PROTECTING IDENTITY AND ENCOURAGING TAXPAYER COMPLIANCE - CAN THE IRS DO BOTH?

ABA Pro Bono Week CLE Teleconference
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WHAT IS IDENTITY THEFT?

- Identity theft generally occurs in tax administration in two contexts:
  - (1) the theft and use of another person’s SSN to obtain employment (“employment-related ID theft”), or
  - (2) the filing of a false return to obtain a fraudulent refund (“refund-related ID theft”).
ITIN/SSN MISMATCH

- When there is an ITIN/SSN mismatch, the Automated Underreporter (AUR) function will not attribute the income reported on information returns (e.g., Forms W-2 or Forms 1099) bearing the SSN to the identity theft victim.
ITIN/SSN MISMATCH

  - A taxpayer not eligible for an SSN must use an ITIN when filing his/her return.... These cases should **NOT** be sent to either the [ID theft unit] or Fraud, as the Internal Revenue Code recognizes these as legal tax returns
  - If allowing the W/H on the ITIN holders return, take the following actions, prepare Form 9409, *IRS/SSA Wages Worksheet*, to remove the information from the true SSN owner’s account.
Recently, the IRS decided to take a “specialized” approach to ID theft victim assistance.

Each function will train a group of employees that will work exclusively on ID theft cases.

NTA concern: there remains a need for a centralized body to serve as the “traffic cop”.
ID THEFT FILTERS

- Using data mining, IRS created automated filters aimed at preventing fraudulent refund claims
- Letters sent to impacted taxpayers indicating there was a problem processing return and to call the Taxpayer Protection Unit (TPU)
The TPU was initially woefully understaffed to handle the volume of calls.

- Level of Service as low as 11.7%, with average speed of answer of 66 minutes (week ending Mar. 10)

In 2013 filing season, calls will be appropriately staffed to achieve a LOS of 80 percent.
IDENTITY PROTECTION PIN (IP PIN)

- Six-digit code that must be used in addition to the filer’s taxpayer identification number in order to file electronically and bypass certain filters.
- 250,000 IP PINs issued during 2012 filing season.
- Letters to go out in December 2012, instructing the victims to use the IP PIN to file their 2012 returns.
DEATH MASTER FILE

The Social Security Administration maintains the DMF, which contains the following information about decedents:

- full name
- SSN
- date of birth
- date of death
- county, state, and ZIP code of the last address on record
DEATH MASTER FILE

- The SSA characterizes release of this information to the public as “legally mandated”

- FOIA case law has evolved significantly since 1980, such that a court applying the balancing test may hold that such detailed info about decedents need not be shared with the public

- To eliminate uncertainty, the NTA has recommended that Congress pass legislation to clarify that public access to the DMF can and should be limited.