

IDENTITY THEFT AND TAX FRAUD PREVENTION ACT OF 2015

TITLE 1: PROTECTING VICTIMS OF TAX-RELATED IDENTITY THEFT

Section 101. Expedited refunds for identity theft victims. In 2013, the IRS’s Inspector General found it took the agency 312 days on average, including 277 days of inactivity, to resolve a sample of identity theft cases. According to the Taxpayer Advocate, the amount of time needed to resolve a case can be cut in half if the IRS adopts appropriate administrative reforms. The bill directs the Secretary to establish a plan of action for resolving and closing identity theft cases within 90 days.

Section 102. Single point of contact for identity theft victims. Victims of tax-related identity theft express frustration with the need to repeatedly contact the IRS regarding their case and having to explain their situation to a different IRS employee, who has no knowledge of the matter, each time they call. The bill directs the Secretary to ensure that an identity theft victim has a single point of contact at the IRS that tracks the case from start to finish.

Section 103. Enhancements to IRS PIN Program. The IRS issued approximately 1.2 million personal identification numbers (PINs) to identity theft victims for the 2014 filing season. Still, the PIN program fails to protect victims whose identities have been stolen but have not yet had their tax account compromised. The bill directs the IRS: (1) to expand the existing PIN program to anyone requesting protection from tax-related identity theft after the individual’s identity has been verified, and (2) to issue a report to Congress on the effectiveness of PIN program.

Section 104. Electronic filing opt-out. More than 80 percent of tax-related identity theft occurs through electronically filed tax returns. The IRS does not permit identity theft victims to “turn off” electronic filing. The bill would allow an individual filing an identity theft affidavit to direct the IRS not to process federal tax returns submitted electronically by persons purporting to be the taxpayer.

Section 105. Taxpayer notification of suspected identity theft. Often times, victims are left in the dark about the criminals behind the fraud schemes, even when the IRS catches them and charges them with a crime. Meantime, victims are left feeling helpless and vulnerable knowing a thief has their personal information and is on the loose. The bill requires the IRS to inform victims when their information is used in a tax fraud scheme and the criminal is charged with a crime, giving victims the ability to pursue civil action against the perpetrators.

TITLE 2: SHUTTING DOWN ABUSIVE IDENTITY THEFT AND TAX FRAUD SCHEMES

Section 201. Restrictions on ability to use prepaid cards for tax fraud. A common identity theft scheme involves the purchase of a reloadable prepaid debit card using a stolen identity. The criminal then files a tax return using the stolen identity and has the fraudulent refund transferred to the prepaid card through a direct deposit. The bill directs financial regulators to issue new rules to make the account numbers associated with prepaid debit cards and other vulnerable accounts distinguishable from those in which the issuer verifies the identity of the account holder through more rigorous customer identification procedures. The bill also directs GAO to review and evaluate customer identification procedures used by the prepaid card industry.

Section 202. Limitation on multiple tax refunds to the same account. An investigation by the Treasury Inspector General identified at least 10 bank accounts that had each received more than 300 fraudulent tax refunds. The bill directs the Treasury Secretary to limit the number of refunds in a year that can be sent to an individual direct deposit account or mailing address.

TITLE 3: ADDING NEW PROTECTIONS TO SAFEGUARD SOCIAL SECURITY NUMBERS

Section 301. Reduce identity theft at medical facilities. Many identity thieves use medical facilities to obtain stolen identities. Although current law requires strict privacy standards to protect patient information, many health care providers are vulnerable to low-tech identity theft schemes. Moreover, the recent breach at Community Health Systems, where Chinese hackers stole information on more than 4.5 million Americans, bolsters the need to make such systems and facilities less of a target. The bill phases-out the unnecessary storage of Social Security numbers (SSNs) by health care providers, and tasks a government-created consortium of stakeholders to develop a long-term strategy to eliminate the need for SSNs in our health care system.

Section 302. Prohibition on the display of SSNs on newly issued Medicare cards. The publication of SSNs on Medicare cards and other Medicare documents puts millions of individuals at risk of identity theft. The bill requires the Medicare program to phase out the collection, use, and display of SSNs.

Section 303, 304, & 305. Prohibition and penalties on the display, sale, or purchase of SSNs. Tax-related identity theft schemes rely on the widespread availability of stolen SSNs. Identity thieves obtain SSNs from sources with access to files and databases that contain personal information on clients and customers, such as doctor's offices, schools, and nursing homes. Federal laws fail to adequately protect SSNs or penalize SSN traffickers. The bill imposes new civil and criminal penalties for selling, purchasing, or publicly displaying an individual's SSN without informed consent.

TITLE 4: STRENGTHENING LAWS AND IMPROVING ENFORCEMENT AGAINST TAX-RELATED IDENTITY THEFT

Section 401. Criminal penalty for tax fraud through identity theft. Tax-related identity theft is generally prosecuted under a tax provision related to fraud and false statements (§ 7206). Because tax-related identity theft can cause extreme hardships for victims, in addition to loss of government revenue, a tougher penalty is appropriate. The bill increases the maximum penalty for tax-related identity theft from 3 years imprisonment and a \$100,000 fine to 5 years imprisonment and a \$250,000 fine. The bill clarifies that tax-related identity theft constitutes aggravated identity theft under federal criminal law, potentially adding 2 additional years to the sentence.

Section 402. Increased tax preparer penalty for improper disclosure or use of return information. Tax-related identity theft can occur when a paid tax return preparer sells, shares, or uses a client's tax return information for improper purposes. The penalties for fraudulent disclosure or use of a taxpayer's personal return information are too weak to deter potential criminals. The current law civil penalty is \$250 per disclosure, capped at \$10,000 per preparer in a calendar year. The current law criminal penalty is capped at \$1,000 per conviction (and one year imprisonment). The bill increases the civil penalty to \$1,000 per disclosure, capped at \$50,000. It also increases the criminal penalty to a maximum of \$100,000 per conviction.

Section 403. Allow IRS to transfer appropriations for tax fraud enforcement. The bill provides the IRS Commissioner with authority to transfer up to \$10 million for tax fraud enforcement from amounts appropriated to other IRS accounts.

Section 404. Local Law Enforcement Liaison. State and local law enforcement agencies report difficulty obtaining the cooperation needed to aggressively pursue tax-related identity theft cases. The bill establishes a Local Law Enforcement Liaison within the Criminal Investigative Division of the IRS to administer information-sharing initiatives, respond to inquiries from State and local law enforcement, and ensure that privacy and confidentiality rules are preserved.

Section 405. Allow for truncated Social Security Numbers (SSNs) on W-2s. The bill allows the IRS to require only a taxpayer's truncated SSN or other identification number on a W-2 form, removing an unnecessary risk of identity theft.

Section 406. Allow IRS to regulate paid tax preparers. In *Loving v. IRS*, the Court ruled that the IRS and Treasury Department did not have the authority to regulate paid tax return preparers. This has enabled bad apples in the industry to dissuade their customers and, in some cases, engage in tax-related identity theft. The bill amends the law to make it clear that the Treasury and IRS have the authority to regulate all paid tax return preparers. This provision is supported by the American Institute of Certified Public Accountants (AICPA).

Section 407. Authenticate Users of Electronic Services Accounts. In the past, unscrupulous tax preparers have used the IRS's suite of electronic services to perpetrate tax refund fraud. The bill requires the IRS to verify the identity of any individual opening an e-Services account before he or she is able to use such services.

Section 408. Require paid tax preparers to verify customer identity. The bill requires tax return preparers to verify the identity of their clients. Under current law, tax preparers are already required to verify their client's eligibility for the earned income tax credit, and retain records that indicate the due diligence requirement was met. Verifying a taxpayer's identity imposes little additional burden on either the return filer or tax preparer.

TITLE 5: ACCELERATING TRANSITION TO A REAL-TIME TAX SYSTEM THAT PROTECTS TAXPAYERS AND REDUCES FRAUD

Section 501. Expand IRS access to the National Directory of New Hires. The National Directory of New Hires (NDNH) is a database maintained by the Department of Health and Human Services that includes employment data and other valuable information. Access to the NDNH would improve the ability of the IRS to identify fraudulent returns at the time the return is processed. The bill includes a proposal from the President's budget authorizing the IRS to use the NDNH for tax administration purposes.

Section 502. Plan of Action for accelerating information matching. Accelerating information matching is a critical component of the long-run battle against tax-related identity theft. The bill directs the Treasury Secretary to issue a report to Congress analyzing and outlining options and potential timelines for moving toward a tax system that reduces burdens on taxpayers and decreases tax fraud through real-time information matching.