

**WRITTEN TESTIMONY OF
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BEFORE THE
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON GOVERNMENT ORGANIZATION, EFFICIENCY AND
FINANCIAL MANAGEMENT
ON IDENTITY THEFT**

NOVEMBER 4, 2011

INTRODUCTION AND SUMMARY

Chairman Platts, Ranking Member Towns and Members of the Subcommittee on Government Organization, Efficiency and Financial Management, my name is Steven Miller and I am Deputy Commissioner for Services and Enforcement at the Internal Revenue Service. I appreciate the opportunity to testify on the important issue of identity theft and provide you with an update on actions that the IRS is taking in this area.

Over the past few years, the IRS has seen a significant increase in refund fraud schemes in general and those involving identity thefts in particular. Identity theft and the harm that it inflicts on innocent taxpayers is a problem that we take very seriously. In his June testimony before this Subcommittee, Commissioner Shulman described the IRS' comprehensive identity theft strategy. It is a two-pronged strategy, focusing both on fraud prevention and victim assistance.

Identity theft is the use of an innocent person's identifying information stolen from a wide variety of places and through a wide variety of means. With respect to the IRS, identity theft manifests itself in several ways. First, it is used to defraud the government of funds through the filing of fraudulent refund claims. Second, it victimizes the innocent taxpayer by impeding his or her ability to get a refund from us. Fraudulent filings may also cause us to initiate an adverse enforcement action against the innocent taxpayer. At the start let me say quite plainly that the IRS is confronted with the same challenges as every major financial institution in preventing and detecting identity theft. The IRS cannot stop all identity theft. However, we are committed to continuing to improve our programs. We can and will work to prevent the issuance of fraudulent refunds and we can and will work with innocent taxpayers to clear their accounts and/or get them their money faster in a courteous and professional manner.

While I will describe for you some of the details of new programs and systems that the IRS has created to address this challenge, I would start by saying that we have put a significant amount of time into redoubling our training efforts for IRS customer service workforce so that they can better understand what identity theft victims are going through. Although these thieves steal the information from sources outside the tax

system, the IRS is sometimes the first to inform the individual that identity theft has occurred.

The IRS has also taken actions to be better prepared in both fraud prevention and victim assistance. On the prevention side, this means implementing new processes for handling returns, new filters to detect fraud, new initiatives to partner with stakeholders and a continued commitment to investigate the criminals who perpetrate these crimes. As for victim assistance, the IRS is working to speed up case resolution, provide more training for our employees who assist victims of identity theft, and step up outreach to and education of taxpayers so they can prevent and resolve tax-related identity theft issues quickly.

The improvements that the IRS is making would not be possible without the additional resources that we have directed toward these programs. We have substantially increased our resources devoted to both prevention and assistance. Even in a declining budget environment, we are hiring and training new staff to address the growing challenge of identity theft.

Fighting identity theft will be an ongoing battle for the IRS, and one where we cannot afford to let up. The identity theft landscape is constantly changing, as identity thieves continue to create new ways of stealing personal information and using it for their gain. We at the IRS must continually review our processes and policies to ensure that we are doing everything possible to minimize the incidence of identity theft and to help those who find themselves victimized by it.

And yet there is a delicate balance here. We cannot manually inspect 100 million refunds to ensure all are correct – nor is there any justification for doing so. That is not practical nor in keeping with Congressional intent. The IRS has a dual mission when it comes to refunds, particularly when they are generated in whole or in part by tax credits. Refundable credits are provided to achieve important policy goals, such as relief from poverty or boosting the economy. The IRS must deliver the promised refunds in the intended time frame, while ensuring that appropriate controls are in place to minimize errors and fraud. We must balance the need to make payments in a timely manner with the need to ensure that claims are proper and taxpayer rights are protected.

So it is indeed a difficult challenge to strike the right balance. The IRS's approach to tackling identity theft must be multi-faceted. We are improving processes to prevent fraudulent filings from being processed as well as identifying promoters and other schemes. We are also taking actions to improve handling of identity theft cases and to better serve taxpayers whose identity has been stolen for tax purposes. Let me walk through our work to prevent the fraud up front and how we hope to improve our service to the victims of identity theft.

PREVENTING FRAUD FROM IDENTITY THEFT

Tax filings can be affected by identity theft in various ways. For example, an identity thief steals a legitimate taxpayer's personal information in order to file a fake tax return and attempt to obtain a fraudulent refund. Or, an identity thief may use someone else's name and social security number to obtain a job, which may result in the issuance of a W-2 reporting wage income that ends up being wrongly attributed to the legitimate taxpayer.

Since 2008, the IRS has identified more than 404,000 taxpayers who have been impacted by identity theft. In calendar year 2011 to date, the IRS has protected \$1.3 billion in refunds from being erroneously sent to identity thieves. The IRS is committed to improving its approaches to blocking these fraudulent refund claims. To that end, we strive to process returns in such a way that potentially false returns are screened out at the earliest possible stage.

Catching the Refund At the Door -- Enhanced Return Processing

Identity theft is a key focus of a new IRS program launched this year. Under this program, a cross-functional group made up of various IRS divisions continues to work to develop enhanced revenue protection processes and policies for the 2012 filing season and beyond. The work being done by this group includes the following:

- Designing various new identity theft screening filters that will improve our ability to spot false returns before they are processed and before a refund is issued. For example, new filters are being designed to flag returns if certain changes in taxpayer circumstances are detected. It must be noted that effective filters are difficult to develop given the number of changes that many taxpayers experience in a year. For example, annually 10 million of us move and 46 million of us change jobs. Thus, changes in taxpayer circumstances do not necessarily indicate identity theft.
- Implementing new procedures for handling returns that we suspect were filed by identity thieves. Once a return has been flagged, we will correspond with the sender before further processing of the return.
- Issuing special identification numbers (Identity Protection Personal Identification Numbers or IP PINs) to taxpayers whose identities are known to have been stolen to facilitate the filing of their returns and prevent others from utilizing their identities. The use of IP PINs is more fully described below.
- Accelerating the availability of information returns in order to identify mismatches earlier, further enhancing our ability to spot fraudulent tax returns before they are processed.

- Developing new mechanisms to stop the growing trend of fraudulent tax returns being filed under deceased taxpayers' identities. First, we added to our process for re-routing returns where it appears that an identity thief has used a decedent's SSN. Second, we will expand on a successful pilot program in 2010 that marks the accounts of deceased taxpayers to prevent misuse by identity thieves. We have marked 230,000 accounts of decedents. This will be an ongoing process. Third, we are working with the Social Security Administration in order to more timely utilize the information SSA makes available to us.
- We have also devised procedures for handling lists of taxpayers' personal information that law enforcement officials discover in the course of investigating identity theft schemes or other criminal activity. This is extremely valuable data that can be used to flag taxpayer accounts and help us block returns filed by identity thieves who have used the personal information of these taxpayers. Our Criminal Investigation (CI) division will utilize this data to ensure linkages are identified between criminal schemes and will also ensure that the information is shared appropriately to affect victim account adjustment and protection activity.
- We have expanded the use of our list of prisoners to better utilize the list to stop problematic returns. We recently received additional help under the United States-Korea Free Trade Agreement Implementation Act that would require federal and state prisons to provide information on the current prison population. We intend to engage with prison officials to determine the best way to move forward with this new authority.
- We are also collaborating with software developers and other industries to determine how we can better partner to prevent theft.

Stopping It Before It Starts -- Criminal Investigation Work

The investigative work done by our Criminal Investigation (CI) division is another major component in our effort to combat tax-related identity theft. CI investigates and detects tax fraud and other financial fraud, including fraud related to identity theft, and coordinates with other IRS divisions to ensure that false refunds involving identity theft are addressed quickly and that the IRS accounts of identity theft victims are marked to help prevent any future problems. CI recommends prosecution of refund fraud cases, including cases involving identity theft, to the Department of Justice.

CI works closely with the other IRS divisions to improve processes and procedures related to identity theft refund fraud prevention. For example, CI provides regular updates to the IRS' Wage and Investment division regarding emerging scheme trends so that processes and filters can be enhanced to prevent refund loss. These collaborative efforts have been instrumental in helping the IRS stop more refund fraud.

CI investigations of tax fraud related to identity theft have increased significantly over the past two fiscal years and we expect that will continue in the coming year. In FY 2011, 276 investigations were initiated, compared with 224 in FY 2010 and 187 in FY 2009. CI recommended 218 cases for prosecution in 2011, compared with 147 the previous year and 91 in 2009. Indictments in identity-theft related cases totaled 165 in 2011, with 80 individuals sentenced and average time to be served at 44 months. This compares with 94 indictments, 45 individuals sentenced and a 41-month average sentence in 2010.

This area has been designated as a priority in 2012. We also will be piloting dedicated cross-functional teams with other parts of the IRS that will allow us to create a greater footprint in one or more geographic locales.

Some of the recent successes involving identity theft include the following cases in which sentences were handed down during August-September:

- An Ohio woman was sentenced to 75 months in prison and ordered to pay more than \$3 million in restitution after she pleaded guilty to mortgage fraud, tax fraud, credit card fraud and aggravated identity theft. This individual filed approximately 140 false returns using stolen personal information.
- A North Carolina man was sentenced to 132 months in prison, three years of supervised release and ordered to pay \$464,000 in restitution on charges that included preparing false tax returns and aggravated identity theft. This individual, who worked for a government agency as a data warehouse manager, was accused of stealing personal information and using the information to file the false returns and make fraudulent refund claims.
- A Georgia woman was sentenced to 72 months in prison, three years of supervised release, and was ordered to pay approximately \$290,000 in restitution for filing hundreds of false tax returns using identities stolen from deceased persons.
- A South Carolina woman was sentenced to 37 months in prison, three years of supervised release and ordered to pay more than \$125,000 in restitution for making a false claim for a tax refund and for identity theft. This individual received more than \$125,000 in false refunds. The false returns she prepared included about a dozen that used identifying information that she had fraudulently obtained.

Local law enforcement and other federal agencies play a critical role in combating identity theft. Thus, an important part of our effort to stop identity thieves involves partnering with law enforcement agencies. We collaborate on these issues and this effort will only increase going forward. It should be noted, that the existing rules for protecting taxpayer privacy often make it difficult for us to provide easy access to information that may be useful for local law enforcement. Nonetheless, CI special

agents throughout the country participate in task forces and working groups with federal, state, and local law enforcement that target tax related identity theft crimes. CI personnel also coordinate with these agencies in an effort to ensure that victims are aware of the steps they need to take to resolve their affected tax accounts. We will continue to develop new partnerships with law enforcement agencies in the 2012 filing season and beyond.

ASSISTING TAXPAYERS VICTIMIZED BY IDENTITY THEFT

Along with prevention, the other key component of the IRS' efforts to combat identity theft involves providing assistance to taxpayers whose personal information has been stolen and used by a perpetrator in the tax filing process. This situation is complicated by the fact that identity theft victims' data has already been compromised outside the filing process by the time we detect and stop perpetrators from using their information.

This year, the working group on identity theft reviewed the most effective ways to lessen the impact of identity theft on taxpayers at all stages. As a result of the group's work, we are taking a number of actions, including those described below. As you know from your prior hearings, we have had great difficulty keeping pace with the number of cases. As I mentioned, we can and will do better. We have committed additional resources, even in this tough budget climate, trained our people, developed an IP PIN program, and expanded our external outreach.

Improving our work on Identity Theft Cases

As indicated, since 2008, the IRS has identified more than 404,000 taxpayers who were victims of identity theft. We realize the importance of resolving these cases quickly and efficiently, so that identity theft victims who are owed refunds can receive them as soon as possible and so that we do not take adverse enforcement actions against such individuals.

We are implementing new procedures designed to resolve cases faster and minimize the disruption to innocent taxpayers. For example, every division within the IRS will make identity theft cases a higher priority in their work. As indicated above, new procedures and additional staff will be in place in 2012 to work cases faster where a refund has been stopped.

Along with taking steps toward faster resolution of identity theft cases, we are also working on creating a way to timely and accurately track and report on the status of all identity theft cases. By having such a system in place in the upcoming filing season, we believe that the amount of time used to work these cases will decrease, and affected taxpayers will receive their refunds sooner. Additionally, better tracking and reporting means that we can spot – and correct – any flaws in the system more quickly.

Identity Protection PIN Program

In addition to helping identity theft victims clear up problems with their IRS accounts, the IRS works proactively to help ensure that these taxpayers do not encounter delays in processing their future returns. In January 2011, we launched a pilot program for Identity Protection Personal Identification Numbers (IP PIN). The IP PIN is a unique identifier that establishes that a particular taxpayer is the rightful filer of the return. Under this pilot, we issued IP PINs to over 50,000 taxpayers who were identity theft victims.

The pilot program showed us that this is a very promising innovation that can dramatically reduce the number of taxpayers caught up in delays. Therefore, we have expanded the program for the new filing season, and will be issuing IP PINs to more than 200,000 taxpayers who have suffered identity theft in the past.

Employee Training

The IRS runs one of the largest phone centers in the world, and is dedicated to providing quality service with a high degree of accuracy to every taxpayer who contacts us. Having said that, we realize that taxpayers who call the IRS with identity theft problems present unique challenges to our telephone representatives. Moreover, as indicated in the prior hearing, there may have been instances in which our assistors did not perform as well as we would desire.

Therefore, we recently conducted a thorough review of the training we provide our employees to make sure that they have the tools and sensitivity they need to respond in an appropriate manner to those who have been victimized by identity theft.

As a result of this review, we have done two things:

- First, we updated the training course for our telephone representatives in order to ensure that our assistors maintain the proper level of sensitivity when dealing with identity theft victims and understand the serious financial problems that identity theft poses for these taxpayers. This training will be provided in advance of the 2012 filing season.
- Second, we broadened the scope of our training to cover those IRS employees who are not telephone assistors but who nonetheless interact with taxpayers or work identity theft cases. We have developed a new course for these employees, which will include not only sensitivity training but will also ensure that employees who process identity theft cases have the proper tools and techniques to do so. This will be provided to selected employees during calendar year 2012.

Taxpayer Outreach and Education

The IRS continues to undertake outreach initiatives to provide taxpayers, return preparers and other stakeholders with the information they need to prevent tax-related identity theft and, when identity theft does occur, to resolve issues as quickly and efficiently as possible. Recent actions in this area include the following:

- We overhauled the identity protection training provided to tax practitioners at this year's Tax Forums. These yearly events, held in several cities around the country, typically draw more than 16,000 practitioners. In addition, our Small Business/Self Employed division held a meeting in October with practitioners that included a discussion of the IP PIN program, the expansion of the program, and the modified procedures, forms and notices associated with the program.
- We continue to update the identity theft information provided on the IRS.gov website. This includes emerging trends in identity theft along with fraud schemes, phishing sites and prevention strategies. We recently added a direct link to our Identity Theft page, to make it easier for taxpayers who visit IRS.gov to find it.
- We produced two new identity theft awareness videos for our YouTube channel, and will be communicating various identity protection messages via Twitter. We plan to continue producing YouTube videos on identity theft and communicating via Twitter about this issue throughout the upcoming filing season.

CONCLUSION

Mr. Chairman, thank you again for the opportunity to appear before the Subcommittee and update you on the steps that the IRS is taking to prevent identity theft and to assist taxpayers who have been victims of this crime. This work is a key challenge for the IRS at this time. We see it as affecting the way people view our agency and, as importantly, as eroding peoples' view of their obligation to pay taxes. Our work here for filing season 2012 is a solid start but not the end of our efforts. I cannot tell you that we will beat this problem in one year. I can tell you that we have committed our talents and resources to prevent the issuance of fraudulent refunds and have developed processes to minimize the pain felt by those who have been victimized. We are committed to continuing to look for new and innovative ways to improve our processes and techniques. I would be happy to answer any questions that you may have about our role in guarding against identity theft and assisting its victims.