Department of Justice

TESTIMONY OF

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BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

FOR A HEARING CONCERNING

TAX SCHEMES AND SCAMS DURING THE 2015 FILING SEASON

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Testimony of Caroline Ciraolo
Acting Assistant Attorney General
Committee on Finance
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Chairman Hatch, Ranking Member Wyden, and Members of the Committee, thank you for the opportunity to appear before you this morning to discuss the Department of Justice's efforts to combat tax refund fraud arising from identity theft.

The Department greatly appreciates the commitment that the Chairman, the Members of the Committee, and the staff have made to highlighting and addressing this important issue. Combatting the illegal use of social security numbers and other personal information to file false returns seeking fraudulent refunds is a top priority of both the Tax Division and the United States Attorneys' Offices across the country. Your efforts to bring attention to this growing and insidious crime will help educate taxpayers about the importance of detecting and reporting identity theft and tax fraud. Today's hearing also sends a strong message to those who would commit these crimes that their schemes will be detected and that they will be prosecuted to the fullest extent of the law.

Using a variety of civil and criminal enforcement tools, the Division, with the assistance of our partners at the IRS and in the United States Attorneys' Offices, has successfully enjoined hundreds of unscrupulous return preparers and other individuals who viewed the Federal Treasury as a personal bank account. Their schemes have included filing returns containing inflated, false deductions or false W-2 income statements, or preparing returns and failing to remit the refund to the taxpayer. In recent years, an even more aggressive scheme has spread across the country at an alarming rate – stolen identity refund fraud ("SIRF").

The plan is frighteningly simple – steal social security numbers, file tax returns showing a false refund claim, and then have the refunds electronically deposited or sent to an address where the offender can access the refund checks. In many cases, the taxpayer whose social security number has been compromised will later face difficulties when he or she files a tax return after the IRS received a false return using that taxpayer's social security number. In other cases, the false returns are filed using social security numbers of deceased taxpayers or others from whom no federal tax return may be due for filing. These schemes are usually implemented in early January, before the proper taxpayer is expected to file their returns, with the goal of taking advantage of the IRS's efforts to pay out refunds quickly. In many cases, the most vulnerable in our society are the victims of this form of identity theft. Names and social security numbers have been stolen at medical firms, prisons, and hospitals by dishonest employees who are often paid for the information. Postal workers have been robbed, and in one instance, murdered to gain access to refund checks.

The high potential for financial gain and low physical risk have made stolen identity refund fraud the new crime of choice for drug dealers and gangs. The scope and organization of these criminals is vast and growing, and in certain cases, the criminal proceeds of the crime have been used to purchase illegal narcotics for resale.

For taxpayers who are direct SIRF victims, the economic and personal consequences can be severe and often long-term. While the IRS has invested substantial efforts and resources to address identity theft concerns, those victimized face months, if not years, of overwhelming paperwork, credit problems, and inconvenience. When a stolen identity is used to commit tax refund fraud, all taxpayers are victims, and all Americans are impacted by the loss to the Federal Treasury. In recognition of the severity of the problem, the Department and the IRS have devoted significant resources to the successful prosecution of individuals engaged in stolen identity refund fraud. Individuals engaged in this criminal conduct face a variety of charges, including aggravated identity theft, theft of government property, false claims for refund, false returns, and tax conspiracy.

In the last several years, the Department has successfully prosecuted and received significant sentences in cases in which a stolen identity was used to commit tax refund fraud. For example:

- In October 2013, in Alabama, a U.S. postal employee was sentenced to 111 months in prison for his role in a stolen identity refund scheme. The mail carrier used mailing addresses on his postal route to send debit cards loaded with false refunds. Other defendants obtained the stolen identities used on the returns from the Alabama Department of Corrections. The defendants filed hundreds of fraudulent tax returns that claimed over $1 million in false refunds.

- In May 2014, a superseding indictment was returned against nine defendants for their roles in a $20 million dollar stolen identity refund conspiracy. According to the allegations in the indictment, between 2011 and 2013, the defendants ran a large-scale identity theft ring in which they filed over 7,000 tax returns claiming false refunds. As part the scheme, one of the defendants stole identities from the hospital at Fort Benning, Georgia where she worked and had access to the identification data of military personnel, including soldiers who were deployed to Iraq and Afghanistan. Other defendants stole identities from an Alabama state agency and from the Alabama Department of Corrections.

- In June 2014, a Miami, Florida man was sentenced to 10 years in prison for stealing identities and then filing false returns that requested over $13 million in false refunds by fraudulently claiming gambling income and withholding from the Florida Lottery

Commission. His co-conspirator opened approximately eighteen bank accounts to deposit these fraudulent refunds.

- In December 2014, a Tennessee woman was sentenced to 102 months in prison. She and her co-conspirators unlawfully obtained personal identifying information of victims, including high school students, and used the information to file false tax returns claiming millions of dollars of refunds. Two co-conspirators have been sentenced to 45 and 48 months in prison, respectively, and three others have pled guilty and await sentencing.

- In January 2015, a Maryland woman and former bank employee, was sentenced to 87 months in prison for her role in a massive and sophisticated identity theft and tax fraud network involving more than 130 individuals. She is among approximately a dozen people who have pleaded guilty in the U.S. District Court for the District of Columbia to charges in one of the largest prosecutions to date involving the use of stolen identifying information. The overall case involves the filing of at least 12,000 fraudulent federal income tax returns that sought refunds of at least $40 million.

As these examples illustrate, SIRF crimes are different from the crimes typically addressed by the Tax Division. While the typical criminal tax case may involve willfully filed false returns, evading the assessment of tax due and owing or the use of sophisticated financial schemes which invariably require lengthy in-depth investigations, SIRF crimes generally involve garden variety theft and fraud. Moreover, SIRF prosecutions are often reactive to exigent circumstances; in many cases, the crime is discovered by local law enforcement officers who come upon a large cache of Treasury checks or debit cards loaded with fraudulent tax refunds.

Recognizing these fast-moving law enforcement needs, on October 1, 2012, the Tax Division issued Directive 144, which delegates to local United States Attorneys' Offices the authority to initiate tax-related grand jury investigations in SIRF matters, to charge those involved in SIRF crimes by complaint, and to obtain seizure warrants for forfeiture of criminally-derived proceeds arising from SIRF crimes, without prior authorization from the Tax Division. The Tax Division retains authority in connection with forfeitures if any legitimate taxpayer refunds are involved.

Directive 144 was the result of collaborative efforts among the Tax Division, the IRS, and the United States Attorneys' Offices to strengthen the law enforcement response to SIRF crimes. The Tax Division continues to work closely with the IRS and United States Attorneys' Offices across the country to ensure effective information sharing and investigative cooperation as permitted by law. And this approach is yielding significant results. Beginning with the implementation of Directive 144 (and the expedited review procedures) and ending December 31, 2014, the Tax Division has authorized more than 975 SIRF investigations involving more than 1,700 subjects. As a result, during the same period the Tax Division and the U.S.

Attorneys' Offices have brought more than 725 prosecutions involving more than 1,400 individuals.

The prosecution of SIRF crimes is a national priority, and, together with our law enforcement partners, we will continue to look for the most effective ways to bring this conduct to an end and to punish these wrongdoers. Indeed, enforcement efforts are critical, but the goal is to stop fraudulent refunds at the door. In the meantime, the Tax Division will continue to prosecute these cases and, in doing so, send a clear message to those who engage in this conduct that they will be held accountable for their actions.

Thank you for the opportunity to provide the Department's perspective on this issue, and I look forward to answering any questions that you may have.