. 1309, the Freedom of Information Act of 2007, on March 15, 2007. A companion bill, Senate Bill 849 is currently before the Senate. It is imperative that this bill is passed to protect and preserve the integrity and intended purpose of FOIA. The Andrew Jackson Society strongly urges you to support the bill.

In 1991 Marcus Farberblum, Chief of the Freedom of Information Branch, IRS National Office, stated in his book, "The I.R.S. and the Freedom of Information and Privacy Act of 1974," regarding FOIA requests that:

"The overwhelming majority of taxpayers appear to be perfectly willing to face serious adverse action without bothering to make any significant effort to learn what the agency knows about them or how they came to be in that situation. In fact, even subjects of major criminal investigation seldom bother to make such inquiries, apparently being willing to face trial and risk imprisonment without writing a simple letter which could produce information which could literally save their freedom."

Farberblum could not be more mistaken. Routinely taxpayers are stonewalled when making FOIA requests for information that would assist them in civil or criminal litigation, Collection Due Process Hearings, and Tax Court proceedings.

The standard response of the IRS, with rare exceptions, is they need more time. This “more time” drags on for months and in some cases years. Yet, when the IRS does finally answer they usually deny the request making a claim that some nebulous FOIA exemption applies or some other tenuous claim. Examples of such abuses are: a simple FOIA for an IRS employee's Oath of Office is usually denied due to the employee's privacy; in many cases, taxpayers prepay the fees for gathering and copying the requested records, yet never receive the information; and one requester was denied permissible FOIA requested information, because it was available through discovery in his criminal trial. Clearly, in this last example, this denial of permissible disclosure information is outside a disclosure officer's purview and an obvious abuse of government's responsibilities under FOIA. Appealing these unwarranted and abusive denials usually extends the process by months.

In 2005 over 40,000 FOIA requests were made with the IRS, yet, IRS had only four full time employees assigned to their disclosure department. Farbenblum is definitely incorrect. People are making FOIA requests, but they are generally not receiving the information. The ones that do receive the requested information rarely receive it timely.

This legislation is desperately needed. Without it, the level playing field Congress envisioned is essentially non-existent.

Sincerely,

Charles E. McFarland

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