

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

_____)
PUBLIC RESOURCE.ORG)
)
Plaintiff)
)
v.)
)
INTERNAL REVENUE SERVICE,)
)
Defendant.)
_____)

Case No: 3:13-cv-2789

DECLARATION OF ADINA LEACH

I, Adina Leach, pursuant to the provisions of 28 U.S.C. § 1746, declare as follows:

1. I am the Associate Chief Financial Officer (ACFO) for Corporate Budget, Internal Revenue Service (IRS or Service). My responsibilities are to lead the financial and budget management activities for IRS and to plan for and administer the IRS's annual operating budget of nearly \$12 billion supporting over 90,000 employees. I also lead the efforts to develop and submit out-year budgets to support IRS's key priorities and I collaborate and negotiate with each of the fifteen IRS business and support organizations as well as the Department of Treasury and Office of Management and Budget. While each business unit manages its own budget and makes its own hiring decisions, I am responsible for the allocation and monitoring of funds to ensure compliance with Treasury funding and policy guidance, Presidential Initiatives and the Anti-deficiency Act. In 1981 I received a Bachelor of Science in Speech, Language and Audiology, and in 1984 I received a Masters in Business Administration, both from East

Carolina University. I have over twenty-eight years' experience at the IRS in the multiple phases of the IRS multi-appropriation budget process, which includes formulation, planning and execution.

2. IRS funding is appropriated in three operating accounts, as well as an information technology modernization investment account:
 - a. Taxpayer Services: Funds taxpayer service activities and programs including processing tax returns, filing and account services, taxpayer assistance, and taxpayer advocacy services.
 - b. Enforcement: Funds all examination and collection functions, determination of qualifications for tax-exempt status; enforcement of statutes relating to detecting and investigating criminal violations of internal revenue laws, technical rulings, and settlement of taxpayer appeals.
 - c. Operations Support: Funds support programs and activities such as finance, human resources, communications and liaison, equity, diversity and inclusion, research and statistics of income, and all expenses for information technology (IT), facilities, rent, printing, postage, and security
 - d. Business Systems Modernization: Funds the planning and capital asset acquisition of IT to modernize the IRS business systems.
3. Since FY 2010, the IRS budget has been reduced in appropriated funding by a total of almost \$1 billion. (See table attached as exhibit 106.)

4. In FY 2013, sequestration and a rescission combined to reduce the IRS budget by \$618 million. (Rescission is the cancellation of budget authority previously provided by Congress. The Impoundment Control Act of 1974 specifies that the president may propose to Congress that funds be rescinded. If both Houses have not approved a rescission proposal (by passing legislation) within 45 days of continuous session, any funds being withheld must be made available for obligation, *i.e.*, to pay for funded activities.)
5. Beginning more than three years ago, the IRS put into place new guidance and controls to create additional efficiencies, such as a general hiring freeze and cost savings actions to non-labor spending to reduce the cost of doing business. Despite these actions, 3 furlough days were required for all employees in FY 2013. Effects of the reduced budget are:
 - a. Personnel - overall full-time staffing has declined by more than 8 percent over the last three years, about 8,000 positions including staffing for key enforcement occupations falling by 5,000 during the last three years.
 - b. Travel and training - limiting employee travel and training to mission-critical projects and use of expanded alternative delivery methods for in-person meetings, training, conferences and operational travel has reduced training by over 85 percent between FY 2010 and FY 2013.
 - c. Printing and postage - eliminated the mailing of tax form packages to taxpayers, directing them to IRS.gov for the tax forms they need, and

converted all non-campus employees to paperless Earnings and Leave statements savings over \$40 million.

- d. Information Technology - Enacted levels for IT decreased from \$1,886 million in FY 2010 to \$1,761 million in FY 2013 and \$1,747 in FY 2014. While budget levels declined, demand on the IT organization increased. Two legislative mandates, the Affordable Care Act and FATCA (Foreign Account Tax Compliance Act), required significant IT investments, but IRS did not receive any additional funding to meet these requirements in FY 2013.

6. In FY 2014 the IRS continues to operate at near sequestration levels, with the agency's FY 2014 funding less than one percentage point above FY 2013 levels. Funding for FY 2014 was set at \$11.29 billion, which is more than \$850 million below the FY 2010 enacted level. Over the same time period, the IRS has lost almost 10,000 full-time equivalent employees. It is important to note that the IRS is the only major federal agency still operating at close to our post-sequestration level, rather than returning to the higher pre-sequestration level as other agencies were allowed to do.

7. Without an increase of appropriated funding in FY 2014, the IRS absorbed the cost for a 1% pay increase as well as unfunded legislatively mandated responsibilities. For example:

- a. Taxpayer Service, – In FY 2014 millions of taxpayers continue to see longer wait times on the phone to get basic questions answered and

resolve tax issues. The projected Level of Service (LOS) has declined from 74% in FY 2010 to a projected 61% in FY 2014. (LOS means the number of toll free callers that either speak to a Customer Service Representative or receive informational messages divided by the total number of attempted calls.)

- b. Enforcement, – Results will continue to decline due to decreases in staffing. The individual examination coverage rate is projected to fall below 0.9% (from 0.96% in FY 2013 and a high of 1.11% in FY 2010 and FY 2011) for the first time since FY 2004. Coverage for the Document Matching program, which is part of the Automated Under Reporter program (“AUR”, a program that identifies returns that may omit or underreport sums reported to the IRS on W-2’s and other information returns) will decline to 2.5% (from 2.8% in FY 2013 and a high of 3.3% in FY 2011), and collection coverage is expected to drop to less than 43% (from 47% in FY 2013 and more than 50% prior to FY 2011).
8. As a result of continued strain on the IT budget, the IRS has not been able to fund investments to keep its IT infrastructure current. This aging infrastructure jeopardizes future tax administration operations. Critical taxpayer-facing systems are aging, threatening public access to web and telephone services. Critical hardware and software platforms, necessary to process tax returns, are aging, increasing the risk of failure. These applications and infrastructure components range from server infrastructure (physical servers and mainframes as well as

server operating systems) to application software supporting business logic (Modernized e-File, Accounts Management System, Business Master File). Replacing hardware and software after a system fails is more costly than replacing equipment as part of a planned refresh scheduled to accommodate existing staff and taxpayer services.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this _____ day of August, 2014.

**Adina
Leach**

Digitally signed by Adina Leach
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