



Fwd: CREW v. Treasury, case 1:19-cv-3541 (DDC)



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From:

Date: Mon, Jul 20, 2020 at 3:09 PM

Subject: CREW v. Treasury, case 1:19-cv-3541 (DDC)

To:

Hi

Thanks so much for speaking to me today.

With regards to items 1 and 3 of the FOIA request, the IRS identified responsive records.

With regards to Item 1 of the FOIA request, the attached chart lists all of the congressional requests for tax returns and return information that would be responsive to the FOIA request. The chart is not a Vaughn index – it doesn't list out the specific records found or the FOIA exemptions that would be applied.

For records responsive to Item 3 of the FOIA request, the chart lists out generally the records that were found to be responsive.

The IRS indicated to me that all of the responsive records identified would either be (a) congressional records not subject to the FOIA; or (2) agency records that are exempt under one or more FOIA exemptions. The Service does not have any records to release (in whole or in part) to CREW at this time. Further, if the congressional v. agency issue were litigated, and any records were reclassified from congressional records to agency records, these additional agency records would still be exempt from disclosure under one or more FOIA exemptions.

The hope is that by providing this chart, we can narrow down the scope of the contested records in this case. If there are particular congressional requests that you are not interested in, please let me know. Similarly, if you are looking for specific information and we can narrow the scope of records related to a particular congressional request, that would also be helpful.

With respect to Item 2 of the FOIA request, the IRS did not find any responsive records in their possession. To the best of IRS Counsel's knowledge, the only time that the IRS failed to comply with a valid 6103(f)(1) or (f)(2) request is the May 6, 2019 response to Ways & Means Chairman Neal from Treasury Secretary Mnuchin. This request was dealt with between Treasury and Ways & Means, not the IRS. The IRS Counsel attorney assigned to the case downloaded a copy of Treasury's response from Tax Analysts, which we sent to you (which itself is not an agency record, as it was a publicly available document and did not come from an IRS records system). The IRS believes this correspondence to be the only instance of a failure to comply with a valid 6103(f)(1) or (f)(2) request.

The Service has not identified any documents responsive to item #4 of their request, and note that all such documents, to the extent they exist, would be publicly available.

Once you've had a chance to review the attached chart, we can set up a time to discuss further.

Thanks,

Kieran

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