

## IRS on accessing taxpayer emails

Written by Grassley Press  
Tuesday, 16 April 2013 14:47

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**Sen. Chuck Grassley of Iowa today pressed the head of the Internal Revenue Service (IRS) to account for recent media reports stating that agency internal documents say agents have the ability to access taxpayer emails without warrants, despite a court opinion to the contrary.** Grassley questioned **Steven T. Miller**, acting commissioner, at a Finance Committee hearing this morning. The media reports indicate the IRS has taken the position that it can access taxpayer emails without a warrant under the Electronic Communication Privacy Act. While the Act does allow federal agencies to obtain electronic communications from a remote computing service without a search warrant, provided they are older than 180 days, this position is contrary to the 6

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Circuit's decision in

*U.S. v. Warshak*

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*Warshak*

, the court held that a search warrant is necessary to obtain any content of an email, regardless of age. The Department of Justice has extended this policy to all circuits. Grassley has long worked to expand taxpayer rights, winning approval of the first-ever Taxpayer Bill of Rights in 1988 and a sequel enacted in 1996. The legislation codified rights and protections for taxpayers in dealing with the IRS after a series of abuses came to light and were the subject of congressional hearings.

Grassley made the following comment on the IRS' email access policy.

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“The IRS has a very high burden to treat taxpayers within legal bounds and without abusive intrusion of privacy. The agency’s written materials suggest agents have the ability to access taxpayer emails without warrants. Acting Commissioner Miller said today this isn’t the agency position. If it’s not agency policy or practice, the IRS needs to clarify the true policy in writing, agency-wide. That’s critical. But it’s not enough. The IRS also needs to explain its aggressive stance in internal documents about accessing electronic communications and whether it in fact accessed electronic communications without search warrants and if so, when and why. The IRS has to take this issue seriously, and a casual explanation is inadequate. I’ll ask Acting Commissioner Miller follow-up questions on this issue to be answered in writing for the hearing record, as a start.”