

Mark Mirsky  
Managing Director of ROI Business Services, LLC

Statement for National Taxpayer Advocate Public Forum  
March 9, 2016

I'd like to thank Congressman Peter Roskam for asking us to be a part of this panel. I'd also like to thank Nina Olson for her willingness to listen to tax practitioner's and taxpayer's concerns and help facilitate proactive changes within the Internal Revenue Service for the benefit of all taxpayers.

My name is Mark Mirsky and I'm Managing Director of ROI Business Services, LLC, a small accounting firm with offices in Bartlett, IL and St Louis, MO. We work with small to mid-sized businesses and many individuals. Our clients range from manufacturing/distribution, construction, real estate, retail to health care. In addition, I currently teach for the AICPA around the country teaching introductory and advanced partnership/S corporation/individual income tax as well as other courses. I'm also the Assistant Varsity Boys and Girls soccer coach at Bartlett High School.

Within our practice, we have unfortunately had a client or two every year that has been a victim of identity theft and/or had fraudulent income tax returns filed on their behalf. Unfortunately, clients may not find out until we attempt to efile their income tax returns and then they are rejected. Then we receive a code indicating that a return had already been filed using their SSN. Once this happens, we typically would obtain a Power of Attorney from the client and contact the IRS to confirm that indeed a return was filed and then let the IRS know that it was improper and then we must file a hard copy return. Unfortunately, the client potentially may have to pay our firm more for the hours we spend since in our business time spent is typically how preparers invoice clients. So not only does the taxpayer have to worry about what other exposure there may be, but they may have to pay fees to have the issues resolved.

As a firm, we take many precautions and follow the strict guidelines for protecting our clients' information. However, these things still happen. While teaching for the AICPA, I've learned many preparers (who are CPAs) are unfamiliar with the rules under Rev Proc 2008-35 and now Rev Proc 2013-14 regarding disclosures of taxpayer information. If CPAs who are attempting to keep up their continuing education are not aware of these rules, what about those who are not CPAs or EAs that prepare returns? I can tell you at our firm, we have had many preparers provide us with information without properly obtaining consents. In addition, many bankers and attorneys we work with let us know that other preparers do not provide consent forms for their clients. While it may frustrate our clients, when we explain it is for their protection, they understand and appreciate that we do take their security serious.

Another common issue we see is that many of our smaller clients form a Limited Liability Company ("LLC") under state law to protect themselves while still allowing them to file a Schedule C. However, under current IRS guidance for Form W-9, these taxpayers are required to fill out a Form W-9 when requested and list their individual name and SSN on the form

versus using their legal business name and their FEIN. This sometimes defeats the protection element that the taxpayer is looking for. Given all of the identity theft in the current environment, it would be prudent for the IRS to consider changing the rules to allow taxpayers to utilize an FEIN and legal business name versus their SSN and individual name. Schedule C has a place to input the FEIN and legal business name so the IRS should be able to still match 1099s to the Schedule C and would allow the taxpayer to protect their SSN from exposure.

For our larger and more sophisticated clients that utilize a holding company for asset protection purposes, a similar result may happen when the operating entity is 100% owned by another entity - the lower tier is considered a disregarded entity. The holding company, who does not have any contracts with a customer and may not even be known to the customer, may be the name required to be input on Form W-9. This truly makes no sense from the standpoint that the taxpayer wants a separation of liability. Now you are combining the operations of one entity with the FEIN of another entity. I've heard commentary by some attorneys who believe this may be an issue with asset protection and some recommend making the lower tier a partnership versus a disregarded entity solely to avoid the requirement of disclosing the holding company. The IRS could correct this simply by having an input line on Forms 1065, 1120, and 1120S, where taxpayers can input all 100% owned entities, the IRS again could match the 1099s issued to these returns. There has been so much focus on international disclosure that I think it is time to focus internally and be proactive to assist taxpayers domestically who are attempting to protect their livelihoods.

We recognize that one goal the IRS has is to make the interactions with taxpayers seamless and easier via electronic means. To assist with this process, we suggest potentially staggering filing dates so that information returns such as W-2s, 1099s, etc are filed first maybe by 1/31 not only with the recipient but also with the IRS (which many brokers seem to have been allowed extensions) and then delay filing of Forms 1040 until 2/1 and have the due date end 5/15 vs 4/15. This potentially could allow the IRS to automatically reject returns using matching of informational forms to the individual Forms 1040 and potentially minimize the ability of others to steal identities of taxpayers.

Finally, the IRS has an e-Services portal online for tax professionals. This services is supposed to allow tax professionals to obtain a transcript, wage & income statement, tax return transcripts, and verification of non-filing letters. This is a great tool that has allowed tax professionals who obtain a Power of Attorney to verify what has been reported to the IRS and follow the sequence of what the IRS has in it's records on filings for a taxpayer and eliminate phone calls with the IRS. There is a tax practitioner hotline but at certain times of the day, it may take 30+ minutes to get through. However, there was a period of time that this system was shut down which caused taxpayers and practitioners to rely on the hotline and at the time the waits were

longer than 30+ minutes. From my experience, I can tell you that I have contacted the IRS to attempt to reset my password as the system wasn't recognizing me and it initially did not work. So I then contacted the IRS via phone and was on hold 2 different days for more than 45 minutes. Only recently have I been able to properly reset my password and I still have to wait to receive a PIN via US mail in order to access my account. During my busiest time of year, it would be beneficial to be able to run the wage and income statement for taxpayers who believe they have other income and have not received Form 1099 but want to report all income properly to avoid future notices and complications.

Tax practitioners clearly have a very diverse background. Some are well versed in tax law, while others are not. Some are familiar with IRS practice and procedures, while others blatantly ignore such procedures. Given what we are going to be talking about in a few minutes regarding the Taxpayer Experience of the Future, I believe tax practitioners will actually play an increased role with taxpayers.

Solely by being an attorney, CPA or Enrolled Agent, does not in and of itself qualify someone to prepare tax returns on behalf of others. Granted they are difficult designations to obtain. However, we believe that higher standards or increased penalties should be set for practitioners to ensure consistency with filing of returns and adherence to IRS practice and procedures.

We look forward to commenting on the IRS Individual and Small Business experience.