

# Trump's Tax Lawyers Say 2002-2008 Returns No Longer Under Audit

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Republican presidential candidate Donald Trump's income tax returns for the years 2002 through 2008 are no longer under federal audit, though more recent filings remain under review, according to an unusual letter his campaign released Wednesday night.

The campaign didn't say whether it's prepared to release any of the documents, a standard practice for presidential candidates. Trump, a billionaire real estate developer and former reality TV show host, has refused to release his returns, citing what he described as a 12-year-long Internal Revenue Service audit.

The letter, dated March 7 and written by two lawyers at law firm Morgan, Lewis & Bockius LLP, says the Internal Revenue Service has ended its scrutiny of the tax years 2002 through 2008. The agency is continuing to examine returns from 2009 forward, according to the letter.

Trump has been under pressure from political opponents to release his returns. The 2012 Republican presidential nominee, Mitt Romney, in February called on Trump to release

the documents, saying they may contain a “bombshell.” Trump is the only remaining major-party candidate for president who hasn’t made at least some portion of his tax returns public.

Trump campaign spokeswoman Hope Hicks didn’t immediately respond to requests for comment.

It’s unclear why the campaign posted the letter Wednesday night, more than three weeks after it’s dated.

The three-paragraph letter says that Trump’s returns had been “under continuous examination by the Internal Revenue Service since 2002.” It also said that examinations of returns for 2002 through 2008 had been closed “without assessment or payment, on a net basis, of any deficiency.” The letter’s authors, tax lawyers Sheri Dillon and William Nelson, don’t explain in the letter what they mean by “on a net basis.” Nelson is a former IRS chief counsel.

Elliot Frieder, a spokesman for the Morgan Lewis firm, said last night that the firm doesn’t discuss clients’ business.

‘Complex Businesses’

Trump disclosed in July that he is the sole or principal owner in roughly 500 business entities -- most of them partnerships. As a result, his “personal federal income tax returns are inordinately large and complex for an individual,” according to the letter by Dillon and Nelson. It says the continuous audits of Trump’s personal returns are “consistent with the IRS’s practice for large and complex businesses.”

The letter’s last paragraph also says that in a sense, the IRS examinations for 2009 forward “are continuations of prior, closed examinations.” That’s because Trump’s later returns “report items that are attributable to continuing transactions or activities that were also reported on returns for 2008 and earlier.” However, it’s unclear whether the returns include new sources of income or other disclosures that might have also drawn IRS scrutiny.

Dennis Brager, a tax lawyer in Los Angeles and former senior IRS trial attorney, told Bloomberg after reading the letter that its references to examinations for 2002 through 2008 that were closed and to later examinations that concerned matters in 2008 and earlier “contradict each other.”

Brager said it’s possible the issue under scrutiny involves a so-called timing loss, meaning that Trump might have declared a tax-deductible loss in one year that the IRS disallowed, then claimed it again in another year.

“The letter appears to be internally inconsistent,” Brager said.

Democratic front-runner Hillary Clinton released full tax returns for the years 2007 through 2014 last year. Combined with earlier releases from her 2008 presidential campaign, and with returns released earlier by her husband, former President Bill Clinton, she has released tax information for every year since the late 1970s.

On the Republican side, Trump’s rivals, Texas Senator Ted Cruz and Ohio Governor John Kasich, have each released a number of partial returns, excluding schedules that would provide such details as their itemized deductions and business income.