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**TO: INTERNAL REVENUE
SERVICE**

FROM: ELENI KYRIAKIDES

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2/16/17

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VIA FASIMILE

February 16, 2017

IRS FOIA Request
Stop 93A
Post Office Box 621506
Atlanta GA 30362-3006
Fax: 877-891-6035

Dear FOIA Officer,

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center ("EPIC") to the Internal Revenue Service ("IRS").

EPIC seeks all of Donald J. Trump's individual income tax returns for tax years 2010 forward, and any other indications of financial relations with the Russian government or Russian businesses.

Allegations of the President's and his associates' ties to Russia are currently the subject of Congressional investigation and widespread public interest.¹ Weeks into his presidency, undisclosed communications with Russia led to the resignation of National Security Advisor Flynn.² A recent poll by ABCNews shows broad public support for the release of the President's tax returns.³ According to ABC, three-quarters of Americans said he should release his tax returns.⁴ In contrast, during the election season in May "only 64 percent said he should release the returns," and, "in September, 63 percent said he was not justified in withholding them," reported ABC.⁵ The news organization also found "[i]n one key support group for Trump, noncollege-educated white men, 58 percent say he should release the tax returns," and "69 percent in the red states -- those Trump won -- say he should release these records."⁶

¹ Press Release, Sen. Richard Burr, Chairman of the Senate Select Comm. on Intelligence, and Sen. Mark Warner, Vice Chairman, Joint Statement on Comm. Inquiry into Russian Intelligence Activities (Jan. 13, 2017), <https://www.burr.senate.gov/press/releases/joint-statement-on-committee-inquiry-into-russian-intelligence-activities>.

² Letter of Resignation, Michael Flynn, Former Nat'l Sec. Advisor (Feb. 13, 2017), <https://assets.documentcloud.org/documents/3461323/Michael-Flynn-Resignation-Letter.pdf>.

³ Gary Langer, *Public Splits on Trump's Ethics Compliance; Three-Quarters Want Tax Returns Released (POLL)*, ABC News (Jan. 16, 2017), <http://abcnews.go.com/Politics/public-splits-trumps-ethics-compliance-quarters-tax-returns/story?id=44811545>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Defend Privacy. Support EPIC.

Nonetheless, going against long-standing tradition of U.S. presidents, the President has refused to publicly release his tax returns to clarify his international ties.⁷

At no time in American history has a stronger claim been presented to the IRS for the public release of private tax records. If the Freedom of Information Act means anything, it means that the American public has the right to know whether records exist in a federal agency that reveal the US president has financial dealings with a foreign adversary.

Against this backdrop of widespread public interest in disclosure, a diminished expectation of privacy for Presidential candidates in the privacy of their tax records, the unique concern of a President's potential business dealings with foreign countries with interests adverse to those of the United States, and the purpose of the FOIA, EPIC seeks public disclosure of the above tax records.

Request for "News Media" Fee Status and Fee Waiver

EPIC is a "representative of the news media" for fee classification purposes. *EPIC v. Dep't of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC's status as a "news media" requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

Further, any duplication fees should also be waived because "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government," and disclosure "is not primarily in the commercial interest of the requester." § 552(a)(4)(A)(iii).

First, "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government." § 552(a)(4)(A)(iii). The President's tax records directly concern the operations or activities of the government. They establish President's potential conflicts of interest and dealings with foreign governments. Indeed, the records are of constitutional significance; they are necessary to review the President's compliance with the Emoluments Clause of the U.S. Constitution. U.S. Const. art. 1, § 9, cl. 8. Disclosure of the records will contribute significantly to the public understanding of the President's conflicts of interest because, despite allegations of his close associates' foreign ties, the details of the President's financial dealings with foreign entities are unknown. Thus far, the President has refused to release the records, and Congressional efforts to access the records have stymied due to partisan division.⁸ Nonetheless, three quarters of Americans believe the President should release his tax returns.⁹ Therefore,

⁷ Julie Hirshfeld Davis, *Trump Won't Release His Tax Returns, a Top Aide Says*, N.Y. Times (Jan. 22, 2017), <https://www.nytimes.com/2017/01/22/us/politics/donald-trump-tax-returns.html>.

⁸ Naomi Jagoda, *House panel voted against requesting Trump's Tax returns*, Hill (Feb. 14, 2017), <http://thehill.com/policy/finance/319438-house-panel-votes-against-requesting-trumps-tax-returns>.

⁹ Langer, *supra* note 3.

independent disclosure of these records by the IRS is a critical contribution to the public understanding of the President's operations.

Second, as to the "existence and magnitude of the requester's commercial interest... being furthered by the releasable records," EPIC has no commercial interest in the requested records. § 552(a)(4)(A)(iii). EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.¹⁰

For these reasons, a fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C. § 552(a)(6)(A)(i), I will anticipate your determination on our request within twenty working days.

For questions regarding this request I can be contacted at 202-483-1140x111 or FOIA@epic.org.

Respectfully submitted,

Eleni Kyriakides



¹⁰ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.