

**WRITTEN TESTIMONY OF  
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BEFORE THE  
SENATE COMMITTEE ON FINANCE  
SUBCOMMITTEE ON FISCAL RESPONSIBILITY AND ECONOMIC GROWTH  
ON IDENTITY THEFT  
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**INTRODUCTION AND SUMMARY**

Chairman Nelson, Ranking Member Crapo and Members of the Subcommittee on Fiscal Responsibility and Economic Growth, my name is Steven Miller and I am Deputy Commissioner 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 schemes involving identity theft in particular. Identity theft and the harm that it inflicts on innocent taxpayers is a problem that we take very seriously. The IRS has a comprehensive identity theft strategy comprised of a two-pronged effort, focusing both on fraud prevention and victim assistance.

Identity theft is the use of another 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, in many instances it victimizes an 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. There are also many instances where the identity stolen is not of an active filer so there is less immediate impact on the real taxpayer. In these instances, the identity may belong to a deceased individual or an individual without a filing requirement. In this category, the IRS is faced with fraud, but there is less immediacy in the need to assist the correct taxpayer because there is no return filed or other IRS activity underway with respect to that individual.

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 have improved and we are committed to continuing to improve our programs. We can and will continue to work to prevent the issuance of fraudulent refunds and we can and will continue to 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 our IRS 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 additional 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 neither 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 and other tax credits are provided to achieve important policy goals, such as relieving poverty or boosting the economy. The IRS must deliver 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' 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. All of this is being done within a very difficult budget environment. The Administration's FY 2013

budget request includes important funding for additional enforcement initiatives focused specifically on addressing refund fraud, including identity theft. 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. There are also instances where the identity stolen is of an individual who is deceased or has no filing requirement.

Overall, IRS identified and prevented the issuance of over \$14 billion in fraudulent refunds in 2011. Identity theft is a subset of this overall refund fraud. Since 2008, the IRS has identified more than 460,000 taxpayers who have been affected by identity theft. These are taxpayers who have filing requirements and who are or may be impacted by the theft. With respect to these taxpayers, in calendar year 2011, the IRS protected \$1.4 billion in refunds from being erroneously sent to identity thieves. This does not include identity theft of those without a filing requirement (though that value is included in the above \$14 billion). 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 an IRS program launched in 2011. Under this program, the following improvements have been made:

- Various new identity theft screening filters are in place to improve our ability to spot false returns before they are processed and before a refund is issued. For example, new filters were designed and launched that 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. Nonetheless, as of March 9, 2012, we have stopped 215,000 questionable returns with \$1.15 billion in claimed refunds from filters specifically targeting refund fraud.
- Moreover, this filing season, we have expanded our work on several fraud filters which catch not only identity but other fraud. In this area we have stopped roughly as much so far this filing season as we stopped last calendar year. Until we work these cases we will not have a solid answer as to how much of this work is fraud, but not identity fraud, but we suspect a great deal may fall into the latter category.

- We have implemented 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 continuing to process the return.
- We are 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, but we issued over 250,000 for this filing season.
- We have accelerated the availability of information returns in order to identify mismatches earlier, further enhancing our ability to spot fraudulent tax returns before they are processed.
- We are leveraging mechanisms to stop the growing trend of fraudulent tax returns being filed under deceased taxpayers' identities. First, we have coded accounts of decedent taxpayers whose SSNs were previously misused by identity thieves to prevent future abuse. Second, we are identifying returns of recently deceased taxpayers to determine if it is the taxpayer's final return, and then marking accounts of deceased taxpayers who have no future filing requirement. So far this filing season, 66,000 returns have been stopped for this review. Third, we are working with the Social Security Administration in order to more timely utilize the information SSA makes available to us. And we are working with SSA on a potential change to the practice of routine release of the Death Master File.
- We have also developed 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 expanded the use of our list of prisoners to better utilize the list to stop problematic returns. We have stopped 135,000 questionable returns this filing season. For the fiscal year, we have prevented almost \$800 million in refunds representing an 80% increase in refunds stopped over the same period last year. We received additional help under the United States-Korea Free Trade Agreement Implementation Act passed last year that requires federal and state prisons to provide information on the current prison population. We are engaging with prison officials to determine the best way to move forward with this new authority. Unfortunately, the news is not all good. The authority allowing us to share return information with prisons expired at the end of 2011.

- We are also collaborating with software developers, banks, 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.

In response to this growing threat to tax administration, CI established the Identity Theft Clearinghouse (ITC), a specialized unit that became operational in January, to work on identity theft leads. The ITC receives all refund fraud related identity theft leads from IRS-CI field offices. The ITC's primary responsibility is to develop and refer identity theft schemes to the field offices, facilitate discussions between field offices with multi-jurisdictional issues, and to provide support of on-going criminal investigations involving identity theft.

CI investigations of tax fraud related to identity theft have increased significantly over the past two fiscal years and the trend is continuing in FY 2012. 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. Already in FY 2012, CI has initiated 258 cases and recommended 150 cases for prosecution. Indictments in identity theft cases total 167, with 49 individuals sentenced and average time to be served at 45 months. The direct investigative time spent on identity theft in FY 2011 was 225,000 hours and CI is on pace to double this in FY 2012.

The IRS conducted a coordinated identity theft enforcement sweep during the week of January 23. It was an outstanding success. Working with the Justice Department's Tax Division and local U.S. Attorneys' offices, the nationwide effort targeted 105 people in 23 states. The coast-to-coast effort that took place included indictments, arrests and the execution of search warrants involving the potential theft of thousands of identities. In

all, 939 criminal charges are included in the 69 indictments and information related to identity theft.

In addition, in that same week IRS auditors and investigators conducted extensive compliance visits to money service businesses in nine locations across the country. The approximately 150 visits occurred to help ensure that these check-cashing facilities aren't facilitating refund fraud and identity theft.

These efforts send an unmistakable message to anyone considering participating in a refund fraud scheme that we are aggressively pursuing cases across the nation with the Justice Department, and people will be going to jail.

Identity theft 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.

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. We are, however, developing a procedure by which we will be able to share falsified returns with local law enforcement by way of obtaining a privacy waiver from the innocent taxpayer. We will continue to search for other innovative ways to partner with local law enforcement. Furthermore, CI special agents throughout the country participate in at least 35 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.

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

- An Arizona man was sentenced to 60 months in prison, three years of supervised release, and ordered to pay approximately \$387,000 in restitution after he pleaded guilty to conspiracy involving false claims, wire fraud and aggravated identity theft. This individual used stolen identities of disabled individuals to claim more than \$1 million in bogus tax refunds.
- An Alabama woman was sentenced to 184 months in prison and ordered to pay more than \$1.1 million in restitution on charges of filing false claims, wire fraud and aggravated identity theft. This individual, the owner of a tax preparation business, used her business to run a scheme to steal tax refunds by filing false

tax returns with stolen identities. Those tax returns claimed refunds that were directed to bank accounts and debit cards that she controlled.

- A Tennessee woman was sentenced to 108 months in prison, three years of supervised release, and ordered to pay \$110,000 in restitution. This individual and an accomplice obtained names, Social Security numbers and other identifying information of various individuals, both alive and deceased, from the Social Security Death Master File and from an underground website. They prepared false W-2s, claiming false wages and withholding amounts, and used these forms to file income tax returns with the IRS to get refunds that were deposited into bank accounts they controlled.
- An Alabama woman was sentenced to 94 months in prison and ordered to pay \$276,000 in restitution on charges of identity theft, wire fraud, aggravated identity theft and conspiracy to make false claims for tax refunds. This individual obtained the names and Social Security numbers of student loan borrowers from the databases at her former employer and conspired to use the stolen identifying information to file false tax returns. She also fraudulently obtained refund anticipation loans from a bank on the basis of the fraudulently filed returns.
- A Florida woman was sentenced to 108 months in prison and ordered to pay \$673,000 in restitution on charges of tax fraud and mail fraud. This individual obtained identifying information from others, including Social Security numbers, and used this information to prepare and electronically file dozens of false income tax returns. In some instances, the individuals whose identities were being used were deceased.

## **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.

We have taken a number of actions, including those described below to restore the account of the innocent taxpayer. We have had great difficulty keeping pace with the number of cases, but we are determined to bring to bear new resources and streamline existing processes. Thus, 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 noted above, since 2008 the IRS has identified more than 460,000 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 their 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 is making identity theft cases a higher priority in their work. As indicated above, new procedures and additional staff are being put in place to work cases faster where a refund has been stopped. We increased staffing last year and this year, and have plans to dedicate additional resources following the filing season. By the end of the fiscal year, staffing dedicated to identity theft will be almost 2,500 employees.

Along with taking steps toward faster resolution of identity theft cases, we are continuously improving the way we track and report on the status of all identity theft cases. We believe these improvements will reduce the time to work identity theft cases in coming filing seasons so that honest 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 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 have issued IP PINs to approximately 250,000 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 and we need to ensure taxpayers receive quality, courteous service.

As a result, last year we 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.



Out of this review, we have done two things:

- First, we updated the training course for our telephone assistors 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. We conducted this training at the beginning 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 developed a new course for these employees, which includes not only sensitivity training but also ensures that employees who process identity theft cases have the proper tools and techniques to do so. This course was provided to all employees who might come into contact with an identity theft victim. In all, 35,000 IRS employees received this training.

### ***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 last 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 met with practitioners to discuss 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 also added a direct link to our Identity Theft page, to make it easier for taxpayers who visit IRS.gov to find it.
- The IRS continues a far-reaching communications effort through traditional and social media in both English and Spanish. This effort, started last year, has intensified this filing season. In addition to consumer protection information on IRS.gov, we have done a number of news releases and tax tips to help taxpayers and highlight our continuing enforcement efforts. We have also produced new identity theft awareness videos for the IRS YouTube channel in English, Spanish and American Sign Language and relayed information out through IRS Twitter feeds and podcasts. In addition, the IRS also made identity theft the top item in this year's "Dirty Dozen" annual list of taxpayer scams. We plan to

continue this sweeping communication effort through the rest of the filing season and beyond.

## **CONCLUSION**

Mr. Chairman, thank you for your leadership in this area and 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. 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.