

AREA OF FOCUS #6 **The IRS Re-Engineering of Its Identity Theft Victim Assistance Procedures Is a Step in the Right Direction But Does Not Go Far Enough**

TAXPAYER RIGHTS IMPACTED¹

- *The Right to Quality Service*
- *The Right to Finality*

Tax-related identity theft is an invasive crime that has significant impact on its victims and the IRS.² Apart from the time and frustration involved in dealing with the IRS to prove one's own identity, taxpayers generally do not receive their refunds until their cases are resolved.

Identity theft (IDT) cases can be complex, sometimes involving multiple issues or spanning multiple years.³ To improve the victim experience and shorten its IDT case cycle time, the IRS recently reorganized its IDT victim assistance units, moving toward a more centralized approach for which TAS has long advocated.⁴ The reorganization included the following actions:

- Centralized Accounts Management (AM) IDT caseworkers, including the Identity Protection Specialized Unit (IPSU), into a single IDT Victim Assistance (IDTVA) organization;
- Centralized Small Business/Self-Employed and Wage & Investment (W&I) Compliance specialized teams within IDTVA;
- Realigned the Office of Privacy, Governmental Liaison, and Disclosure's Identity Protection analysts to W&I; and
- Realigned Compliance headquarters analysts supporting IDT to the Customer Account Services organization.

With the AM Director now in charge of all IDT staff (including policy analysts), the IRS is poised to work IDT cases more consistently and track them more easily – something the National Taxpayer Advocate has recommended for several years.⁵ In addition, the IRS consolidated the Internal Revenue Manual (IRM) effective October 1, 2015, so that the majority of IDT procedures now fall under a single IRM section, a recommendation first made by the National Taxpayer Advocate in the 2007 Annual Report to Congress.⁶ We note when TAS first made these recommendations because had the IRS

1 See Taxpayer Bill of Rights (TBOR), www.TaxpayerAdvocate.irs.gov/taxpayer-rights. The rights contained in the TBOR that was adopted by the IRS are now listed in the Internal Revenue Code (IRC). See Consolidated Appropriations Act, 2016, Pub. L. No. 114–113, Division Q, Title IV, § 401(a) (2015) (codified at IRC § 7803(a)(3)).

2 See National Taxpayer Advocate 2015 Annual Report to Congress 180-87; National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 44–90; National Taxpayer Advocate 2013 Annual Report to Congress 75-83; National Taxpayer Advocate 2012 Annual Report to Congress 42–67; National Taxpayer Advocate 2011 Annual Report to Congress 48-73; National Taxpayer Advocate 2009 Annual Report to Congress 307–17; National Taxpayer Advocate 2008 Annual Report to Congress 79–94; National Taxpayer Advocate 2007 Annual Report to Congress 96–115; National Taxpayer Advocate 2005 Annual Report to Congress 180-91; National Taxpayer Advocate 2004 Annual Report to Congress 133–36.

3 National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 49.

4 See National Taxpayer Advocate 2007 Annual Report to Congress 115.

5 See National Taxpayer Advocate 2013 Annual Report to Congress 80-81.

6 IRM 25.23, *Identity Protection and Victim Assistance* (Oct.1, 2015). See National Taxpayer Advocate 2007 Annual Report to Congress 115.

adopted them eight years ago, it would have saved taxpayers from the prolonged trauma, not to mention IRS and TAS re-work.

However, there is a category of IDT victims that will not benefit from the reorganization. W&I's Return Integrity and Compliance Services (RICS) function has an important job in protecting the federal fisc from criminals who attempt to receive improper refunds by filing tax returns with falsified information. Taxpayers caught in various pre-refund filters designed by RICS are treated differently from IDT victims who are identified in the IDTVA inventory centralized in AM. When a taxpayer who has a fraudulent return stopped by RICS filters later learns that he or she is a victim of IDT, the taxpayer's case remains under the control of RICS and is subject to a different treatment stream than other IDT victims.⁷

Several IRS functions (including RICS, Submission Processing, Field Exam, and Field Collection) were not included in the IRS's reorganization of IDT functions. There are no procedures in place to allow IDT victims with account issues spanning multiple IRS functions outside of IDTVA to deal with a sole point of contact, which increases the risk of an IDT case falling through the cracks.⁸ One way to ensure that IDT victims do not fall through the cracks is to assign a sole IRS contact person in the IPSU (and provided with a toll-free direct extension to this contact person) who would interact with them throughout and oversee the resolution of the case, no matter how many different IRS functions need to be involved behind the scenes. This sole contact person can use Identity Theft Assistance Requests (ITARs) to request actions from the various functions.

In September 2015, the IRS convened an IDT Re-engineering Team. This group of employees (from across various functions) is led by the Director of the IDTVA organization and will submit recommendations to the Director of AM. The IDT Re-engineering Team includes plans to:

- Review the current state of IDT victim assistance;
- Revisit the role and scope of the IPSU;
- Make recommendations to improve the processing of IDT cases; and
- Make suggestions to improve the layout of the IDT global report.

The National Taxpayer Advocate supports the IDT Re-engineering Team, and has been generous in providing resources to this team. The National Taxpayer Advocate is concerned, however, that the IDT Re-engineering Team, which reports to the Director of AM, will be constrained by not being able to make recommendations that extend beyond AM's reach. As discussed above, there are a significant number of IDT cases that are worked by the RICS function, outside of AM's control.⁹ The IRS will be unable to make meaningful change to its IDT victim assistance procedures if the IDT Re-engineering Team is not empowered to make recommendations impacting functions outside of AM.

For example, the IDT Re-engineering Team will not be making recommendations to improve the Taxpayer Protection Program (TPP), which is administered by the RICS function. The TPP uses advanced analytics to select and suspend the processing of tax returns it suspects were filed by identity thieves. When a TPP filter stops a return, the IRS requests that the taxpayer verify his or her identity

7 IRM 25.25.4, *Integrity & Verification Identity Theft Return Procedures* (Aug. 20, 2015).

8 IRM 25.23.2-17, *IDTVA Work Matrix* (Sept. 8, 2015).

9 See IRS, *Global ID Theft Report* (Apr. 2016).

by calling the TPP phone number, visiting the Out-of-Wallet website, or visiting a Taxpayer Assistance Center (TAC) in person with proper photo identification.¹⁰

During the 2016 filing season, IRS phone assistors were telling taxpayers caught in the TPP filters that it would take nine weeks for the IRS to release their refunds once their identity was verified.¹¹ Taxpayers who met TAS case criteria came to TAS for assistance.¹² However, it was taking less than three weeks for the IRS to issue refunds (six weeks for paper checks), and in some instances the refund had already been issued by the time a TAS case advocate was assigned the case.¹³

In an effort to use our resources wisely, TAS provided training to its intake advocates so that they can identify indicators placed on a taxpayer's account that confirm a taxpayer has verified his or her identity either via the TPP phone line, the Identity Verification (ID Verify) website, or at a TAC.¹⁴ In these instances, the intake advocate will not establish a case in TAS. Instead, the intake advocate will inform the taxpayer that he or she should receive the refund within three weeks for direct deposit refunds (six weeks for paper checks).¹⁵ This is the approach the IRS should take with its customer service representatives, so resources are not squandered.

The reach of the IDT Re-engineering Team appears further limited because it is not willing or able to review the compelling empirical evidence the National Taxpayer Advocate has provided in a case analysis of a statistically significant sample of IDT cases.¹⁶ TAS continues to believe that in certain instances, the IRS should assign a sole contact person with whom an IDT victim would interact from the beginning until all related issues have been addressed. In the 2014 case analysis, TAS found that two-thirds of IDT cases were transferred or reassigned to another assistor, including a few cases that were reassigned as many as eight or nine times before they were closed.¹⁷

Stolen identity cases have remained at the top of TAS case receipts for this year, and for every year since fiscal year (FY) 2011.¹⁸ Until IDT case receipts decrease significantly in TAS, the IRS will not have resolved the problems with its processing of IDT cases. Toward that goal, the IRS should immediately adopt our recommendation for a sole assigned assistor in certain cases, and not make victims suffer yet another eight years until the IRS finally agrees to do so.

10 See IRM 25.25.6, *Taxpayer Protection Program* (Aug. 20, 2015).

11 IRM 25.25.6.5.2 (Aug. 20, 2015).

12 See IRM 13.1.7.2, *TAS Case Criteria* (Feb. 4, 2015).

13 See Tax Topics, Topic 152 – Refund Information, <http://www.irs.gov/taxtopics/tc152.html>.

14 See TAS Technical Analysis and Guidance, *Case Acceptance for Taxpayer Protection Program Unpostables* (Mar. 2016).

15 See Tax Topics, Topic 152 – Refund Information, <http://www.irs.gov/taxtopics/tc152.html>.

16 See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 49-51.

17 National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 51.

18 TAS Business Performance Management System (BPMS), *FY 2016 April Cumulative Receipts* (May 1, 2016). TAS BPMS, *TAS Case Receipts by Primary Issue Code*, FY 2006–FY 2015.

FOCUS FOR FISCAL YEAR 2017

In Fiscal Year 2017, TAS will continue to:

- Participate in the IDT Re-engineering Team;
- Advocate for the inclusion of RICS representatives on the IDT Re-engineering Team;
- Review and comment on the recommendations that are presented by the IDT Re-engineering Team;
- Advocate for recommendations made in the FY 2014 Annual Report to Congress volume two study on IRS IDT cases; and
- Participate in a TPP Re-engineering Team.