



## IDENTITY THEFT

### Processing and Refund Delays Are Harming Victims of Tax-Related Identity Theft

#### WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

Once again, we are highlighting the challenges for victims of tax-related identity theft as a most serious problem impacting taxpayers. These victims are still experiencing unconscionable delays waiting for the IRS to process their returns and pay their refunds with no immediate resolution in sight.<sup>1</sup> In the 2023 Annual Report to Congress, we pointed out that the IRS's processing times for resolving Identity Theft Victim Assistance (IDTVA) cases as of the end of fiscal year (FY) 2023 was 556 days, nearly 19 months. At the end of FY 2024, the average processing time to resolve IDTVA cases for many victims jumped to **676 days, or over 22 months** – *almost two years!*<sup>2</sup> Although the IRS is taking steps to try to reduce processing times and appears to have closed more IDTVA cases, those steps have not yet affected the average processing time, which increased by 120 days from FY 2023 to FY 2024. Tax-related identity theft has been more prevalent, but the IRS's outdated practices and prioritization of other service areas are contributing factors to the unprecedented delays victims experience. Until the IRS prioritizes providing timely resolution in identity theft cases, it will continue to burden victims with significant delays that have real financial consequences.

- 1 The focus of this discussion is for Identity Theft Victim Assistance (IDTVA) cases that IRS Accounts Management (AM) works that make up the vast majority of IDTVA cases. These cases include individual IDTVA cases worked in AM but do not include individual IDTVA cases involving a compliance issue worked in AM.
- 2 IRS, Joint Operation Center (JOC), AM IDTVA, Research Analysis and Data (RAD), Correspondence Imaging System (CIS) Closed Case Cycle Time for the Identity Theft Victims Unit Reports, AM Identity Theft, FY 2024. Cycle time begins with IDTVA receipt of the identity theft claim and ends when the IDTVA employee takes action to correct the taxpayer's account.

## EXPLANATION OF THE PROBLEM

Identity thieves and fraudsters engage in an array of harsh scams and deceptive tactics to unjustly enrich themselves by harming other people.<sup>3</sup> Generally, tax-related identity theft is the stealing of another taxpayer's identifying information and using it to file fraudulent tax returns to get fraudulent refunds. Every year, hundreds of thousands of taxpayers are victims of tax-related identity theft, typically through no fault of their own, and they must work with the IRS to fix their tax issues.<sup>4</sup> Most concerning, the IRS burdens identity theft victims with unprecedented delays of nearly two years for it to process their returns and send their refunds.<sup>5</sup> The IRS must prioritize timely resolution of IDTVA cases and allocate resources to help these victims facing unthinkable issues that may also include problems beyond taxes.

## ANALYSIS

Tax-related identity theft has long been a threat to tax administration, as evidenced by its continuous appearance as a most serious problem for victims who are experiencing significant IRS processing and refund delays.<sup>6</sup> Delays got so bad in 2024 that Congress raised concerns regarding the IDTVA case delays, and Commissioner Werfel stated that the IRS plans to study slow IDTVA processing times, challenges, and potential solutions.<sup>7</sup> It is time for the IRS to stop studying the problem and fix it.

The National Taxpayer Advocate appreciates that the IRS has worked on the difficult challenges of trying to keep pace with and prevent illegal activity, but it cannot lose focus on the victims drifting slowly through the IDTVA resolution process with no end in sight. In addition to preventing illegal activity, the IRS must concurrently overcome the IDTVA processing and refund delays, preventing such delays, assisting victims with their challenges, and ensuring timely service for victims consistent with their fundamental taxpayer rights.<sup>8</sup>

<sup>3</sup> See Most Serious Problem: *Tax-Related Scams: More Taxpayers Are Falling Victim to Tax-Related Scams*, *infra*.

<sup>4</sup> IRS, JOC, Customer Account Service (CAS), AM Paper Inventory Reports, IDTVA Report, FY 2024.

<sup>5</sup> IRS, AM IDTVA, RAD, CIS Closed Case Cycle Time for the Identity Theft Victims Unit Reports, FY 2024.

<sup>6</sup> See National Taxpayer Advocate 2023 Annual Report to Congress 78 (Most Serious Problem: *Identity Theft: Lengthy Issue Resolution Delays and Inadequate Notices Burden Taxpayers Who Are Victims of Identity Theft or Whose Returns the IRS Has Flagged for Possible Identity Theft*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_06\\_Identity-Theft.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_06_Identity-Theft.pdf); National Taxpayer Advocate 2017 Annual Report to Congress 211 (Most Serious Problem: *Identity Theft: As Tax-Related Identity Theft Schemes Evolve, the IRS Must Continually Assess and Modify Its Victim Assistance Procedures*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC17\\_Volume1\\_MSP\\_19\\_IDTheft.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC17_Volume1_MSP_19_IDTheft.pdf); National Taxpayer Advocate 2015 Annual Report to Congress 180 (Most Serious Problem: *Identity Theft (IDT): The IRS's Procedures for Assisting Victims of IDT, While Improved, Still Impose Excessive Burden and Delay Refunds for Too Long*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC15\\_Volume1\\_MSP\\_16\\_Identity-Theft.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC15_Volume1_MSP_16_Identity-Theft.pdf); National Taxpayer Advocate 2013 Annual Report to Congress 75 (Most Serious Problem: *Identity Theft: The IRS Should Adopt a New Approach to Identity Theft Victim Assistance that Minimizes Burden and Anxiety for Such Taxpayers*), <https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2013-ARC-VOL-1-S1-MSP-6.pdf>; National Taxpayer Advocate 2012 Annual Report to Congress 42 (Most Serious Problem: *The IRS Has Failed to Provide Effective and Timely Assistance to Victims of Identity Theft*), <https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/Most-Serious-Problems-Identity-Theft.pdf>; National Taxpayer Advocate 2011 Annual Report to Congress 48 (Most Serious Problem: *Tax-Related Identity Theft Continues to Impose Significant Burdens on Taxpayers and the IRS*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011\\_ARC\\_MSP-2-6.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/2011_ARC_MSP-2-6.pdf); National Taxpayer Advocate 2009 Annual Report to Congress 307 (Most Serious Problem: *Status Update: IRS's Identity Theft Procedures Require Fine-Tuning*) [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/1\\_09\\_tas\\_arc\\_vol\\_1\\_preface\\_toc\\_msp.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/1_09_tas_arc_vol_1_preface_toc_msp.pdf); National Taxpayer Advocate 2008 Annual Report to Congress 79 (Most Serious Problem: *IRS Process Improvements to Assist Victims of Identity Theft*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/tas\\_arc\\_intro\\_toc\\_msp.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/tas_arc_intro_toc_msp.pdf); National Taxpayer Advocate 2007 Annual Report to Congress 96 (Most Serious Problem: *Identity Theft Procedures*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/arc\\_2007\\_vol\\_1\\_cover\\_msps.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/arc_2007_vol_1_cover_msps.pdf); National Taxpayer Advocate 2005 Annual Report to Congress 180 (Most Serious Problem: *Identity Theft*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/section\\_1.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/section_1.pdf).

<sup>7</sup> *The President's Fiscal Year 2025 IRS Budget and the IRS 2024 Filing Season*, Hearing Before the S. Fin. Comm., 118th Cong. (Apr. 16, 2024) (statement of Danny Werfel, Comm'r, Internal Revenue), <https://www.finance.senate.gov/hearings/the-presidents-fiscal-year-2025-irs-budget-and-the-irs-2024-filing-season>. Benjamin Valdez, *IRS Looking for Solutions to Identity Theft Case Delays*, TAX NOTES, June 14, 2024, <https://www.taxnotes.com/tax-notes-today-federal/fraud-civil-and-criminal/irs-looking-solutions-identity-theft-case-delays/2024/06/14/7kchj>.

<sup>8</sup> See Taxpayer Bill of Rights (TBOR), <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited Nov. 18, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).

## Identity Theft Fraud Targets and Harms Taxpayers of All Demographics

Taxpayers often become aware they are identity theft victims when they attempt to electronically file a tax return that IRS systems reject because another filing already used their Social Security number. Other times, the IRS discovers and notifies taxpayers of suspected identity theft.<sup>9</sup> Regardless, tax-related identity theft is a stressful and frustrating experience for any victim. In addition to tax issues, identity theft victims may experience challenges in other areas, such as securing a vehicle loan or a home mortgage, and the problem may also impact subsequent tax years.<sup>10</sup>

Processing and refund delays may exacerbate existing hardships and can be powerful enough to cause significant hardships for certain taxpayers, principally low-income taxpayers. In FY 2024, low-income taxpayers comprised an estimated 64 percent of all resolved IDTVA cases and reported experiencing economic burden in about 62 percent of TAS identity theft case receipts.<sup>11</sup>

Stress levels amplify for low-income taxpayers who rely on their refunds to afford basic necessary living expenses. Research shows that food insecurity is one consequence for low-income taxpayers, but refund delays may also jeopardize other critical necessities, such as maintaining housing stability or ensuring they can meet health-related needs.<sup>12</sup> Refund delays may push some low-income taxpayers to seek financial relief while in a position of desperation, potentially increasing the likelihood of further victimization if enticed into a fraud scam or risky lending, such as with car title loans or other short-term, high-interest loans.<sup>13</sup>

Fraud trends reflect that identity thieves will target all taxpayer demographics, including dependents.<sup>14</sup> Recent trends show taxpayers in vulnerable populations such as the elderly, disabled, and students are at increased risk for tax-related identity theft.<sup>15</sup> Taxpayers with higher wealth are emerging targets for identity thieves because they often have complex financial operations to track and keep orderly.<sup>16</sup> The IRS has realized some successes in the realm of fraud and identity theft detection and prevention and should continue the positive momentum of those efforts.<sup>17</sup>

Unfortunately, not all identity theft is preventable, and some taxpayers will become victims who need assistance from the IRS as part of their recovery process. Identity theft victims must rely on the IRS to resolve their tax issues and are at the mercy of the time it takes.

## Victims of Identity Theft Wait an Average of Over 22 Months for the IRS to Process Their Returns and Issue Their Refunds

The IRS must safeguard taxpayer information and detect and prevent fraud while also protecting the taxpayer *rights to quality service, to be informed, and to finality*.<sup>18</sup> The IRS's IDTVA program specializes in serving

9 IRS, IRS Identity Theft Victim Assistance: How It Works, <https://www.irs.gov/individuals/how-irs-id-theft-victim-assistance-works> (last updated Nov. 1, 2024).

10 Internal Revenue Manual (IRM) 21.2.3.5.8(4), Transcripts and Identity Theft (Apr. 29, 2022), [https://www.irs.gov/irm/part21/irm\\_21-002-003r](https://www.irs.gov/irm/part21/irm_21-002-003r). When a taxpayer has an identity theft indicator on their account, they will not be able to have the IRS send tax transcripts directly to a third party, such as a mortgage lender. In these situations, IRS assistants are instructed to inform the taxpayer: "In cases of identity theft, the financial community has been made aware we will only release transcripts to the taxpayer. A mortgage company or lender does not need to obtain the transcript directly from the IRS." See Regulation 12 CFR § 1026.43(c)(4)."

11 IRS, Compliance Data Warehouse (CDW), Individual Master File (IMF) and Individual Returns Transaction File (IRTF) (as of Sept. 2024). Low-income describes taxpayers with an adjusted gross income at or below 250 percent of the Federal Poverty Level in FY 2024. Data obtained from Taxpayer Advocate Management Information System (Nov. 1, 2024).

12 O. Kondratjeva et al., *The Impact of Tax Refund Delays on the Experience of Hardship Among Lower-Income Households*, J. OF CONSUMER POL'Y, 45:239-280 (2022), <https://link.springer.com/content/pdf/10.1007/s10603-021-09501-4.pdf>.

13 See Most Serious Problem: Tax-Related Scams: *More Taxpayers Are Falling Victim to Tax-Related Scams*, *infra*.

14 IRS Criminal Investigation (CI) Division, presentation at IRS Nationwide Tax Forum, Baltimore, Maryland (Aug. 2024); IRM 25.23.2.3.1, Dependent Identity Theft (Feb. 2, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). On November 9, 2020, the IRS began working cases where someone had improperly used a dependent's identity. This opened an entirely new subset of the identity theft population for the IRS to work.

15 IRS CI Division presentation at IRS Nationwide Tax Forum, Baltimore, Maryland (Aug. 2024).

16 *Id.*

17 IRS, Security Summit, <https://www.irs.gov/newsroom/security-summit> (last updated Nov. 22, 2024).

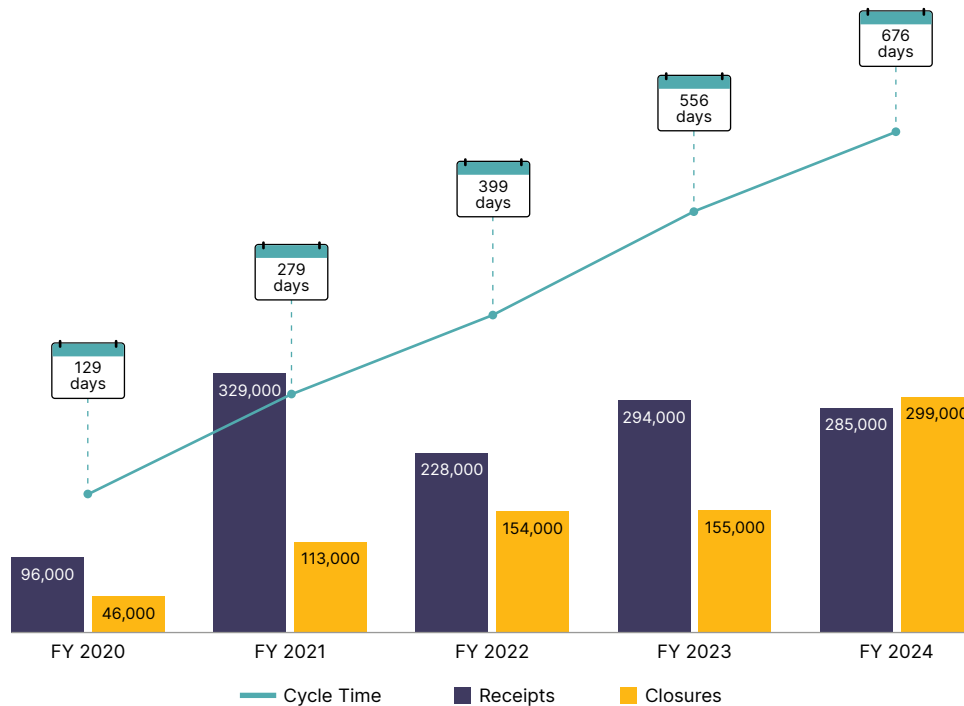
18 See TBOR, <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited Nov. 18, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).

identity theft victims, but its service has been unacceptably slow, with average cycle times extremely delayed for the last several years, reaching 556 days in 2023.<sup>19</sup> As IDTVA cycle times averaged 676 days in FY 2024, the forecast for identity theft victims waiting for relief has not improved since we identified this Most Serious Problem in our 2023 Annual Report to Congress.<sup>20</sup>

The pandemic exacerbated the problem for the identity theft victims because lucrative pandemic tax relief benefits attracted fraudsters, which resulted in an increase in IDTVA case receipts. Other factors, including IRS policy decisions that shifted priorities and diluted resources, have aggravated the situation.<sup>21</sup> Figure 2.3.1 depicts the yearly increases in Accounts Management (AM) IDTVA case receipts, cycle times, and case closures since FY 2020.

FIGURE 2.3.1<sup>22</sup>

IDTVA Cycle Time, Receipts, and Closures, FYs 2020-2024



19 IRS, IRS Identity Theft Victim Assistance: How It Works, <https://www.irs.gov/individuals/how-irs-id-theft-victim-assistance-works> (last visited Nov. 18, 2024); IRM 25.23.1.3, Identity Theft and the IRS (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-001](https://www.irs.gov/irm/part25/irm_25-023-001). The IRS will prioritize and work identity theft cases expeditiously. IRS, JOC, AM IDTVA, RAD, CIS Closed Case Cycle Time for AM Individual Taxpayer Identity Theft Victims Report, FY 2023.

20 Cycle time begins with IDTVA receipt of the identity theft claim and ends when the IDTVA employee takes action to correct the taxpayer's account. The 676-day average time period in FY 2024 is for IDTVA cases AM works that make up the vast majority of IDTVA cases. These cases include individual IDTVA cases worked in AM but do not include individual IDTVA cases involving a compliance issue worked in AM. The time period for all IDTVA cases averaged slightly less at 637 days to reach resolution. IRS, JOC, AM IDTVA, RAD, CIS Closed Case Cycle Time for AM Individual Taxpayer Identity Theft Victims Reports, FY 2024. See also National Taxpayer Advocate 2023 Annual Report to Congress 78 (Most Serious Problem: *Identity Theft: Lengthy Issue Resolution Delays and Inadequate Notices Burden Taxpayers Who Are Victims of Identity Theft or Whose Returns the IRS Has Flagged for Possible Identity Theft*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_06\\_Identity-Theft.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_06_Identity-Theft.pdf).

21 See National Taxpayer Advocate 2023 Annual Report to Congress 78 (Most Serious Problem: *Identity Theft: Lengthy Issue Resolution Delays and Inadequate Notices Burden Taxpayers Who Are Victims of Identity Theft or Whose Returns the IRS Has Flagged for Possible Identity Theft*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_06\\_Identity-Theft.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_06_Identity-Theft.pdf).

22 IRS, JOC, AM RAD, CIS Closed Case Cycle Time for the AM Individual Taxpayer Identity Theft Victims Unit Reports, FYs 2020-2024. CAS, AM IDT Paper Inventory Report for Individuals, FYs 2020-2024.

Although the IRS's goal is to resolve IDTVA cases in 120 days, it has not done so since 2020, and delays have progressively worsened since then. Presently, the IRS informs identity theft victims that it may take an average of 640 days to resolve their cases.<sup>23</sup> Yet, the average IDTVA cycle time was 676 days in FY 2024, still longer than the IRS tells victims to expect, and over five times the 120-day resolution goal.<sup>24</sup> These delays in IDTVA case cycle times are unacceptable, burden identity theft victims, and are inconsistent with the fundamental rights of taxpayers.<sup>25</sup>

### **Outdated IRS Practices and Technology Contribute to the Significant Delays in Identity Theft Victim Assistance Cases**

Identity theft is a complex issue that often requires IDTVA employees to conduct extensive manual research using an array of systems and tools to put the details of each case puzzle together one piece at a time.<sup>26</sup>

The IDTVA program provided TAS with a casework demonstration that yielded two primary takeaways. First, IDTVA employees must possess a deep breadth of knowledge and skills to navigate and understand how to resolve identity theft cases for victims – we appreciate the complexities of the work. Second, IDTVA employees would benefit if the IRS introduced technologies such as automation to help perform research tasks. Automation could assemble pieces of information into a comprehensive view that would normally require tedious research to reduce the effort and time IDTVA employees spend switching between systems and sifting through documents to find each piece of information.

Despite the limitations of manual research and review, the IRS reports the average case resolution time after assignment to an IDTVA employee is only 30-40 days.<sup>27</sup> It begs the question: what is causing the unprecedented IDTVA delays? When will the IDTVA backlog be eliminated? What, if any, updates will taxpayers receive during the delay?

While a reasonable percentage of identity theft cases are complex in nature and need longer to resolve, factors other than complexity must be contributing to extreme cycle times and refund delays for identity theft victims. In reconciling the average resolution time for IDTVA employees compared to the average IDTVA cycle time, it is apparent the IRS needs to address how it handles IDTVA cases before it assigns them.

### ***The IRS Should Improve Its Inventory Management Strategy and Develop an Initial Screening Process for Identity Theft Victim Assistance Cases***

At the end of FY 2024, the IRS had a total inventory of over 470,000 IDTVA cases to triage.<sup>28</sup> The IRS sends all cases of suspected identity theft to the IDTVA program. As such, IRS employees sometimes mistakenly send cases that do not belong in IDTVA inventory. Because the IRS does not screen cases in IDTVA inventory until after it assigns them to an employee, non-IDTVA cases that belong elsewhere in the IRS sit undiscovered. Therefore, many cases are likely aged by the time IDTVA employees complete their initial review, harming taxpayers whose cases are delayed solely because of misrouting. At a minimum, the IRS should develop an initial screening process to screen cases prior to loading into the IDTVA case inventory holding queue to enable earlier identification and routing of non-identity theft cases to the correct IRS destination. Under the current practice of screening cases only upon assignment to an employee, these erroneously routed cases sit unworked unnecessarily and inflate IDTVA inventory.

23 IRM 25.23.2.2.3, IDT Case Processing Time Frames (July 16, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r).

24 IRS, JOC, AM IDTVA, RAD, CIS Closed Case Cycle Time for AM Individual Taxpayer Identity Theft Victims Reports, FY 2024.

25 See TBOR, <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited Nov. 18, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).

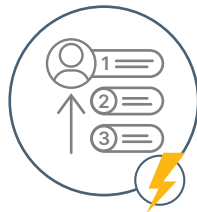
26 The IRS IDTVA program provided a casework demonstration for TAS on September 25, 2024.

27 IRS response to TAS information request (Sept. 10, 2024). The average IDTVA case resolution time after employee assignment includes periods of time that IRS systems require to process updates.

28 IRS, JOC, CAS, AM Identity Theft Paper Inventory Report for Individuals, FY 2024.



The IRS generally treats all IDTVA cases the same by processing them in chronological order of first-in, first-out, though it has recently prioritized some potential refund cases.<sup>29</sup> Processing IDTVA cases in this manner does not consider the actual complexity of respective cases but broadly imposes delays upon IDTVA cases regardless of their true complexity. Some cases may need considerable time to resolve but not every case – and never two years. An initial screening of IDTVA cases would provide insight into their complexity and provide the IRS a better method for assigning cases that considers complexity along with employee skillsets and levels of training.



**The IRS could provide the swiftest possible resolution for victims if it adopted an initial screening process to prioritize cases into categories and assign them to Identity Theft Victim Assistance employees based on their skillsets and training.**

Assigning IDTVA cases based on their complexity will get cases to employees with the proper level of training to resolve them and reduce the likelihood of internal reassignment. For example, IDTVA cases where the IRS issued an erroneous refund are often more challenging, take longer to resolve, and are likely more appropriate for employees with more training.<sup>30</sup> In contrast, the IRS could categorize less complex IDTVA cases as quick closures and resolve them in a timeframe reasonably aligned with their difficulty.

In general, the IRS does not consider the specific hardships, facts, or circumstances of victims in deciding case processing order. The impact of identity theft is harsher for some victims, but they have no way to provide the IRS with critical updates that potentially affect the working priority of their case. The ability to share updates, especially in cases with deteriorating circumstances, would enable the IRS to prioritize cases for identity theft victims experiencing significant hardships and expedite service when appropriate.

The IRS could provide the swiftest possible resolution for victims and mitigate many of the issues that contribute to the unprecedented IDTVA delays if it adopted an initial screening process to review and screen cases, prioritize them into categories, and assign them to IDTVA employees based on their skillsets and levels of training. The IRS appears to be working toward making some of these changes, and TAS strongly encourages it to make every effort to improve its processing of these returns and help these individuals deal with difficult challenges. The National Taxpayer Advocate recommends the IRS continue to prioritize all IDTVA cases with potential refunds as it works through its backlog and consider this change to IDTVA processing procedures going forward.

### ***The IRS Allocates Limited Staffing Resources for the Benefit of Other Taxpayer Service Areas at the Risk of Worsening the Significant Processing Delays for Identity Theft Victims***

To help achieve its goal of achieving an 85 percent Level of Service (LOS) on its toll-free phone lines during the 2023 filing season, the IRS temporarily siphoned IDTVA employees from working identity theft cases over to answering phone calls.<sup>31</sup> Despite unconscionable delays in IDTVA processing, the IRS again made

29 IRM 25.23.4, IDTVA Paper Process (Sept. 5, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-004r](https://www.irs.gov/irm/part25/irm_25-023-004r). Email from IRS Senior Advisor to the Chief, Taxpayer Services (Nov. 4, 2024) (on file with TAS) (providing a statement regarding identity theft case inventory updates).

30 IRS response to TAS information request (Sept. 10, 2024).

31 IRS response to TAS information request (Sept. 10, 2024). TAS continues to advocate for the IRS to adopt a more comprehensive measure for phone service. See Most Serious Problem: *IRS Service: Taxpayer Service Is Often Not Timely or Adequate*, *infra*. The IRS's formula for determining LOS is more complex than just number of calls received divided by number of calls answered. The LOS formula is: (Assistor Calls Answered + Automated Calls Answered (Info Messages)) divided by (Assistor Calls Answered + Automated Calls Answered (Info Messages) + Emergency Closed + Secondary Abandons + (Add either Calculated Busy Signal or Network Incompletes) + (Add either Calculated Network Disconnects or Total Disconnects)).

the business decision to siphon IDTVA employees from casework to answer phones during the 2024 filing season.<sup>32</sup> Staffing and training have been major problems for the IRS, and the IDTVA program is not immune to the effects of employee turnover.<sup>33</sup> In total, the IRS lost 552 IDTVA employees to attrition in FYs 2023 and 2024.<sup>34</sup> During the same time, it hired 663 new IDTVA employees.<sup>35</sup>

When the IRS loses trained employees, it must expend time and resources to hire and train new employees. In general, training IDTVA employees to work identity theft cases is often a multiyear process, and full scope training does not begin until year three.<sup>36</sup> Given the staffing turnover and the amount of time it takes to train new employees, the IDTVA program needs all its resources dedicated to reducing delays for victims; the IRS should prioritize this work over answering the general phone lines.

TAS agrees the IRS should improve the timeliness and quality of taxpayer service provided on its phone lines but not at the detriment of IDTVA case processing and identity theft victims. The IRS should maintain IDTVA employees on IDTVA casework until it significantly reduces average cycle times to a reasonable level of 90 days or fewer.<sup>37</sup>

### ***The IRS Makes Temporary Changes to Prioritize Resolving Identity Theft Victim Assistance Cases That Show Potential Refunds for Victims***

In October, the IRS briefed TAS on the corrective actions it has planned to speed up processing of overaged IDTVA cases.<sup>38</sup> Based on the briefing, the IRS made an exception to its first-in, first-out processing rule and prioritized roughly 45,000 IDTVA cases where it was holding potential refunds.<sup>39</sup> As of October 16, 2024, the IRS had resolved approximately 28,400 IDTVA cases with potential refunds.<sup>40</sup> The IRS estimates that 7,500 of the IDTVA cases it closed resulted in the issuance of refunds to victims totaling \$45.7 million, an average of over \$6,000 per refund.<sup>41</sup>

The IRS indicates that it intends to keep fully skilled IDTVA employees focused on closing the tens of thousands of cases where victims are awaiting refunds and not reassigning them to work the IRS phone lines. The National Taxpayer Advocate recommends that IDTVA employees stay in the IDTVA unit through the 2025 filing season to work through the backlog and prevent future delays for victims.

The National Taxpayer Advocate understands the IRS must navigate various business challenges and manage competing priorities. There is concern the IRS will again prioritize LOS goals on its phone lines over IDTVA return and refund processing during the upcoming filing season. The IRS needs to balance competing priorities, but these victims have waited long enough, and it should make every effort to expediently assist them. While these changes are a start, the IRS still has a long way to go to eliminate the backlog of IDTVA cases and reduce average cycle times to a reasonable level.

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32 IRS response to TAS information request (Sept. 10, 2024). The IRS dually trains IDTVA customer service representatives (CSRs) to answer toll-free applications and process IDTVA paper inventory and generally assigns them to toll-free phones when needed on a last-on, first-off basis.

33 See Most Serious Problem: *IRS Hiring: The IRS's Continuing Challenges in Employee Recruitment, Hiring, Training, and Retention Are Hindering Its Ability to Achieve Transformational Change in Taxpayer Service and Tax Administration*, *infra*. IRS response to TAS information request (Sept. 10, 2024).

34 IRS response to TAS information request (Sept. 10, 2024). The IRS lost 377 IDTVA employees in FY 2023, and the FY 2024 data is current through June 29, 2024.

35 IRS response to TAS information request (Sept. 10, 2024).

36 *Id.* The IRS reported it has 870 technicians and 107 leads who are full scope trained and certified; certification time varies from employee to employee because it requires employees to demonstrate the ability to work independently and correctly close cases without defects.

37 TAS also made this recommendation in 2023. See National Taxpayer Advocate 2023 Annual Report to Congress 78 (Most Serious Problem: *Identity Theft: Lengthy Issue Resolution Delays and Inadequate Notices Burden Taxpayers Who Are Victims of Identity Theft or Whose Returns the IRS Has Flagged for Possible Identity Theft*), [https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23\\_MSP\\_06\\_Identity-Theft.pdf](https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_06_Identity-Theft.pdf).

38 Email from IRS Senior Advisor to the Chief, Taxpayer Services (Nov. 4, 2024) (on file with TAS) (providing a statement regarding identity theft case inventory updates).

39 *Id.*

40 Email from IRS Senior Advisor to the Chief, Taxpayer Services (Nov. 4, 2024) (on file with TAS) (providing a statement regarding identity theft case inventory updates).

41 *Id.*

### *The IRS Should Timely Notify All Identity Theft Victims When It Receives Their Case*

Taxpayers who suspect tax-related identity theft should file Form 14039, Identity Theft Affidavit, with the IRS.<sup>42</sup> The timely acknowledgment of identity theft claims informs affected taxpayers and their appointed representatives about the status of their case, what to expect, and any required follow-up actions. Presently, IRS processes for sending acknowledgment letters in identity theft claims are inconsistent and differ based on how taxpayers filed the claims.

The IRS systemically sends acknowledgment letters to victims when they file their identity theft affidavit with their tax return.<sup>43</sup> Identity theft affidavits taxpayers send directly to the IDTVA unit are acknowledged differently.<sup>44</sup> IRS procedures provide that it does not send acknowledgment letters to victims until the IDTVA unit determines they are an identity theft victim; it does not send a letter if it resolves the case within 30 days of assignment.<sup>45</sup> It is concerning that as of November 8, 2024, the IRS was processing identity theft affidavit forms it received in August 2023.<sup>46</sup>

Considering the delays in assigning IDTVA cases, waiting to send acknowledgment letters until the IRS assigns cases and makes an identity theft determination means some victims go through the entirety of their case receiving only one letter from the IRS at the time when it closes their case. As a result, some identity theft victims wait months and possibly years without knowing the status of claims or even whether the IRS received it.

Timely acknowledgment and updates give victims valuable assurance that the IRS received their identity theft claim, reduces costly follow-up activities by taxpayers and their representatives, and protects the taxpayer *rights to quality service* and *to be informed*.<sup>47</sup> For many victims, the unknown is just as difficult as the theft itself.

### **Victims of Tax-Related Identity Theft Are Often Without Important Safeguards Until the IRS Finally Resolves Their Case**

An overlooked element of IDTVA acknowledgment letters is the information it provides victims about obtaining an Identity Protection (IP) PIN. An IP PIN is a secret number known only by the IRS and the taxpayer, and it serves as an added protection when filing a return.<sup>48</sup> Though taxpayers can independently request an IP PIN from the IRS, the IRS automatically assigns IP PINs to protect verified tax-related identity theft victims. But it does not do so until after it resolves their case.<sup>49</sup> Because the IRS does not screen IDTVA cases earlier, it cannot issue IP PINs sooner, leaving these vulnerable victims unprotected from further harm.

Although taxpayers can enroll in the IP PIN program at any time, victims should not have to self-enroll because of IRS delays. A better approach may be for the IRS to research and determine the validity of identity theft claims during its new initial screening process so it can timely send IDTVA acknowledgment letters and lock in IP PIN

42 IRS, IRS Identity Theft Victim Assistance: How It Works, <https://www.irs.gov/individuals/how-irs-id-theft-victim-assistance-works> (last visited Nov. 1, 2024). Taxpayers may also submit the form at <https://www.irs.gov/dmaf/form/f14039> (last updated Nov. 18, 2024).

43 IRM 25.23.2.3, Identity Theft Claims – General Guidelines, (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). IRM 25.23.4.18.1, General IDTVA Letter Procedures (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-004r](https://www.irs.gov/irm/part25/irm_25-023-004r).

44 IRM 25.23.2.3, Identity Theft Claims – General Guidelines, (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). IRM 25.23.4.18.1, General IDTVA Letter Procedures (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-004r](https://www.irs.gov/irm/part25/irm_25-023-004r).

45 IRM 25.23.2.3, Identity Theft Claims – General Guidelines, (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). IRM 25.23.4.18.1, General IDTVA Letter Procedures (Oct. 1, 2024), [https://www.irs.gov/irm/part25/irm\\_25-023-004r](https://www.irs.gov/irm/part25/irm_25-023-004r). The IRS provides exceptions for sending IDTVA acknowledgment letters, e.g., if the assigned CSR can close the case within 30 days of receipt or in certain situations when the IRS issued a systemically generated acknowledgment letter. The IRS will consider the closing letter the acknowledgment letter; thus, it does not require a separate acknowledgment letter.

46 IRS, Processing Status for Other Tax Forms, <https://www.irs.gov/help/processing-status-for-tax-forms> (last updated Nov. 15, 2024).

47 See TBOR, <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited Nov. 18, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).

48 IRS, Get an Identity Protection PIN (IP PIN), <https://www.irs.gov/identity-theft-fraud-scams/get-an-identity-protection-pin> (last visited Nov. 18, 2024).

49 IRM 25.23.2.9.1.1, Automatic Enrollment in the IP PIN Program (Feb. 2, 2023), [https://www.irs.gov/irm/part25/irm\\_25-023-002r](https://www.irs.gov/irm/part25/irm_25-023-002r). The IRS annually updates IP PINs with new numbers.



protection for confirmed victims.<sup>50</sup> It is understandable that the IRS does not want to improperly correspond with the bad actor, but it could start with a subset of lower risk taxpayers with identity theft claims, such as those without a recent address change and whose previously used address matches the Form 14039 they submitted.

### **The IRS Must Balance Its Identity Theft Prevention Efforts to Minimize Burden on Innocent Taxpayers Who File Legitimate Tax Returns But Trigger Fraud Filters**

Inherently, effective tax administration requires the IRS to balance many aspects that it knows will affect taxpayer rights. For identity theft, it must balance the value of preventing fraudulent refunds for identity thieves against the impact on the rights of taxpayers who filed legitimate returns. To detect and prevent fraud, the IRS programs its systems with filters and a scoring model that screen returns to determine whether it should route a return through normal processing channels or reroute it to the IRS's Taxpayer Protection Program (TPP) when it suspects identity theft.<sup>51</sup>

The IRS flagged nearly 1.9 million returns as potential identity theft fraud in filing season 2024 as of February 29, 2024.<sup>52</sup> When TPP identifies a suspicious return, the IRS sends the taxpayer a letter notifying them of the potential issue and the steps they need to take.<sup>53</sup> The IRS sends each selected taxpayer only one letter, typically with instructions on the specific actions taxpayers must take to complete an online identity authentication and return verification process before the IRS will process their return and issue their refund.<sup>54</sup> The IRS presumes that returns selected to the TPP are fraudulent until the taxpayer completes the identity authentication and return verification process with the IRS. However, barriers in the TPP authentication and verification process often cause delays for taxpayers with legitimate returns. Taxpayers have struggled to authenticate their identity by calling, as the IRS mustered only a 20 percent LOS on its TPP phone lines in FY 2024.<sup>55</sup>

There are also flaws with how the IRS mails the TPP authentication letter to taxpayers. Sending taxpayers only one authentication letter to the address on the TPP-selected return is problematic because the address comes from the return the IRS suspects to involve identity theft. The National Taxpayer Advocate questions the "one and done" approach in reaching these taxpayers.<sup>56</sup> Taxpayers must receive that lone letter to even know a potential issue exists, what the issue is, and what actions they may need to take. The IRS receives many TPP letters returned as undeliverable, but it does not track the quantity or conduct any follow-up research to try to locate an accurate address for the taxpayer.<sup>57</sup> Taxpayers who do receive their TPP letter may find both its contents and the required authentication process confusing, delaying their ability to properly respond and consequently, their refunds. The IRS did make notable improvements by adding TPP messaging to its Where's My Refund? tool and a link in IRS Individual Online Account that most taxpayers can use for authentication.<sup>58</sup>

50 Enrollment is permanent for taxpayers the IRS enrolls in the IP PIN program due to tax-related identity theft.

51 IRM 25.25.6.1.7, Taxpayer Protection Program (TPP) Overview (June 24, 2024), [https://www.irs.gov/irm/part25/irm\\_25-025-006r](https://www.irs.gov/irm/part25/irm_25-025-006r). TPP is responsible for identifying potential identity theft cases that the Dependent Database scores using a set of identity theft models; the Return Review Program system selects through filters; or the Return Integrity Verification Operations manually selects.

52 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2024-408-024, *Interim Results of the 2024 Filing Season 8* (2024), <https://www.tigta.gov/reports/audit/interim-results-2024-filing-season>.

53 The IRS typically sends one of the following letters that instructs the taxpayer as to the specific format they must use to authenticate their identity: either online (Letter 5071C), by phone (Letter 4883C), or in person at a Taxpayer Assistance Center (Letter 5747C).

54 IRS, Letter 5071C, Potential Identity Theft during Original Processing with Online Option (Jan. 3, 2023).

55 The IRS's Levels of Service on its TPP line for FYs 2021, 2022, 2023, 2024 were 13.2, 12.6, 31.0, and 20.2 percent, respectively. IRS, JOC, Snapshot Reports: Product Line Detail (weeks ending Sept. 30, 2021; Sept. 30, 2022; Sept. 30, 2023; Sept. 30, 2024). See Most Serious Problem: *IRS Service: Taxpayer Service Is Often Not Timely or Adequate*, *infra*.

56 For detailed discussion, see Research Report: *Some Legitimate Taxpayers Did Not Receive a Tax Year 2020 Refund Because They Did Not Respond to an IRS Letter Requesting Identity Verification*, *infra*. The study's primary purpose was to determine if legitimate taxpayers are not receiving refunds to which they are entitled due to IRS fraud filters. TAS outreach efforts determined that based on our response rates and analysis, a meaningful percentage of taxpayers selected by identity theft filters who did not timely authenticate their identity with the IRS are indeed legitimate taxpayers.

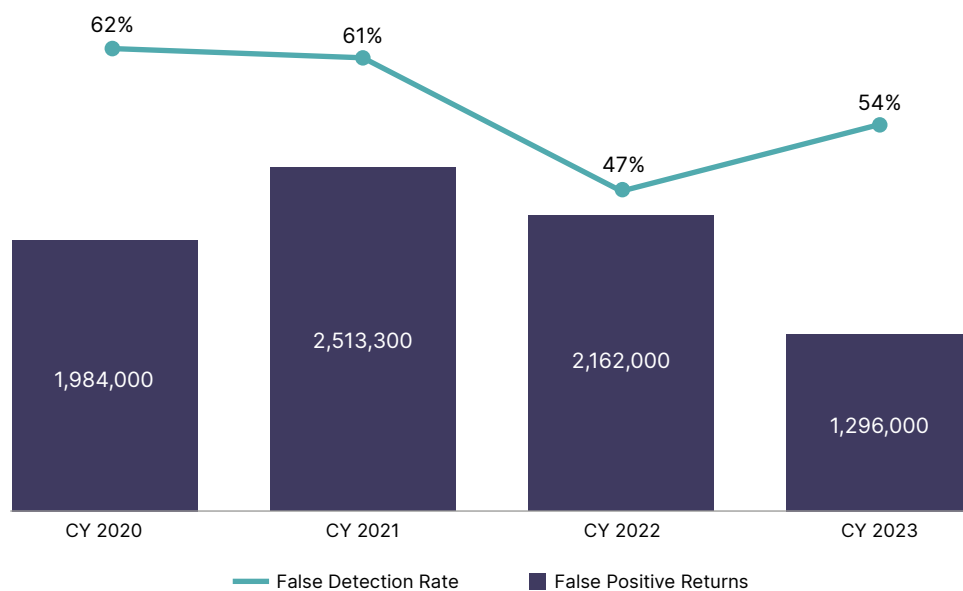
57 IRS response to TAS information request (Sept. 10, 2024).

58 IRS News Release, IR-2024-24, 2024 Tax Filing Season Starts as IRS Begins Accepting Tax Returns Today; Taxpayer Help Expands This Year With More In-Person Hours, Better Service, Improved Tools (Jan. 29, 2024), <https://www.irs.gov/newsroom/2024-tax-filing-season-starts-as-irs-begins-accepting-tax-returns-today-taxpayer-help-expands-this-year-with-more-in-person-hours-better-service-improved-tools>.

While the objective is to prevent fraud, the goal should be to minimize any negative impact to the rights of innocent taxpayers in the process. To minimize potential harm to taxpayer rights, the IRS must operate at an appropriate false detection rate (FDR), which is considered as the acceptable percentage of legitimate returns the IRS’s fraud prevention efforts mistakenly selects to the TPP.<sup>59</sup> For several years the IRS has set its FDR goal well above 50 percent, and it has achieved an FDR below 50 percent only once in the last four years.<sup>60</sup> Recent data shows the FDR was 54 percent in 2023.<sup>61</sup> Figure 2.3.2 shows the TPP false positive volumes and FDR since 2020.

**FIGURE 2.3.2<sup>62</sup>**

**TPP False Detection Rates and False Positives, CYs 2020-2023**



### The IRS, States, and Tax Industry Allies Join Forces to Combat the Axis of Illegal Activity in Taxation

The hostility and sophistication of the methods that identity thieves use to gain access to sensitive information are constantly evolving. About a decade ago, public and private sectors united to form the Security Summit to combat identity theft refund fraud in tax administration.<sup>63</sup> Soon thereafter, the Security Summit developed the Identity Theft Refund Fraud Information Sharing and Analysis Center (ISAC) that enabled alliance members to securely disclose data and cohesively use analytics to strengthen its unified effort.<sup>64</sup>

59 *Id.*

60 IRS, Wage and Investment (W&I) Business Performance Review (BPR) Q3, FY 2023 (Aug. 16, 2023). IRS response to TAS information request (Sept. 10, 2024).

61 IRS response to TAS information request (Sept. 10, 2024). IRS, W&I BPR Q4, FY 2023 (Nov. 20, 2023); IRS W&I BPR Q3, FY 2023 (Aug. 16, 2023); IRS, W&I BPR Q4, FY 2022 (Nov. 21, 2022).

62 IRS, W&I BPR Q4, FY 2023 (Nov. 20, 2023); IRS, W&I BPR Q3, FY 2023 (Aug. 16, 2023); IRS, W&I BPR Q4, FY 2022 (Nov. 21, 2022). Due to the discontinuation of the W&I BPR, the data for calendar year 2023 reflects the planned FDR and number of false positive returns as of the November 20, 2023, BPR.

63 IRS, Security Summit, <https://www.irs.gov/newsroom/security-summit> (last updated July 10, 2024).

64 ISAC, Identity Theft Refund Fraud ISAC 2023 Annual Report 2, 4 (Dec. 4, 2023), <https://www.irs.gov/pub/newsroom/2023-isac-annual-report.pdf>.

The Security Summit holds an annual National Tax Security Awareness Week prior to filing season to educate taxpayers and tax professionals about security, identity theft, and tax scams.<sup>65</sup> In 2024, the Security Summit held its ninth annual summer awareness campaign series, Protect Your Clients; Protect Yourself, designed to educate tax professionals about security concerns and defensive countermeasures.<sup>66</sup> The series provides tax professionals the opportunity to learn from security industry experts, news releases with best practice tips, and guidance to help ensure a secure practice. For example, federal law requires tax professionals to maintain a written information security plan (WISP) and likely can benefit from the updated WISP template, which was a key focus of the most recent awareness campaign.<sup>67</sup>

TAS applauds the IRS, industry, and tax professionals for being strong players in the fight against identity theft fraud and implementing its security-related outreach efforts on the frontlines of tax administration. It truly takes a village.

### Identity Theft Fraudsters Are Brought to Justice

The Department of Justice (DOJ) Tax Division prosecutes civil and criminal violations of the tax code.<sup>68</sup> Depending on the extent of the fraud involved, it may take law enforcement years to detect, track, and bring an identity thief to justice. The following are just some of the many examples that demonstrate the scope and seriousness of identity theft in recent years:

- In 2022, a federal jury delivered a guilty verdict to identity thieves who stole and used taxpayer identifying information to file fraudulent tax returns that claimed refunds totaling more than \$12 million.<sup>69</sup>
- In 2023, identity thieves, including one who owned a tax preparation business, pled guilty to a scheme of filing fraudulent tax returns that used the stolen identities of paying clients and other innocent victims.<sup>70</sup>
- In 2024, identity thieves pled guilty to an illegal scheme that targeted and stole information from victims and their authorized representatives. The identity thieves then posed as legitimate representatives to gain control over taxpayer records. They filed more than 370 fraudulent tax returns to claim refunds totaling over \$111 million.<sup>71</sup>
- In 2024, an identity thief who stole a former coworker's identity and used it in all facets of life for over 30 years pled guilty. The fraudster severely harmed the victim, who was falsely imprisoned as the alleged identity thief when the actual thief pretended to be the victim to authorities.<sup>72</sup>

It is generally accepted that it may take years to bring an identity thief to justice under the law. However, the IRS taking years to resolve IDTVA cases for taxpayer victims is wholly unacceptable.

65 IRS, National Tax Security Awareness Week 2023, <https://www.irs.gov/newsroom/national-tax-security-awareness-week-2023> (last updated Oct. 15, 2024).

66 IRS, Protect Your Clients; Protect Yourself – Summer 2024, <https://www.irs.gov/tax-professionals/protect-your-clients-protect-yourself-summer-2024> (last updated Aug. 27, 2024).

67 IRS, Pub. 5708, Creating a Written Information Security Plan for your Tax & Accounting Practice (Aug. 2024), <https://www.irs.gov/pub/irs-pdf/p5708.pdf>.

68 Dep't of Justice (DOJ) Tax Division, <https://www.justice.gov/tax> (last visited Nov. 18, 2024).

69 DOJ, Press Release, *Atlanta Man Convicted of Laundering Over \$12 Million in Stolen Identity Tax Refund Fraud Scheme* (Nov. 7, 2022), <https://www.justice.gov/usao-ndga/pr/atlanta-man-convicted-laundering-over-12-million-stolen-identity-tax-refund-fraud>.

70 DOJ, Press Release, *Owner of D.C.-Area Tax Preparation Business Pleads Guilty to Tax Refund Fraud Scheme* (Apr. 3, 2023), <https://www.justice.gov/opa/pr/owner-dc-area-tax-preparation-business-pleads-guilty-tax-refund-fraud-scheme>.

71 DOJ, Press Release, *Final Texas Defendants Plead Guilty to Conspiracy to Commit Mail and Wire Fraud and Aggravated Identity Theft* (May 30, 2024), <https://www.justice.gov/opa/pr/final-texas-defendants-plead-guilty-conspiracy-commit-mail-and-wire-fraud-and-aggravated>.

72 DOJ, Press Release, *Former Hospital Administrator Pleads Guilty in Identity Theft Scheme That Spanned Three Decades* (Apr. 1, 2024), <https://www.justice.gov/usao-ndia/pr/former-hospital-administrator-pleads-guilty-identity-theft-scheme-spanned-three>.

## CONCLUSION AND RECOMMENDATIONS

Tax-related identity theft is an active threat to tax administration that is difficult to combat, prevent, and detect. The IRS has proactively worked to become more formidable in those areas and has realized success. However, there is no justification for how long the IRS is taking to serve taxpayers who are identity theft victims. It must improve its IDTVA inventory management practices to gain control over outrageous cycle times, especially for victims suffering from refund delays and seeking peace of mind.

### Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Prioritize keeping all IDTVA employees working identity theft cases until the average cycle time for resolving IDTVA cases is less than 90 days.
2. Develop and implement an initial screening process for IDTVA cases to timely review tax account information, categorize and prioritize refund cases for assignment to appropriately trained employees, send timely acknowledgment letters, and quickly forward misrouted cases to the correct IRS Business Operating Division/Function when necessary.
3. Upon receipt of a taxpayer's Form 14039, Identity Theft Affidavit, timely acknowledge receipt of the form and communicate estimated timeframes for case resolution. Consider procedures for providing updates while cases are pending under review.
4. Explore technologies, such as automation or artificial intelligence, and develop tools to improve research capabilities and efficiency for IDTVA employees.
5. Establish hardship criteria for expediting IDTVA cases and provide a reliable way for identity theft victims with significant hardships who meet the criteria to notify the IRS to prioritize work assignment.
6. Conduct an analysis of the accuracy of TPP filters and models and establish a plan to consistently achieve an FDR of 50 percent or less.

### RESPONSIBLE OFFICIAL

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