



July 16, 2013

RE: The Yoder Amendment to Prevent Warrantless Email Searches by the IRS,
Financial Services and General Government Appropriations Bill, 2014

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Dear Representative,

On behalf of the American Civil Liberties Union, please find attached our vote recommendation for tomorrow's anticipated vote on "The Yoder Amendment to Prevent Warrantless Email Searches by the IRS" to the Financial Services and General Government Appropriations Bill, 2014. A recorded vote on this amendment is anticipated in the full Committee on Appropriations tomorrow.

Please call Legislative Counsel Chris Calabrese with any questions at (202) 715-0839.

Regards,

Laura W. Murphy
Director, Washington Legislative Office

Christopher R. Calabrese
Legislative Counsel

ACLU Vote Recommendation for the Yoder Amendment

“The Yoder Amendment to Prevent Warrantless Email Searches by the IRS” bars the Internal Revenue Service from accessing private, electronic communications held by 3rd parties unless the appropriate, constitutional standard is met: a warrant based on probable cause.

The American Civil Liberties Union recommends a YES vote on the Yoder Amendment.

Federal law today does not treat all communications the same. Private communications online are far less protected than conversations over the phone or letters through the mail. The Electronic Communications Privacy Act, or ECPA, which establishes the standard for government access to private information that is transmitted and stored on the internet, was written almost 30 years ago. The outdated statute has resulted in a patchwork of laws nationwide attempting to protect our privacy and confusion in the courts, while leaving our private communications vulnerable.

A recent Freedom of Information Act request by the ACLU revealed that these outdated standards were allowing the Internal Revenue Service to claim the authority to access Americans private email and other stored electronic records without a warrant based on probable cause. In response to the public outcry over this revelation, the IRS stated that it would change its written policy and require a warrant at all times. We believe the Yoder amendment simply codifies that written policy.

As our lives have moved increasingly online we should not be forced to abandon our Fourth Amendment guaranteed protections. Whether information is stored in the cloud or in a file cabinet, government officials should have to go through the same search warrant process to access it. The Yoder amendment is an important step toward updating the law and safeguarding privacy online.

For more information, please contact Chris Calabrese, Legislative Counsel, at (202) 715-0839 or ccalabrese@dcacclu.org.

For additional info on the IRS and ECPA please see:

<http://www.aclu.org/blog/technology-and-liberty-national-security/new-documents-suggest-irs-reads-emails-without-warrant>

<http://www.aclu.org/blog/technology-and-liberty-national-security/irs-says-it-will-respect-4th-amendment-regard-email>