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EXAMINING THE SKYROCKETING PROBLEM OF IDENTITY THEFT RELATED TAX FRAUD AT THE IRS

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT OPERATIONS
OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

AUGUST 2, 2013

Serial No. 113–71

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.fdsys.gov
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

86–438 PDF WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
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EXAMINING THE SKYROCKETING PROBLEM OF IDENTITY THEFT RELATED TAX FRAUD AT THE IRS

Friday, August 2, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:01 a.m., in Room 2247, Rayburn House Office Building, Hon. John Mica [chairman of the subcommittee] presiding.

Present: Representatives Mica, Issa, Meadows, Turner, Connolly, and Cummings.

Also Present: Representative Jordan.

Staff Present: Ali Ahmad, Communications Advisor; Alexia Ardolina, Assistant Clerk; Molly Boyl, Senior Counsel and Parliamentarian; Lawrence J. Brady, Staff Director; David Brewer, Senior Counsel; Steve Castor, General Counsel; Drew Colliatie, Professional Staff Member; Adam P. Fromm, Director of Member Services and Committee Operations; Tyler Grimm, Senior Professional Staff Member; Frederick Hill, Director of Communications and Senior Policy Advisor; Justin LoFranco, Digital Director; Mark D. Marin, Director of Oversight; Tegan Millspaw, Professional Staff Member; Kristin L. Nelson, Senior Counsel; Ashok M. Pinto, Chief Counsel, Investigations; Laura L. Rush, Deputy Chief Clerk; Scott Schmidt, Deputy Director of Digital Strategy; Sarah Vance, Assistant Clerk; Meghan Berroya, Minority Counsel; Jaron Bourke, Minority Director of Administration; Claire Coleman, Minority Counsel; Susanne Sachsman Grooms, Minority Deputy Staff Director/Chief Counsel; Jennifer Hoffman, Minority Communications Director; Adam Koshkin, Minority Research Assistant; Dave Rapallo, Minority Staff Director; Safiya Simmons, Minority Press Secretary; and Cecelia Thomas, Minority Counsel.

Mr. MICA. Good morning. I'd like to welcome everyone and call to order this hearing of the Government Operations Subcommittee of the Government Oversight and Reform Committee of the House of Representatives. The subject of today's hearing is "Examining the Skyrocketing Problem of Identity Theft Related to Tax Fraud at the Internal Revenue Service."

The order of business today will be, we will begin with opening statements from members, and then we'll hear from our witnesses. We have four witnesses today, and I'll introduce them later. And I would remind members it looks like we're going to have votes

commencing about 9:15, which gives us to about 9:30. So we will again try to get through this and maybe most of our witnesses. We will then recess and return probably for questions at that point.

So with that, Chairman Issa and myself, we usually start these hearings by saying that just generally that we have a responsibility to investigate problems with our Federal Government. For lack of a better term, some of those problems, we call them scandals or wasteful spending or conduct by Federal agencies or employees.

And this is not an opportunity, say, to pick on IRS, but an opportunity to follow up actually on this matter. We have had some four hearings. I was given a list of hearings, and they date back—I don't know, Mr. Connolly, did you participate in some of those before?

Mr. CONNOLLY. Yes, sir.

Mr. MICA. So this is not a new scandal or problem, it's something that we've seen as an issue for some time. Unfortunately, too, you will hear in just a second, as I cite some of the issues at hand, it isn't resolved and it hasn't gotten any better.

Unfortunately, we've heard lately a lot about phony scandals, and the IRS and some of the things that we've had to deal with are not phony scandals. Even leaders in the administration have conceded that in the past, particularly in regard to some of the targeting by IRS brought to our attention by the inspector general and other Members of Congress. We also, as you may recall, just briefly looked at the conferences in a previous hearing of wasteful spending on IRS conferences. And I think they were spending about $45 million in 1 year. After we began some of the revelations with GSA and others, we discovered in that hearing again wasteful spending that exceeded what we saw and everyone was appalled at with GSA. And that review of that matter has resulted in going from $45 million to about $5 million. Considerable saving for the taxpayers.

And then I think all of us were stunned when we heard about the—and I don't know of a better term than scandal—with the IRS improperly awarding contracts to Strong Castle. I'm sure the members who were here that heard Tammy Duckworth, one of our war heroes, question the witness who had scammed the system and also IRS getting a $0.5 billion worth of contract potential under false pretenses with his veteran's disability.

So again, we have, I think, an important responsibility to look at these matters. Unfortunately, IRS has had a number of problems, and this one that we're looking at today continues. The incidence of identity theft related to tax fraud—now listen to this—and some of this data is very interesting—it's grown from 456,000 cases in 2009 to an estimated 1.9 million cases in 2013. That's a 416 percent increase. The Treasury Inspector General for Tax Administration estimates that IRS could issue—in fact, this problem could balloon in the coming years to $21 billion in fraudulent returns over the next 5 years. Some of the estimates are in 2011 as much as a whopping $5 billion went out the door being paid in potentially fraudulent returns.

In fact, this has become such a lucrative business for criminals that criminals, in fact, are leaving the drug dealing trade and, we're told, and now getting into applying and also asking for these fraudulent returns from IRS. So it's being said that tax fraud is ac-

tually taking work away from drug dealers because it's easier and safer to scam the IRS than it is to sell drugs.

Sad part about this for the average person, when they do file these fraudulent return claims, is that it takes more than a year in most instances to try to get their identity problems resolved, sometimes to try to get their credit restored, and very often to actually just get their lives back together. They are left in limbo, and it doesn't appear that IRS has a means of actually changing what's going on. They've made some attempts, but obviously, if you just look at the increases, the dramatic increases, whatever action IRS appears to be taking is not working. We've gone, again, from 456,000 to almost 2 million cases. So they've failed to curtail this rip-off of the public.

In reviewing this matter, I found that some States have been able to institute some fairly simple matters. And we may ask about what, again, they are doing that has worked and hasn't worked. But Georgia has taken some action. Some of the State revenue departments have taken action—we'll hear more good about that hopefully—that has successfully stopped people from illegally accessing taxpayer cash.

The IRS has complained of a lack of resources and said it will need another $22 million to examine all cases of potential fraud. I've heard the numbers of 90,000 to 100,000 IRS employees. Maybe, Mr. Werfel, you can tell me how many you have. But we do know from our review some 21 units of IRS are engaged now in tackling this problem. And, again, it's gotten worse, not better.

So, again, this subcommittee has held four previous hearings on this subject in the 112th Congress. My colleague, the ranking member, I think participated in some of those. I know he is as interested in getting to the bottom of this as I am and also correcting it, because it is a very serious situation. So with those opening comments, I'll yield now to the ranking member, the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman. And I want to thank you for holding this hearing. There have been a lot of hearings about IRS on various and sundry matters, but this is one that touches almost every taxpayer potentially. And I really want to thank you for holding this hearing. And as you indicated in the previous Congress, with former Chairman Platts and Ranking Member Ed Towns, we had a series of hearings on this subject, and I attended every one of them.

You know, as you indicated, I think, according to the IRS Taxpayer Advocate, identity theft jumped 650 percent between 2008 and 2012. And as you indicated, there were almost 1.9 million incidents of identity theft and fraudulent refunds.

Maybe the unintended good news is it's cutting down on drug dealing, as you indicated. But, you know, this is unbelievably disruptive to constituents. And if I recall, and Mr. Werfel will correct my memory if wrong, but at the last hearing this subcommittee had under Chairman Platts, I think the statistic was there were only four prosecutions or convictions for this identity theft. Now, when you have 1.9 million identity thefts going on, that is an epidemic. And the number of prosecutions and convictions, not acceptable.

It's profoundly disruptive to our constituents. In my own district, a gentleman and wife filed their 2010 tax returns electronically in April of 2011. They fell victim to tax-related identity thieves. Their tax filing was rejected because someone else had used their Social Security number and received a refund before they had filed their legitimate return. My constituent tried for 2 years to resolve the theft of this tax refund. He spoke with six different individuals at IRS between April and August of 2011 and was given six different timelines for the issue to be resolved, ranging from 6 to 8 weeks to a year. Further, the IRS provided conflicting information about forms to fill out, where to send the forms, and whether he should follow up with the IRS or wait for the IRS to contact them.

In November of 2011, they received their refund and thought the issue was resolved. In May of 2012, two of my constituents tried to refinance their home and were rejected by the mortgage company because the company was using fraudulent IRS documents. When my constituent called the IRS, they stated, everything looks fine here, we can't explain it, and if there's a problem, we can't really do anything about it.

After many ill-fated pursuits at clearing up the situation, the gentleman eventually give up in frustration, his problem left unresolved in refinancing his home. Obviously, that's unacceptable.

To be fair, the IRS recognizes this fact and is implementing reforms to enhance its efforts to combat identity theft by adopting a three-pronged approach. The first prong is prevention, which means stopping this type of tax fraud from being successful in the first place. Clearly, given 1.9 million incidents, much more work needs to be done in this area. We seem to be losing the battle.

The second prong is providing taxpayer services for those who have been the victims of identity theft. This is a significant focus for the IRS, but, again, it appears the agency is falling short. I can just tell you based on constituent work in my office, satisfaction is not a prevalent theme among constituents. For example, an audit by TIGTA sampled 17 different identity theft cases and found that the average time it took for those cases to be resolved was 414 days. Unacceptable.

The third prong of IRS's approach is catching and convicting the criminals who committed these crimes. This is a critically important step, and one in which we are failing. If we can step up enforcement, obviously, it deters tax-related identity theft and protects our constituents. I'm interested, Mr. Chairman, in learning more about the IRS's efforts on this three-pronged approach, including examining success stories, as well as challenges still to be faced.

I would also like to be hear more about how customer service is being improved to prevent the bureaucratic nightmare that constituents, as well as millions of other Americans face every year. This year, as with every year, taxpayers face a number of issues and obstacles as they try to file their returns. I look forward to working with the IRS to implement corrective actions that will strengthen taxpayer assistance and issues during what can be a very difficult time for many citizens. I hope today we have a productive discussion about how we're going to achieve this goal in light of this massive problem.

Thank you, Mr. Chairman.

Mr. MICA. Thank the gentleman.

Mr. MICA. Yield to the vice chairman, Mr. Meadows, gentleman from North Carolina.

Mr. MEADOWS. Thank you, Mr. Chairman. And thank you for calling this hearing.

Thank each one you for being here as we look forward to your testimony and we deal with this.

You know, over the course of this year it cannot be denied that the IRS has been plagued with a wide range of scandals. And while many of these issues have been highlighted, an ongoing problem, which seems to have flown under the radar, continues to exist here at the IRS, is this issue of tax fraud and identity theft and how it relates.

And I didn't realize how big the problem was until I talked to a few stakeholders. And as I started talking to them and as they started identifying the issue, I was dumbfounded by the amount of tax fraud that exists and really the potential for it to even be exacerbated with the new subsidy that we've got coming in with ACA and the Obamacare. If you have got a subsidy issue, and we're looking at really self-identifying who qualifies, it even presents a greater challenge. You know, identity theft, tax fraud has increased exponentially over the past 5 years to the tune of 650 percent. And when we start to look at that, TIGTA, who will testify here today, estimates that there could be as much as $21 billion—that's billion with a "B"—in fraudulent tax returns over the next 5 years if the problem is not addressed. And they say that that estimate is conservative.

As I talked yesterday to a stakeholder, he shared a couple of different stories, without sharing the details, of just massive tax returns that comes in and taking advantage of the tax system that we have, and yet thousands of returns filed on the same day with, truly, with Social Security numbers that are legitimate and then we see this, but that is one area. And we're having to police that in the private sector. So we need to really look at a solution where the IRS steps up and identifies this, corrects the problem, or we'll be sitting here 12 months from now with an even bigger problem that is greater than $21 billion.

So I thank each of you for being here. I thank the chairman for calling this important hearing. And I am looking forward to your testimony.

Mr. MICA. Any other members have opening statements?

Mr. Cummings?

Mr. CUMMINGS. I'll be very brief because I know we're going to have votes in a minute. I just want to make sure that we are aiming towards the problem. You know, we've had motion, commotion, emotion, and no results. And the problem just gets worse.

And so I'm looking forward to the testimony. But I'm also looking forward to solutions. You know, arguing here and arguing there and not helping taxpayers avoid being victims and not addressing the issue of those who will take advantage of a system that may have some holes in it, and those who spend day in and day out trying to figure out how to maneuver to extract something that don't belong to them, those are the issues that we have to address. If we

can send a man to the moon, we ought to be able to resolve these issues.

And with that, Mr. Chairman, I yield back.

Mr. MICA. Thank the gentleman.

Mr. MICA. Mr. Jordan.

Mr. JORDAN. I'm fine, thank you, sir.

Mr. MICA. Okay. Then we have time to probably get one or two of our witnesses in. Let me introduce them. Again, we have the Honorable Daniel Werfel, Acting Commissioner of the IRS. We have Ms. Nina Olson, the National Taxpayer Advocate at the Taxpayer Advocate Service. Mr. Michael McKenney is the Acting Deputy Inspector General for Audit at the Treasury Inspector General for Tax Administration. And Mr. Douglas MacGinnitie is the State Revenue Commissioner of Georgia.

And we welcome all of you.

As is customary, we swear in our witnesses. So if you'll stand, raise your right hand.

Do you solemnly swear or affirm that the testimony you're about to present to this committee and subcommittee of Congress is the whole truth and nothing but the truth?

The witnesses all answered in the affirmative. We'll let the record reflect that.

Yes?

Mr. CONNOLLY. I'm sorry, Mr. Chairman. Could I just inquire, is it the intention of the chair to hear Mr. Werfel first and then break for the——

Mr. MICA. I think we could do that. We can fit him in nicely. We still have 11 minutes, so we could give him at least 6.

Mr. CONNOLLY. And I'm informed we have nine votes, Mr. Chairman.

Mr. MICA. And so we will recess for the appropriate time and break and then come back, and we will hear the rest of the witnesses.

And also members will have 7 days to submit opening statements or extraneous material for the record. Without objection, so ordered.

Mr. MICA. Welcome back, Mr. Werfel. I asked you earlier how much longer you'd be there. Till your successor, I guess, was just named today. But thank you for coming. And you are recognized. And again welcome.

STATEMENT OF DANNY WERFEL

Mr. WERFEL. Chairman Mica, Ranking Member Connolly, and members of the subcommittee, thank you for the opportunity to appear before you today to update you on the actions we are taking at the IRS to combat refund fraud and help victims of identity theft.

Refund fraud caused by identity theft is one of the biggest challenges facing the IRS today, and the harm it inflicts on innocent taxpayers is a problem that we take very seriously. The IRS has a comprehensive identity theft strategy focusing on preventing refund fraud, investigating these crimes, and assisting taxpayers victimized by identity theft.

The agency's work on identity theft and refund fraud touches nearly every part of the organization. The IRS expanded these efforts for the 2013 filing season to better protect taxpayers and help victims. More than 3,000 IRS employees are currently working on identity theft, more than double the number at the start of the previous filing season.

Our ability to detect fraud and stop false returns before issuing a refund continues to grow. We have expanded the number and quality of our identity theft screening filters and already this year we have suspended or rejected more than 4.6 million suspicious returns, which approaches the total of 5 million for all of 2012.

Our criminal investigations have increased as well. We have opened roughly 1,100 identity theft investigations so far in fiscal year 2013, which is already more than all of 2012.

We are also improving our efforts to assist taxpayers who are victims of identity theft. Last year, we made a number of programming and procedural enhancements that enable us to move faster to identify accounts with a high potential for identity theft. Cases generated as a result are reassigned for review more quickly than in the past. So far this year we have closed more than 565,000 cases. That is more than three times the number of identity theft cases resolved at the same time last year.

Other procedural enhancements are helping us reduce delays in releasing funds to a legitimate filer in cases where duplicate returns are filed. As a result, taxpayers who became victims this fiscal year are receiving their refunds and having their problems resolved in less than 120 days, far more quickly than in previous years. While this is an improvement, we are continuing to find ways to shorten this time and to ease the burden on these victims.

But barriers to further progress on identity theft do exist. One is the sheer volume and complexity of these crimes. Another is the need to further upgrade our technology in order to implement improvements, such as more sophisticated filters and better taxpayer authentication procedures.

Yet another barrier to further progress is our difficult budget environment. The work we are already doing on refund fraud and identity theft involves a difficult balance of resources and staffing at a time when our budget has been reduced by $1 billion since fiscal year 2010. This includes a reduction of $618 million this year alone as a result of sequestration. The IRS has responded to these budget reductions by becoming more efficient and cost conscious. One result of our efforts to reduce costs is that full-time staffing at the IRS has declined by more than 8 percent since fiscal year 2010, or about 8,000 positions.

Against this backdrop, our need for additional resources to fight refund fraud caused by identity theft has forced very critical performance tradeoffs. The progress that the IRS has made against identity theft would not have been possible without directing resources away from other enforcement activities and our service programs. The administration's fiscal year 2014 budget request provides for an increase in funding that will let us continue to make progress against identity theft are also allowing us to continue our enforcement activities and maintain reasonable levels of customer service.

Conversely, without this additional funding, we would face difficult choices. And the situation would become even more serious if we were to incur additional budget cuts. We would no longer be able to sustain our current level of effort on identity theft without significantly weakening other programs.

Chairman Mica, Ranking Member Connolly, members of the subcommittee, this concludes my statement. I'd be happy to take your questions.

[Prepared statement of Mr. Werfel follows:]

WRITTEN TESTIMONY OF
DANIEL WERFEL
PRINCIPAL DEPUTY COMMISSIONER
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
ON TAX FRAUD AND TAX IDENTITY THEFT: PREVENTING FRAUD AND AIDING TAXPAYERS
AUGUST 2, 2013

INTRODUCTION AND SUMMARY

Chairman Mica, Ranking Member Connolly, and members of the Subcommittee, thank you for the opportunity to update you on the actions we are taking at the IRS to combat refund fraud and help victims of identity theft.

Refund fraud caused by identity theft is one of the biggest challenges facing the IRS today, and the harm it inflicts on innocent taxpayers is a problem we take very seriously. The IRS has a comprehensive identity theft strategy focusing on preventing refund fraud, investigating these crimes and assisting taxpayers victimized by identity theft.

The agency's work on identity theft and refund fraud continues to grow, touching nearly every part of the organization. The IRS expanded these efforts for the 2013 filing season to better protect taxpayers and help victims. More than 3,000 IRS employees are currently working on identity theft – more than double the number at the start of the previous filing season. We have also trained 35,000 employees who work with taxpayers to recognize identity theft and help victims. So far this calendar year, the IRS has worked with victims to resolve more than 565,000 cases. This is more than three times the number of identity theft victim cases that we had resolved at the same time last year.

Our fraud detection efforts have increased as well. We expanded the number and quality of our identity theft screening filters, and we have suspended or rejected more than 4.6 million suspicious returns so far this calendar year. The number of identity theft investigations by our Criminal Investigation (CI) division continues to rise, with more than 1,100 investigations opened so far in Fiscal Year (FY) 2013. A more detailed description of all of our initiatives can be found later in the testimony.

Barriers to further progress do exist, however. One is the sheer volume and complexity of these crimes, as identity thieves continue creating new ways of stealing personal information and using it for their gain. Another is the need to further upgrade our technology in order to implement improvements such as more sophisticated filters and better taxpayer authentication procedures.

Yet another barrier to further progress is the difficult budget environment. The work we are already doing on refund fraud and identity theft involves a difficult balance of resources and staffing at a time when our budget has been reduced by $1 billion since FY 2010. This includes a reduction of $618 million – more than 5 percent – this year alone, as a result of sequestration. These cuts have come while the number of individual and business filers has grown by more than 4 percent, and we have taken on significant new responsibilities, such as implementing the tax-related provisions of the Foreign Account Tax Compliance Act and the Affordable Care Act.

The IRS has responded to these budget reductions and the increased workload by becoming more efficient and cost conscious. One result of our efforts to reduce costs is that full-time staffing at the IRS has declined by more than 8 percent since FY 2010, or about 8,000 positions.

Against this backdrop, our need for additional resources to fight refund fraud caused by identity theft has forced very critical performance tradeoffs. The progress that the IRS has made against identity theft-related refund fraud would not have been possible without directing resources away from other enforcement activities and our service programs.

The Administration's FY 2014 Budget request provides for an increase of $101 million to support IRS efforts to prevent identity theft-related refund fraud, and assist victims of identity theft. This proposed funding level will let us continue to make progress against identity theft, while also allowing us to continue our other enforcement activities and maintain reasonable levels of customer service. Conversely, without this additional funding, we would face difficult choices, and the situation would become even more serious if we were to incur additional budget cuts. We would no longer be able to sustain our current level of effort on identity theft without significantly weakening other programs.

The FY 2014 Budget request also includes several important proposals needed to help us improve our efforts to stop refund fraud caused by identity theft. The Administration proposes to:

- Expand IRS access to information in the National Directory of New to prevent fraud.
- Restrict access to the Death Master File (DMF) to those users who legitimately need the information for fraud prevention purposes and to delay the release of the DMF for three years to all other users. This change would make it more difficult for identity thieves to obtain identifying information of deceased persons in order to file fraudulent returns;
- Grant the IRS the authority to require or permit truncated social security numbers on W-2 forms that employers send to employees, to reduce the risk that the information could be stolen from a paper payee statement by identity thieves; and

- Add a $5,000 civil penalty to the Internal Revenue Code for tax-related identity theft.

STOPPING THE REFUND AT THE DOOR – ENHANCED RETURN PROCESSING

During 2012, the IRS protected $20 billion of fraudulent refunds, compared with $14 billion in 2011. Within that $20 billion, $12 billion represents fraud related to identity theft. The IRS stopped 5 million suspicious returns in 2012 – up from 3 million suspicious returns stopped in 2011. As noted above, we have already suspended or rejected 4.6 million suspicious returns so far this year worth more than $7.4 billion.

A significant portion of the 4.6-million returns suspended or rejected this year – 725,000 – were rejected at the point of filing, even before they entered IRS processing systems. The remaining returns generally require further review to determine whether the filer is legitimate, so the totals for 2013 will be significantly higher once these cases are worked. The IRS is committed to improving its multi-faceted approach to blocking these fraudulent refund claims, and we strive to operate in such a way that false returns are screened out at the earliest possible stage.

The IRS screens returns for fraud at multiple points in the processing life-cycle. In 2008, we began placing an indicator on the accounts of taxpayers who have experienced identity theft. These indicators initially served two primary purposes: to speed up account reconciliation for the legitimate taxpayer, and to reduce the likelihood that a taxpayer's information could be used for a fraudulent refund claim in subsequent years. As our identity theft indicator program has developed, we have leveraged it to put in place additional proactive tools that identify fraudulent returns at the point of filing.

In 2011, we launched a pilot program to test the Identity Protection Personal Identification Number (IP PIN). The IP PIN is a unique identifier that authenticates a return filer as the legitimate taxpayer at the time the return is filed. For filing season 2012, the IRS issued IP PINs to approximately 250,000 taxpayers who had identity theft markers on their tax accounts. We verified the presence of this IP PIN at the time of filing, and rejected returns associated with a taxpayer's account where an IP PIN had been assigned but was missing. For the 2013 filing season, we enhanced our programming to increase efficiency, and expanded the IP PIN program to more than 770,000 taxpayers.

Over the last two fiscal years we have made numerous improvements in catching fraud before refunds are issued:

- We implemented new identity theft screening filters to improve our ability to spot false returns before we process them and issue refunds. For example, we designed and launched new filters that flag returns if certain characteristics are detected. While the development of effective filters is complex given the dynamic lives of legitimate taxpayers, these filters enable us to identify fraudulent returns

even where a taxpayer's information has not been previously used for filing by an identity thief. These new filters for identity theft fortified our overall refund fraud detection program, which already identified a significant number of identity theft cases. For the 2013 filing season, we have added identity theft filters that target multiple refunds into a single bank account or to a single address.

- We have accelerated the use of information returns in order to identify mismatches earlier. Moving this matching process forward in time has enhanced our ability to identify fraudulent tax returns before we process them. We are accelerating the use of more types of information return data in 2013.

- We have implemented a variety of mechanisms to stop the growing use by criminals of deceased individuals' identity information to perpetrate fraud. Once we confirm the fraud, we lock the accounts of these individuals so that no further misuse will occur. We also routinely lock accounts of deceased taxpayers once they no longer have a filing requirement. To date, we have locked more than 11 million accounts. As noted above, the Administration is proposing a legislative change to the practice of routine release of the Death Master File.

- We have developed procedures for handling information about identity theft victims received from law enforcement officials, who discover this information in the course of investigating identity theft schemes or other criminal activity. This data is extremely valuable. It can be used to flag taxpayer accounts and help us block returns filed by identity thieves who attempt to use the personal information of those taxpayers to file a fraudulent return. Our Criminal Investigation (CI) Division will use this data to identify links between criminal schemes, and will share this information when appropriate to ensure that victims' accounts are adjusted and protected from future identity fraud.

- We expanded the use of our list of prisoners to better stop the processing of problematic returns. In FY 2012, we stopped over 220,000 fraudulent returns filed by prisoners. This represents over $2.5 billion in refunds stopped, an increase of more than 10 percent over FY 2011. So far in FY 2013 we have stopped more than 118,000 returns representing more than $800 million in refunds stopped. The IRS has collaborated with the Bureau of Prisons and also with states that choose to partner with us to help identify prisoners who may be engaged in tax fraud. We received additional help in 2011 with the passage of the United States-Korea Free Trade Agreement Implementation Act, which included language requiring federal and state prisons to provide information on the current prison population. Although the authority allowing us to share return information with prisons expired at the end of 2011, it was renewed and made permanent in the American Taxpayer Relief Act enacted earlier this year. In addition, the President's Fiscal Year 2014 Budget is proposing reforms to use of the Social Security Administration's prisoner data that will further help the IRS reduce improper payments.

- We are collaborating with software developers, banks, and other industries to determine how we can better partner to address identity theft and prevent federal monies from reaching the hands of identity thieves. For example, we established a cooperative agreement with approximately 80 financial institutions to reject questionable deposits of tax refunds. The IRS also established relationships with representatives of the prepaid access card industry, which has security protocols designed to detect and prevent fraudulent use of the cards. In many cases, these companies may have the ability to identify potentially fraudulent tax refunds and freeze or cancel the cards.

The IRS will continue to strengthen our efforts to catch identity theft and other fraud before erroneous refunds are issued. We will continue refining our filters aimed at detecting and preventing the processing of fraudulent returns, and develop new methodologies as needed. Additionally, we are considering new technologies for authenticating the identities of taxpayers at the time of filing as a future means of precluding tax-related identity theft.

ASSISTING TAXPAYERS

Improving our Processes

The IRS understands that identity theft is a frustrating, complex process for victims. While identity thieves steal information from sources outside the tax system, the IRS is often the first to inform a victim that identity theft has occurred. We realize the importance of resolving these cases quickly and efficiently, allowing taxpayers victimized by identity theft to receive their refunds as soon as possible and preventing adverse enforcement actions from being taken against them. To that end, we continue to develop and implement new procedures to improve the service provided to identity theft victims.

A little background assists in understanding the progress the IRS has made. In 2011 and 2012, the IRS saw substantial growth in the number of instances of identity theft. New cases received grew from nearly 250,000 to 816,000 between 2011 and 2012. The IRS was not positioned to absorb this rapid growth and, regrettably some taxpayers experienced significant delays in the resolution of their cases.

During FY 2012, the IRS reengineered our identity theft process to close cases more efficiently, accurately, and in a less burdensome manner. In turn, we have made a number of programming and procedural enhancements, enabling us to move faster to identify accounts with a high potential for identity theft. Cases generated as a result are reassigned for review more quickly than in the past. Other procedural enhancements are helping us to reduce delays in releasing refunds to the legitimate filer in cases where duplicate returns are filed. This enabled thousands of taxpayers who had experienced lengthy delays to have their cases resolved.

In the first six months of 2013, the IRS worked with victims to resolve and close more than 565,000 cases. This is in addition to the expansion of the IP PIN program mentioned above. The IRS has dedicated more employees to resolving victim cases. These are extremely complex, as they frequently touch on multiple issues and multiple tax years. Cases of resolving identity can be complicated by the thieves themselves calling in and claiming to be the legitimate taxpayer. The IRS is working hard to streamline its internal processes, but much more work remains. Taxpayers who became victims this fiscal year are receiving their refunds and having their problem resolved in less than 120 days, far more quickly than in previous years. While this marks an improvement, we are continuing to find ways to shorten this time and ease the burden identity theft places on these victims.

We are also continually improving the way we track and report on the status of identity theft cases, which we believe will lead to quicker case resolution and provide innocent taxpayers with the most current account information and status of their refunds. Additionally, better tracking and reporting means that we can spot – and correct – any flaws in the system more quickly.

In a hearing last year, the IRS was challenged to reduce the time it takes to resolve issues for identity theft victims to 90 days or less by the end of this year. We are on our way to achieving this goal.

Employee Training

The IRS runs one of the largest phone centers in the world, and we are dedicated to providing quality service with a high degree of accuracy to every taxpayer who contacts us. We realize, however, that taxpayers who contact us with identity theft problems present unique challenges to our telephone representatives, and we are committed to providing our assistors with the information they need to ensure these taxpayers receive quality, courteous service. As part of this effort, in 2011 we conducted a thorough review of the training we provide our employees to make sure that they have the tools they need to respond appropriately to those who have been victimized by identity theft.

As a result of this review, we provided our telephone assistors with updated training this past filing season to ensure they better understand the serious financial problems of identity theft victims and maintain the proper level of sensitivity when speaking with victims. Additionally, we broadened the scope of our training beyond telephone assistors to cover all IRS employees who might interact with identity theft victims. We developed a new training course that includes sensitivity training as well as training on the proper tools and techniques to use when handling identity theft cases. In all, 35,000 IRS employees have received this training.

Taxpayer Outreach and Education

The IRS continues to undertake outreach initiatives to provide taxpayers, return preparers, and other stakeholders with the information they need to prevent tax-related

identity theft and, when identity theft does occur, to resolve issues as quickly and efficiently as possible. As part of our outreach efforts, we overhauled and updated the identity protection training provided to tax practitioners at our annual Nationwide Tax Forums in 2012 and again in 2013. These annual events, held in several cities around the country, draw more than 16,000 practitioners, who attend to learn about key tax laws and issues. In addition, we met with practitioners to discuss the IP PIN program, the expansion of the program, and the modified procedures, forms, and notices associated with the program. We are also working closely with software developers to ensure that instructions regarding the use of an IP PIN are included in their products.

We have a far-reaching communications effort that uses both traditional and social media channels to relay information on identity protection issues. As part of this effort, we have produced new identity theft awareness videos for the IRS YouTube channel in English, Spanish, and American Sign Language, and we distributed identity protection information through IRS Twitter feeds and podcasts. We continue to update the identity theft information provided on the IRS.gov website. This includes emerging trends in identity theft along with fraud schemes, phishing sites, and prevention strategies. We also added a direct link to our Identity Theft page, to make it easier for taxpayers who visit IRS.gov to locate this information. We have issued a number of news releases and tax tips to help taxpayers and to highlight our continuing enforcement efforts.

CRIMINAL INVESTIGATION WORK

The investigative work done by CI is a major component of our efforts to combat tax-related identity theft. CI investigates and detects tax and other financial fraud, including fraud related to identity theft, and coordinates with other IRS divisions to ensure that false refunds involving identity theft are addressed quickly and that the IRS accounts of identity theft victims are marked to help prevent future problems. CI recommends prosecution of refund fraud cases, including cases involving identity theft, to the Department of Justice.

In response to the growing threat that identity theft poses to tax administration, the IRS established the Identity Theft Clearinghouse (ITC), a specialized unit within CI that became operational in 2012, to work on identity theft leads. The ITC receives all refund fraud-related identity theft leads from CI field offices. The ITC's primary responsibility is to develop and refer identity theft schemes to the field offices, facilitate discussions between field offices with multi-jurisdictional issues, and provide support to ongoing criminal investigations involving identity theft.

Investigations of tax fraud related to identity theft have increased significantly over the past three fiscal years. In FY 2012, CI initiated 900 investigations involving identity theft, which is more than triple the number of investigations in FY 2011. Indictments in identity-theft related cases also increased significantly, totaling nearly 500 in FY 2012, with 223 individuals sentenced and an average time to be served of 48 months. This compares with 165 indictments, 80 individuals sentenced, and a 44-month average

sentence in FY 2011. Additionally, the direct investigative time spent by CI on identity theft cases has increased by 129 percent in FY 2012 over FY 2011.

This trend is continuing in FY 2013. Already through June 30, 2013, more than 1,100 criminal identity theft investigations have been opened. Indictments in identity theft-related cases total 785, with 301 individuals sentenced and an average time to be served of 40 months.

In collaboration with the Department of Justice's Tax Division (DOJ-Tax) and local U.S. Attorneys' offices, the IRS conducted a highly successful coordinated identity theft enforcement sweep in January 2013. This nationwide effort against 389 identity theft suspects led to 734 enforcement actions, including 189 indictments, informations and complaints, and 109 arrests. Around the time of the sweep, IRS auditors and investigators conducted compliance visits to 197 money service businesses in a variety of locations across the country to help ensure that these businesses were not facilitating refund fraud and identity theft.

Our collaborative efforts extend to other federal agencies as well. For example, the IRS has worked with the U.S. Postal Inspection Service (Postal) to provide training updates on how to handle refund checks and prepaid access cards diverted as part of Postal's fraud detection process. We also issued updated guidance to other federal law enforcement agencies, including the Secret Service and the Federal Bureau of Investigation, on available methods for returning stolen refund amounts to the Department of the Treasury.

The IRS continues to seek out additional methods to combat the proliferation of tax-related identity theft. In July 2012, the IRS expanded the number of criminal violations that special agents investigate when identity theft matters arise in the context of fraudulent returns. The additional violations include: Forging Endorsements on Treasury Checks; Theft of Public Money; Fraud in Connection with Access Devices; Mail Fraud; and Wire Fraud.

Aiding in the fight against identity theft, in September 2012, DOJ-Tax issued Directive 144, Stolen Identity Refund Fraud (SIRF), to provide federal law enforcement officials with the ability to timely address a subset of identity theft cases. This directive specifically focuses on identity theft in the context of fraudulent tax refunds and provides for streamlined initiation of these investigations and prosecutions. CI subsequently responded by streamlining investigative and review processes to capitalize on these historic changes and will continue to move expeditiously on SIRF investigations.

State and local law enforcement agencies also play a critical role in fighting identity theft. CI regularly collaborates with these agencies, and this effort will only increase in the future. Over the past several years, CI has established or participated in at least 35 task forces and working groups around the country in an effort to leverage the resources and expertise of various law enforcement agencies to address identity theft-related crimes.

The IRS also has been working to assist state and local law enforcement agencies in the efforts they are making to fight identity theft-related refund fraud. One way we have done this is by developing the Identity Theft Victim Disclosure Waiver Process, which was launched in Florida in April 2012.

This program provides for the disclosure of federal tax returns and return information associated with the accounts of known and suspected victims of identity theft with the express written consent of those victims. Prior to disclosing any tax information, victims are required to sign a waiver authorizing the release of information to the designated state or local law enforcement official pursuing the investigation. To date, the IRS has received more than 3,200 waiver requests from 270 state and local law enforcement agencies in 31 states.

Some of the IRS' recent successes involving identity theft include the following cases in which sentences were handed down over the last several months:

- On July 16, 2013, a Florida woman was sentenced to more than 230 months in prison and ordered to forfeit more than $2 million after pleading guilty to wire fraud and aggravated identity theft. Over a three-year period, this individual and a co-conspirator filed false tax returns and claimed fraudulent refunds using stolen identities.

- On July 8, 2013, a Florida man was sentenced to 94 months in prison and three years of supervised release for his participation in a refund fraud scheme that involved filing approximately 400 false tax returns and claiming more than $3 million in fraudulent refunds. The individuals in this scheme used identifying information stolen from a community college's financial aid office.

- On July 2, 2013, four individuals in Florida were sentenced to a total of nearly 300 months in prison and ordered to pay more than $1.6 million in restitution in connection with a refund fraud scheme that included the use of prisoner data. Beginning around 2006 these individuals filed more than 300 false tax returns using the names and social security numbers of inmates housed in the Florida prison system, as well as other individuals who were not incarcerated.

- On June 27, 2013, three Florida men were sentenced to a total of more than 385 months in prison for their participation in an identity theft refund fraud scheme involving approximately $1.7 million in fraudulent refund claims. The individuals were found to have in their possession the identifying information for more than 1,000 individuals. Some of this data was taken from a high school's records, while other information was from an organization for disabled persons.

- On June 7, 2013, a Texas man was sentenced to 60 months in prison and ordered to pay approximately $447,000 in restitution on identity theft charges. Over a three-year period this individual filed nearly 500 false tax returns, and

claimed more than $900,000 in fraudulent refunds, by using the names and Social Security numbers of deceased individuals.

- On May 29, 2013, a Georgia man was sentenced to 90 months in prison and three years of supervised release and ordered to pay more than $130,000 in restitution to the IRS in connection with a scheme that involved obtaining personal information from others in order to create fake W-2 forms, file false returns and claim fraudulent refunds.

- On May 28, 2013, an Oklahoma man was sentenced to 78 months in prison and three years of supervised release, and ordered to pay approximately $46,000 in restitution, after he pleaded guilty to charges that included aggravated identity theft and mail fraud. This individual obtained personal information of more than 100 individuals, and used it to file false returns and claim fraudulent refunds. He arranged to receive the refunds via prepaid debit cards, which he had mailed to vacant houses near his residence, where he would retrieve them after they were delivered.

- On May 22, 2013, a California man was sentenced to 180 months in prison and ordered to pay $515,000 in restitution on charges of mail fraud, Social Security fraud, passport fraud and aggravated identity theft. This individual, a tax return preparer, filed false returns using stolen personal information from hundreds of people, including former clients and former co-workers. He claimed fraudulent refunds totaling more than $500,000.

- On April 25, 2013, two Florida women were sentenced to a total of more than 400 months in prison and ordered to pay $1.9 million in restitution to the IRS on charges stemming from an identity theft tax fraud scheme in which they filed approximately 2,000 false returns and fraudulently claimed $11 million in refunds. Some of the returns were filed using stolen personal information that was obtained from a nurse at a local hospital.

CONCLUSION

Mr. Chairman, Ranking Member Connolly, and members of the Subcommittee, thank you again for the opportunity to update you on the steps that the IRS is taking to prevent identity theft and to assist taxpayers who are victims of this crime. Fighting identity theft will be an ongoing battle for the IRS, and one where we will not let up. Our work here is critical. We cannot be lax either in stopping fraud or in assisting taxpayers who have had their identities stolen. Although we cannot stop all identity theft, our efforts thus far have provided a solid foundation upon which we will continue to build and improve. We have to act aggressively because we have a responsibility to preserve the public's faith in the essential fairness and integrity of our tax system. I would be happy to answer any questions that you may have.

Mr. MICA. What we're going to do, since we have 5 minutes before the vote, is we will recess at this time and then there will be at least 45 minutes of voting. We have nine votes. That brings us up to at least 10:15. So I would expect everyone to be back here by then and we will start immediately I hope 10 minutes after the beginning of the last vote on the floor for members' purposes. So with that, the subcommittee stands in recess.

[Recess.]

Mr. MICA. I'd like to call the Subcommittee on Government Operations back to order after our recess.

The subcommittee has heard from IRS Acting Commissioner Daniel Werfel as our first witnesses. We have three remaining witnesses. We will go ahead and begin their testimony. And again welcome to our panel this morning Ms. Nina Olson. And she is the National Taxpayer Advocate at the National Taxpayer Advocate Service.

So welcome, and you are recognized.

STATEMENT OF NINA E. OLSON

Ms. OLSON. Thank you, Chairman Mica, and thank you for inviting me to testify today about tax-related identity theft. Since 2004, I have identified this issue as one of taxpayers' most serious problems in nearly every annual report I have submitted to Congress, and I have testified at numerous hearings on this subject, including seven since the start of 2012.

To its credit, the IRS has recognized identity theft as a major challenge and has devoted significant resources to addressing it. However, while the IRS has improved its ability to detect fraudulent returns, our analysis indicates that it has not made comparable strides in providing assistance to identity theft victims.

In my testimony and my reports to Congress, I have described the devastating impact of tax-related identity theft on its victims. Yet despite some recent improvements to cycle time, it often takes 6 months to a year or longer before the IRS fully resolves identity theft cases and issues refunds to the legitimate taxpayers. Thus victim assistance overall continues to be inadequate.

Let me offer three ways of looking at victim assistance. First, my organization, the Taxpayer Advocate Service, or TAS, assists taxpayers whose cases have not been handled properly through normal IRS channels or who are experiencing financial hardships. In fiscal year 2011, we received 34,000 cases, by far the largest number of cases on any single issue and 11 percent of our inventory. By fiscal year 2012, we received 55,000 identity theft cases, which constituted 25 percent of our inventory. For the first 9 months of fiscal year 2013, our identity theft cases are 32 percent higher than last year, suggesting our case receipts in that issue may exceed 70,000 this year.

TAS' case inventory is a pretty good barometer of IRS problems, so these increases suggest that at least in some respects victim assistance may actually be getting worse.

Second, the IRS processes for identifying and stopping returns filed by identity thieves ensnare some legitimate returns. For example, during this filing season, more than 150,000 returns filed by legitimate taxpayers were flagged and deemed unpostable. This

means they aren't processed and refunds aren't issued until someone in the IRS looks at them and acts upon them.

Some returns were stopped because the original identity protection personal identification number, or IP PIN, was not entered on the return. The IP PIN is the number the IRS gives taxpayers when it determines they are victims so their returns can go through without stopping. When a taxpayer loses his IP PIN, the IRS will issue a replacement IP PIN, but confoundingly, the IRS also automatically stops all returns with these replacement IP PINs; that is, it deems them unpostable.

Of the over 100,000 returns that were stopped because they did not have an IP PIN, more than 90 percent of those, over 93,000, were submitted by legitimate taxpayers, yet they had to wait an average of 6 additional weeks for the IRS to process their returns, and some are still waiting. In fact, as of yesterday, there are over 21,000 of these returns over 61 days old on average waiting to be processed.

Third, while I am pleased that one IRS unit has reduced its processing time this year, that function's processing time is only part of the lifecycle of many identity theft cases. In my written statement, I describe the progress of a hypothetical case that is representative of many of TAS cases in that it requires the sequential involvement of multiple IRS units. Similarly, in 2012, TIGTA analyzed the files of 17 identity theft victims and found that the IRS had opened 58 cases to resolve the accounts of those victims, an average of nearly three and a half cases per victim. That aligns with what we have observed and explains why I regularly hear from practitioners and taxpayers that identity theft cases often take a year or longer to resolve.

Lastly, I note that the IRS now has more than 3,000 employees working identity theft cases, more than double the number from the previous year. Given the IRS' broad responsibilities and shrinking resources, that level of staffing is not sustainable. To make and sustain progress in addressing identity theft, the IRS must improve its core processes.

In my written statement, I make six recommendations. The most important is to reorganize victim assistance so that a centralized unit controls all identity theft cases and each case is assigned to an employee who manages the case from start to finish and serves as a single point of contact for the taxpayer. The IRS may say that this approach will itself require more resources. But as the head of an organization that operates in exactly that manner, I believe that it is more efficient to assign each case to an employee than to require a taxpayer to navigate multiple functions, working cases with significant rework and time lags occurring along the way.

I thank the subcommittee for its continued interest in this matter.

Mr. MICA. Thank you for your testimony.

[Prepared statement of Ms. Olson follows:]

WRITTEN STATEMENT OF

NINA E. OLSON

NATIONAL TAXPAYER ADVOCATE

HEARING ON

IDENTITY THEFT-RELATED

TAX FRAUD

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

SUBCOMMITTEE ON GOVERNMENT OPERATIONS

U.S. HOUSE OF REPRESENTATIVES

AUGUST 2, 2013

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Chairman Mica, Ranking Member Connolly, and distinguished Members of the Subcommittee:

Thank you for inviting me to testify today about the problems stemming from identity theft-related tax fraud.[1] I have appeared before this subcommittee several times regarding this matter and appreciate this subcommittee's continued interest.

As I have written in nearly every Annual Report I have delivered to Congress since 2004, tax-related identity theft is a serious problem – for its victims, for the IRS and, when Treasury funds are improperly paid to the perpetrators, for all taxpayers.[2] In general, tax-related identity theft occurs when an individual intentionally uses the Social Security number (SSN) of another person to file a false tax return to obtain an unauthorized refund.[3]

For victims, the consequences can be significant. 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. This year, approximately 78 percent of all returns processed resulted in refunds, with the average amount approximately $2,650.[4] For low income taxpayers who qualify for the Earned Income

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[1] The views expressed herein are solely those of the National Taxpayer Advocate. The National Taxpayer Advocate is appointed by the Secretary of the Treasury and reports to the Commissioner of Internal Revenue. However, the National Taxpayer Advocate presents an independent taxpayer perspective that does not necessarily reflect the position of the IRS, the Treasury Department, or the Office of Management and Budget. Congressional testimony requested from the National Taxpayer Advocate is not submitted to the IRS, the Treasury Department, or the Office of Management and Budget for prior approval. However, we have provided courtesy copies of this statement to both the IRS and the Treasury Department in advance of this hearing.

[2] *See* National Taxpayer Advocate 2012 Annual Report to Congress 42-67 (Most Serious Problem: *The IRS Has Failed to Provide Effective and Timely Assistance to Victims of Identity Theft*); National Taxpayer Advocate 2011 Annual Report to Congress 48-73 (Most Serious Problem: *Tax-Related Identity Theft Continues to Impose Significant Burdens on Taxpayers and the IRS*); National Taxpayer Advocate 2009 Annual Report to Congress 307-317 (Status Update: *IRS's Identity Theft Procedures Require Fine-Tuning*); National Taxpayer Advocate 2008 Annual Report to Congress 79-94 (Most Serious Problem: *IRS Process Improvements to Assist Victims of Identity Theft*); National Taxpayer Advocate 2007 Annual Report to Congress 96-115 (Most Serious Problem: *Identity Theft Procedures*); National Taxpayer Advocate 2005 Annual Report to Congress 180-191 (Most Serious Problem: *Identity Theft*); National Taxpayer Advocate 2004 Annual Report to Congress 133-136 (Most Serious Problem: *Inconsistence Campus Procedures*).

[3] The IRS refers to this type of tax-related identity theft as "refund-related" identity theft. In "employment-related" identity theft, an individual files a tax return using his or her own taxpayer identifying number (usually an Individual Taxpayer Identification Number or ITIN), but uses someone else's SSN to obtain employment. Consequently, the wages are reported to the IRS under the SSN of the victim, potentially prompting the IRS to pursue the victim for additional tax on the apparent income. *See* IRM 10.5.3.2(4), *Identity Protection Program Servicewide Identity Theft Guidance* (Feb. 27, 2013). Unlike in 1993, when I first represented a client in an identity theft case, the IRS now has procedures in place to minimize the tax administration impact to the victim in these employment-related identity theft situations. Accordingly, I will focus on refund-related identity theft in this testimony.

[4] IRS, Filing Season Statistics for Week Ending May 10, 2013, *at* http://www.irs.gov/uac/Newsroom/Filing-Season-Statistics-May-10,-2013.

Tax Credit, a tax refund may constitute a significant percentage of their annual income. There is little doubt that longer case resolution times can translate to financial inconvenience and sometimes hardship. That is why it is crucial for the IRS to resolve cases promptly.

As requested, I will focus my statement on the impact of tax-related identity theft on the IRS and taxpayers. I will describe some of the actions being taken by the IRS to detect and prevent identity theft, as well as efforts to improve victim assistance. I will describe in detail the life cycle of an identity theft case, outlining the many steps needed to fully resolve the victim's account. This description makes clear that the IRS still has a long way to go to deliver adequate and timely assistance to victims of identity theft. Thus, I also offer recommendations to help the IRS improve its identity theft victim assistance.

I. The IRS Combats Identity Theft by Utilizing Systemic Filters and Requiring Multiple Layers of Authentication.

The IRS takes a multi-faceted approach to detecting tax returns filed by identity thieves and preventing the associated refunds from being processed. This includes using a series of filters to flag potentially fraudulent returns and adjusting the filters each year as the IRS learns more about how the thieves operate. In calendar year 2013 (through May), identity theft filters stopped nearly 850,000 returns, an increase of 135 percent from the same period in 2012.[5]

The IRS also works cooperatively with banks and other financial institutions to thwart attempts by identity thieves to defraud the government. Private businesses, which often have developed their own algorithms to detect fraud, alert the IRS of suspicious transactions. The IRS then investigates the taxpayers involved and recoups the funds from the financial institution if it verifies fraudulent activity. This "external leads" program has enabled the IRS to recover more than $293 million from over 122,000 accounts this year.[6]

The IRS also is using online tools to improve its employees' ability to conduct research in ID theft cases. Integrated Automated Technologies, or IAT, is a suite of software that allows employees to conduct research, adjust accounts, and prepare letters to send to the affected taxpayers. Several recent additions to the IAT suite should reduce the time employees spend working identity theft cases.

In an effort to provide a greater level of security to taxpayers who have previously been victimized by identity theft, the IRS has issued identity protection personal identification numbers (IP PINs) to victims whose identities and addresses it has verified. An IP PIN is a unique single-use code that the taxpayer must use, along

[5] IRS Identity Theft Advisory Council, *Identity Theft Status Update* (June 27, 2013).

[6] *Id.*

with his or her taxpayer identification number, to file electronically.[7] If a return filer does not use a valid IP PIN, the return will be marked "unpostable" – meaning it will not be processed – and will be temporarily suspended while receiving additional scrutiny. These unpostable returns will be subjected to a series of filters (known as "business rules" in IRS parlance) that are designed to verify the identity of the filer.

For the 2013 filing season, the IRS issued more than 770,000 IP PINs.[8] For 2014, the IRS is exploring the use of "e-authentication" to expand the IP PIN program. Under this system, taxpayers would log onto a web portal, answer a series of "out-of-wallet" questions to establish and verify their identities, and then receive IP PINs electronically. Taxpayers could also use this e-authentication program to secure replacement IP PINs if they misplace the ones mailed to them.

As noted above, the IRS relies on a series of business rules to safeguard accounts from potential identity theft. When someone attempts to file using a taxpayer's SSN that has already been marked with an identity theft indicator, such a return must pass the business rules before it will be processed. Returns that fail the business rules will be marked unpostable. Initially marking a return as unpostable typically adds 39 to 44 days to the processing time of a legitimate tax return.[9]

I have serious reservations about the effectiveness of these business rules and the exceptionally high rate of legitimate returns they ensnare. Preliminary analysis suggests that an astonishing 80 percent of tax returns that the IRS flags as unpostable as a result of failed identity theft business rules or missing IP PINs are eventually deemed legitimate.[10] Of the 191,894 tax returns in this population of unpostable returns in the 2013 filing season, 152,951 (80 percent) eventually were found to be legitimate returns filed by the true owners of the SSNs. The IRS is aware of my concerns, as I have repeatedly asked the IRS to determine the cause of the spike in unpostable returns and adjust its business rules that are significantly over-inclusive. The IRS is harming too many taxpayers by unnecessarily rejecting and delaying the processing of their returns.

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[7] *See* IRM 10.5.3.2.16, *Identity Protection Personal Identification Number (IP PIN)* (Jan. 11, 2013).

[8] IRS Identity Theft Advisory Council, *Identity Theft Status Update* (June 27, 2013).

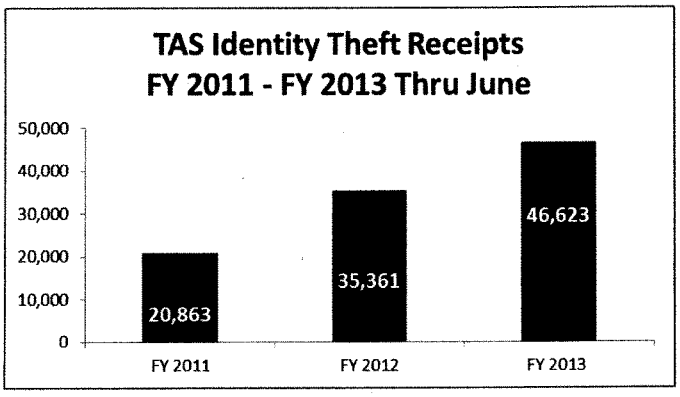
[9] The IRS Accounts Management (AM) function no longer works unpostable returns that failed business rules; this inventory was transferred to the Submission Processing identity theft specialized unit beginning in the 2013 filing season. *See* IRM 3.12.179.42.2; IRM 3.12.179.43. For this analysis of the average age of unpostable returns, we focused on Reason Code 0 (which is used when a return does not contain a matching IP PIN) and Reason Code 1 (which is used when a return "attempts to post to an account containing an unreversed TC (Transaction Code) 971 AC 501 or 506 and does not pass established identity theft business filters"). GUF 5740, through 6/27/2013.

[10] For this analysis of unpostable returns, we focused on Reason Code 0 and Reason Code 1, which are described more fully in the preceding footnote. *See* IRM 3.28.4.5, *Unpostable Code (UPC) 147 Reason Code (RC) 0 and Reason Code (RC) 1* (Feb. 14, 2013). IRS, GUF Reports 5540 and 5570 through 6/27/2013.

II. Despite Its Efforts, the IRS Remains Inundated with Identity Theft Cases.

Notwithstanding more stringent filters, improved cooperation with the private sector, and increased personnel resources dedicated to this problem,[11] the volume of identity theft returns continues to grow at a disturbing rate. The IRS had almost 690,000 identity theft cases in inventory at the end of May 2013, a substantial increase from a year ago, when the number was less than 500,000.[12]

Taxpayer Advocate Service (TAS) case receipts are a barometer of the effectiveness of IRS procedures. From fiscal year (FY) 2011 to FY 2012, TAS stolen identity cases rose by 61 percent,[13] and they are trending upward again this year. TAS received 46,623 identity theft cases during the first three quarters of FY 2013, a 32 percent increase over the same period in FY 2012 and a 123 percent increase from FY 2011.[14]



The growth in TAS's identity theft casework reflects both the increase in identity theft incidents and the IRS's inability to address the victims' tax issues promptly. Because identity theft cases generally encompass multiple issues (see chart below), these cases typically take longer to resolve than other types of cases.

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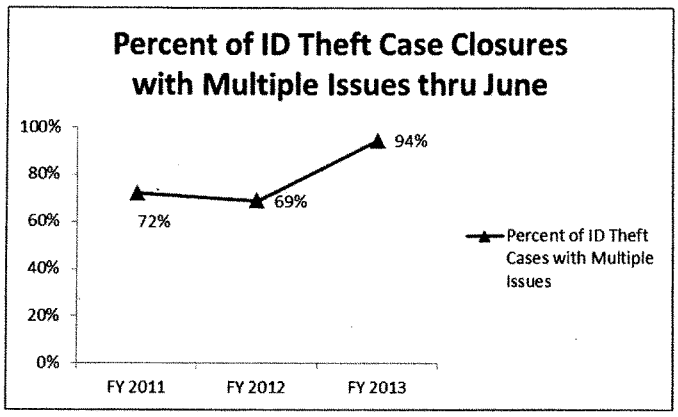
[11] As discussed later in this testimony, the IRS has increased the number of employees who work on identity theft cases to 3,000.

[12] IRS Identity Theft Advisory Council, *Identity Theft Status Update* (June 27, 2013); IRS Identity Theft Advisory Council, *Identity Theft Status Update* (June 19, 2012).

[13] Data obtained from Business Performance Management System (BPMS) reports on October 3, 2012, showing TAS received 34,006 identity theft cases as of September 30, 2011, and 54,748 identity theft cases as of September 30, 2012.

[14] Data obtained from the Taxpayer Advocate Management Information System (TAMIS) (July 1, 2013, July, 1, 2012, July 1, 2011).



Accordingly, the cycle time for identity theft cases worked by TAS is approximately 88 days, compared with 77 days for TAS cases overall.[15] Despite the sharp increase in identity theft casework, TAS is working these cases more efficiently. Over the same period in FY 2012 and FY 2011, the cycle times for TAS identity theft cases were 106 days and 112 days, respectively.[16]

By contrast, the IRS's processing time for identity theft cases has been increasing. In 2008, former Commissioner Shulman made a commitment that the IRS would resolve identity theft victims' tax accounts "quickly and efficiently."[17] While some IRS functions can track the length of time a case is in their inventory (see chart below), the IRS still cannot provide a servicewide cycle time measure for resolving identity theft cases, nor does it track overall cycle time from the taxpayer's perspective. *Specifically, the chart below does not accurately reflect the cycle time from the taxpayer's perspective, since Accounts Management (like most specialized identity theft units in the IRS) measures cycle time solely from the date the case is received in the specific unit. Its cycle time measure does not reflect the time elapsed since the taxpayer filed his or her return or all of the interactions the victim had with the IRS prior to assignment to the function.* Thus, the IRS cannot determine how well it has done in meeting this commitment to resolve identity theft cases "quickly and efficiently."

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[15] Data obtained from TAMIS (July 1, 2013).

[16] *Id.*

[17] *Identity Theft: Who's Got Your Number, Hearing Before the S. Comm. on Finance*, 110th Cong. (Apr. 10, 2008) (response of IRS Commissioner Douglas H. Shulman to questions from Chairman Max Baucus), *at* http://finance.senate.gov/hearings/hearing/download/?id=f989b16e-5da3-452d-9675-b75d796fe2b4.

IRS Cycle Time for Various Categories of Identity Theft Cases Worked by Accounts Management (FY 2012)[18]

Business Operating Division	Function	Inventory Type	Case Type	Avg. Days Open from Receipt by Function to Closure by Function (as of 9/30/2012)
Wage & Investment (W&I)	Accounts Management (AM) Identity Protection Specialized Unit (IPSU)	IDTX	Monitoring tax-related identity theft cases that meet multiple functional criteria and do not meet TAS Criteria 5 – 7 (systemic burden cases); cases worked by appropriate function and monitored by the IPSU (every 165 days	196
W&I	AM IPSU	Identity Theft Assistance Request (ITAR)	Tax-related identity theft cases that meet Criteria 5 - 7. IPSU issues ITARs to appropriate functions and they receive priority treatment. Taxpayer may request IPSU or the case may be referred from another function.	133
W&I	AM	IDT1	Duplicate filing where the second return has a Form 14039 (ID theft affidavit) attached	230

[18] *See* IRS response to TAS information request (Nov. 5, 2012).

Business Operating Division	Function	Inventory Type	Case Type	Avg. Days Open from Receipt by Function to Closure by Function (as of 9/30/2012)
W&I	AM	IDT3	Mixed Entity cases - internally identified. Do not require a Form 14039. Duplicate filing research indicates identity theft that can be resolved internally without taxpayer contact.	323
W&I	AM	IDT4	Self-identified non tax-related identity theft (*e.g.*, stolen wallet)	131
W&I	AM	IDT6	Duplicate Filing Inventory subjected to the Electronic Fraud Detection System (EFDS) filters to identify the true SSN owner. There may already be an open IDT1/3 control on the module so the control will be updated to IDT6.	364
W&I	AM	IDT8	Duplicate filing condition with prior Integrity & Verification Operations (IVO) involvement.	Data not provided

Business Operating Division	Function	Inventory Type	Case Type	Avg. Days Open from Receipt by Function to Closure by Function (as of 9/30/2012)
W&I	AM	IDT9	An open IDT 1/3 is updated to IDT9 upon receipt of an ITAR referral from IPSU. There may be an open IDT1/3 already on the module so the control will be updated to IDT9. If not, a new IDT9 is created.	248

In a May 2012 audit report, the Treasury Inspector General for Tax Administration (TIGTA) found the average cycle time for the identity theft cases it reviewed was 414 days.[19] I am concerned that unless the IRS significantly changes its procedures, identity theft cycle time will continue to increase in the coming year as the IRS struggles to keep up with its burgeoning inventory.

IRS leadership has recognized identity theft as a serious problem and has dedicated more than 3,000 employees to work these cases. However, these employees are spread out among more than 20 different groups within the IRS (see chart below listing the various functions with a specialized identity theft unit). It seems that the IRS's strategy of throwing bodies at the problem, without addressing fundamental problems with its processes, is not achieving the goal of resolving ID theft cases and enabling victims to receive their refunds expeditiously. As the chart below demonstrates, a victim of identity theft must navigate an alphabet soup of IRS departments, forms, and notices before the IRS can fully unwind the harm caused by the identity theft.

[19] *See* TIGTA, Ref. No. 2012-40-050, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (May 3, 2012).

FUNCTIONS	Specialized Processes (Receipt, Roles, and Responsibilities)
Wage & Investment (W&I) Accounts Management (AM)	**Identity Protection Specialization Unit (IPSU)** is located in AM and is responsible for receiving Identity Theft Affidavits (Forms 14039) sent directly to IPSU for both tax-related and non-tax related identity theft. IPSU monitors IDT issues that cross multiple function lines as well as IDT cases that meet certain TAS criteria codes 5-7, called ITARs (Identity Theft Assistance Requests). **AM** also operates specialized groups that work ID theft taxpayer inquiries originating from duplicate-filed returns (fraudulent return posts to victim's account and victim also files) as well as IDT taxpayer correspondence.
W&I Compliance-Automated Underreporter (AUR)	The AUR program matches taxpayer income and deductions submitted by third parties against amounts reported on individual income tax returns. . Receipts mainly come from CP2000 (Request for Verification of Unreported Income, Payments, or Credits) responses. Unit works as specialized group.
W&I Compliance-Automated Collection Services (ACS)	Receipts come from taxpayers in the collection process, mainly responding to IRS balance due notices due to tax assessments caused by identity theft - works as specialized group.
W&I Compliance-Correspondence Examination	Receipts come from taxpayers who were selected for campus correspondence audits. The examination discovers that a fraudulent return was filed one, *i.e.,* one that does not belong to the SSN owner. Works as specialized group.
W&I Compliance – Campus Services Collection Organization (CSCO)	Campus compliance function includes Automated Substitute for Return (ASFR), Taxpayer Delinquent Investigations (TDI), Taxpayer Delinquent Accounts (TDA. As a result of multiple uses of the SSN's erroneous assessments result, causing incorrect account balances. Cases are received as a result of notices involving unfiled tax returns or returns filed by IRS on behalf of taxpayers. Works as specialized group.
W&I Compliance – Compliance Post Adjustment Team (CPAT)	Compliance Post Adjustment Team (CPAT) is a specialized group that works Wage &Investment (W&I) campus compliance back-end adjustments from all the W&I compliance specialized groups. The back end adjustments are completed and refunds are released to the victim. This group does the account clean-up work after other units have taken action.
W&I Compliance-Automated Substitute for Return (ASFR)	ASFR is a specialized group that prepares "substitute" returns based on third-party wage data for taxpayers who fail to file. Multiple or fraudulent use of the SSN generates wage data causing the substitute return to be incorrect and resulting in erroneous assessments on the victim's account. (See CSCO)
W&I Field Assistance (FA) – Taxpayer Assistance Centers (TACs)	TAC Field Assistors do not work IDT cases. However, because they are in the unique position of having the taxpayer in front of them, they have been trained to recognize possible ID theft, verify the taxpayer's identity while he or she is present, and capture all the necessary documentation, which they forward to the function responsible for fully resolving the case.
W&I Return Integrity and Correspondence Services (RICS) Taxpayer Protection Program (TPP)	RICS TPP is responsible for handling potential ID theft cases that are scored by a set of ID theft models (through Electronic Fraud Detection System (EFDS) and the Dependent Database (DDb). Returns pass through a set of "filters" designed to catch fraudulent returns this process also "snags" innocent taxpayers resulting in delayed refunds or requiring taxpayers to contact the IRS to get accounts corrected.
W&I RICS Integrity & Verification Operations (IVO)	RICS IVO handles identity theft account work filtered through EFDS and conducts research to verify the validity of tax return information using a variety of third party information.

FUNCTIONS	Specialized Processes (Receipt, Roles, and Responsibilities)
W&I Submission Processing – Identity Theft (SP-IDT)	The SP-IDT works IDT unpostable inventory – returns previously marked with identity theft markers that pass through a series of business rules. When the return fails these business rules, the return does not post but is sent to the SPIDT to determine if the return belongs to the fraudulent filer or the victim. SPIDT also works AM inventory of duplicate filed returns. SP Accounting will credit a victim's account for a refund lost due to an identity theft after the IDT is substantiated by another function.
Small Business/Self-Employed (SB/SE) Automated Underreporter (AUR)	The AUR program matches taxpayer income and deductions submitted by third parties against amounts reported on individual income tax returns. . Receipts mainly come from CP2000 (Request for Verification of Unreported Income, Payments, or Credits)
SB/SE Automated Collection Services (ACS)	Receipts come from taxpayers in the collection process, mainly responding to IRS balance due notices due to erroneous tax assessments caused by multiple uses of the SSN. Works as specialized group.
SB/SE Correspondence Examination (CORR Exam)	Receipts come from taxpayers who were selected for campus correspondence audits. The examination discovers that a fraudulent return was filed, *i.e.,* one that does not belong to the SSN owner. Works as specialized group.
SB/SE Campus Services Collection Organization (CSCO)	Campus compliance function includes Automated Substitute for Return (ASFR), Taxpayer Delinquent Investigations (TDI), Taxpayer Delinquent Accounts (TDA), etc. IDT may result in multiple uses of the SSNs, causing erroneous assessments and incorrect account balances. Cases are received as a result of balance due notices involving unfiled tax returns or returns filed by IRS on behalf of taxpayers. Works as specialized group.
SB/SE Automated Substitute for Return (ASFR)	ASFR is a specialized group that prepares "substitute" returns based on third-party wage data for taxpayers who fail to file. Identity theft occurs when the wage data is generated, causing the substitute return to be incorrect and resulting in erroneous assessments on the victim's account (See CSCO).
SB/SE Field Examination	Field examiners (revenue agents, tax compliance officers) have face-to-face contact with taxpayers. They are trained to recognize, address, and resolve ID theft cases that surface in examinations they conduct. Accounts needing "back-end" adjustments are sent to Designated Identity Theft Adjustment (DITA) to complete processing and issue refunds.
SB/SE Field Collection	Field revenue officers have face-to-face contact with taxpayers. They are trained to recognize, address, and resolve ID theft cases that surface in their collection case inventory. Accounts needing "back-end" adjustments are sent to DITA to complete processing and issue refunds.
SB/SE Designated Identity Theft Adjustment (DITA)	DITA is a specialized group that works SB/SE compliance "back end" adjustments from the SB/SE specialized groups and LB&I. The back end adjustments are completed and refunds are released to the victim.
Large Business & International (LB&I)	LB&I performs examinations on large businesses and international taxpayers. All employees in LB&I are trained to recognize, address, and resolve ID theft cases with new IDT specialized guidance. Back-end adjustments are sent to DITA to complete processing and issue refunds.
Appeals	All employees in Appeals are trained to recognize, address, and resolve ID theft cases that surface in their appeals work. They follow new IDT specialized guidance, and perform their own adjustments.

FUNCTIONS	Specialized Processes (Receipt, Roles, and Responsibilities)
Taxpayer Advocate Service (TAS)	TAS provides service to identity theft victims who are suffering hardship or are having problems getting their accounts resolved by the IRS. A TAS case advocate works cases from beginning to end and utilizes Operations Assistance Requests (OARs) to request account actions from the various IRS functions needed to resolve the case.

III. The IRS Should Revamp Its Approach to Assisting Identity Theft Victims, Which Currently Takes Much Too Long.

In FY 2013, the IRS changed its strategy for assisting identity theft victims, adopting a specialized approach under which each department (or "function") that deals with identity theft created a dedicated group of employees to work on those issues. Clearly, there are benefits in assigning identity theft cases to a small group of specially-trained employees who can quickly become experts in these types of cases.

However, the IRS is not adequately addressing another important element of the problem. Because identity theft cases are often complex, they often require adjustments by multiple functions.[20] Even in instances where there is just one issue at hand, a case may still require multiple "touches" from various specialized units. The IRS has drafted a complex "transfer matrix" outlining situations in which a case must be routed from one specialized function to another. I am concerned that routing cases among functions sequentially is inefficient and causing excessive delays. In addition, based on TAS's experience with identity theft cases over the years, I believe that transfers among functions will continue to be commonplace.

To illustrate the complexity of an identity theft case and how many "touches" the victim may have with various IRS functions, I want to walk through a hypothetical example of a typical identity theft case.

> On April 1, 2012, John Smith attempts to file his 2011 Form 1040 electronically to claim a refund. He receives an error message that the IRS cannot accept the filing because it has already processed a return under his SSN. Unbeknownst to Mr. Smith, another person had filed a return earlier in the filing season under his SSN (but using a fictitious address) and had also filed a return for the 2010 tax year. The IRS audited the return for the 2010 tax year filed by the thief and bearing Mr. Smith's SSN. Consequently, the IRS assessed additional tax, creating a balance due on Mr. Smith's account and a pending levy from the Collection unit. To fully resolve Mr. Smith's account, the

[20] An IRS task force found that up to 28 different functions may touch an identity theft case. IRS, Identity Theft Assessment and Action Group (ITAAG) Future State Vision and Supporting Recommendations 7 (Oct. 11, 2011).

Accounts Management (AM), Examination, and Collection functions all need to take actions to clear up his 2010 and 2011 tax year accounts.

On April 4, 2012, Mr. Smith calls the IRS toll-free line and reaches a Customer Service Representative (CSR). After researching Mr. Smith's account, the CSR alerts Mr. Smith of the pending Collection activity on his 2010 account. The CSR advises him to submit a paper return for 2011 with a completed Form 14039, *Identity Theft Affidavit*.[21]

On April 5, 2012, Mr. Smith downloads Form 14039 and completes the affidavit, noting that he believes that his 2010 and 2011 tax years are impacted. Mr. Smith submits a 2011 Form 1040 and an unsigned affidavit to the appropriate IRS campus. On April 15, 2012, a Submission Processing (SP) employee reviews the tax return, notes that an ID theft affidavit is attached, and generates a letter to Mr. Smith acknowledging receipt of the affidavit and providing a *180-day timeframe for resolution*. However, this letter does not provide contact information for the Identity Protection Specialized Unit (IPSU).[22] Thus, if Mr. Smith needs to provide additional information regarding his identity theft case, he could not reach the unit established to be the centralized point of contact with identity theft victims.

Because the fraudulent 2011 tax return had already been processed for this account, an internal transcript is generated, causing a duplicate filing condition for John Smith's SSN. On May 15, 2012, SP transfers the case to the Accounts Management (AM) Identity Theft specialized unit (IDT), which works internal transcript cases. The AM IDT unit works its inventory on a first-in, first-out (FIFO) basis and generally takes up to 180 days from the date it receives the taxpayer's complete and legible documentation. (Note that AM's cycle time is not calculated from the date the taxpayer first engaged with the IRS and submitted some documentation, so already there is at least a month's discrepancy between the taxpayer's 180-day expected resolution date and the AM IDT unit's 180-day resolution date.[23])

On September 15, 2012, the AM IDT employee performs preliminary research on John Smith's account and confirms that the first return posted was fraudulent and not submitted by Mr. Smith. However, the employee also notices that Mr. Smith did not sign the identity theft affidavit he submitted. The AM IDT employee contacts Mr. Smith and requests that he sign the affidavit. Mr. Smith complies, and returns the signed affidavit on September 30, 2012. Then, after performing more research, the AM IDT employee discovers that

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[21] *See* IRM 21.9.2.3, *Identity Theft - Telephone Overview* (Jan. 7, 2013).

[22] *See* Letter 5073C; IRM 3.11.3-1, *Attachment Guide* (July 25, 2013).

[23] *See* IRM 10.5.3.2.4.1(1), *Multiple Function Criteria (MFC) Cases Requiring Referral to IPSU for Monitoring* (May 8, 2013). There is no correlation to the 180-day timeframe referenced in Letter 5073.

the prior-year return on Mr. Smith's account was also fraudulently filed, with an audit resulting in tax owed, and enforcement action (levy) imminent. [Note that had the CSR not mentioned the 2010 collection activity to Mr. Smith on the initial call, and had Mr. Smith not explicitly listed 2010 on his ID theft affidavit, the AM IDT employee would have looked solely at the 2011 tax year and not conducted research regarding 2010 or any other open tax year.[24] Mr. Smith would likely have to go through this same process with later-discovered issues. Even with an identity theft marker on the account, Mr. Smith would have to show the examination function that he was the "legitimate" Mr. Smith.]

The IPSU monitors taxpayer accounts through resolution when an SSN owner's account requires corrective actions by more than one function. Multiple Function Criteria are defined as "an identity theft case requiring resolution across functions,"[25] which in this case includes Accounts Management, Examination, and Collection. Therefore, after resolving the internal transcript issue and processing John Smith's correct return for tax year 2011 on November 15, 2012, the AM CSR completes the referral paperwork (Form 14027A) and faxes it to the IPSU. At this point – more than seven months after filing his return on paper – Mr. Smith still has not been told when he can expect to receive his refund, nor has he received any communication from the IRS regarding the processing of his 2011 tax return.

Upon receipt of the paperwork from AM on November 15, 2012, IPSU will:

- Open a control for the purpose of monitoring;
- Research to identify all functions needing to take corrective actions;
- Email a completed referral form (Form 14027B) to the various ID theft functional liaisons, notifying them that the taxpayer's account needs corrective actions, including:
  - Collection to halt the impending levy;
  - Exam to review and correct the prior-year account; and
  - AM to review and correct the current-year account.
- Monitor for account actions by all functions on the 165th day from receipt of referral. *Thus, the first "monitoring" action by the IPSU centralized function occurs more than one year after Mr. Smith filed his return on paper.*

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[24] *See* IRM 21.6.2.4.2.3, *Preliminary Research* (June 18, 2013).

[25] *See* IRM 10.5.3.2.4.1, *Multiple Function Criteria (MFC) Cases Requiring Referral to IPSU for Monitoring* (May 8, 2013).

On December 15, 2012, the IPSU sends referral forms to Collection, Exam, and AM. The referral form to Collection requests that the pending levy be stopped. Unfortunately, John Smith's current year refund, which was finally processed now that his return was processed, was applied to the prior-year balance due and not paid to him. On January 15, 2013, the Collection employee temporarily suspends the levy while the account is under review for identity theft and notifies the IPSU.

On April 1, 2013, the Examination employee is assigned Mr. Smith's case on a FIFO (first in, first out) basis as calculated from the date of receipt of the IPSU referral in the Exam unit (not the date when Mr. Smith first raised the issue of identity theft to the IRS). The employee concurs with the identity theft determination and agrees to remove the fraudulent return and additional tax assessment from John Smith's 2011 tax year. However, a different processing function in Compliance must remove the fraudulent return and additional assessment from the prior year account to complete the adjustments (in this case, the Compliance Post Adjustment Team, or CPAT). The CPAT, in contrast to other specialized identity theft units, works cases based on the age of the case from the date the IRS first received documentation from the identity theft victim.[26]

On April 30, 2013 (165 days after the IPSU established control of the case and more than a year after Mr. Smith filed his 2011 return on paper), the IPSU CSR reviews the account and notices that no action was taken on John Smith's 2010 account. On May 7, 2013, the IPSU CSR sends a secure email to Examination asking about the status of the account and reminding Exam that the 180th day for resolution is approaching. Examination must either resolve and close its case or send an interim letter to provide the taxpayer with a status update and extend case resolution period by another 60 days (13 months after Mr. Smith filed his 2011 return on paper).[27]

On June 15, 2013, a CPAT employee adjusts the prior-year account and sends a completed referral form back to the IPSU. On July 1, 2013, John Smith finally receives his refund, 15 months after he initially filed his 2011 return.

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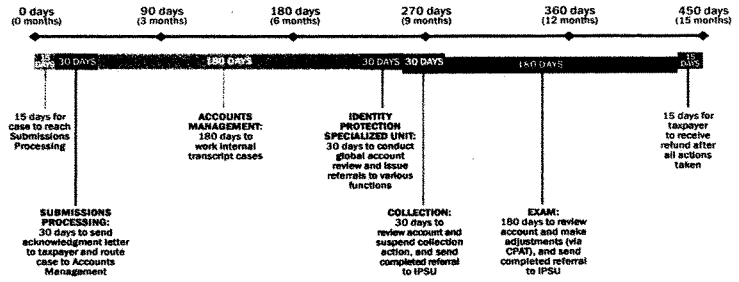
[26] *See* IRM 4.19.13.25.11, *Referrals to CPAT/DITA* (Sept. 11, 2012).

[27] *See* IRM 21.9.2.4.2, *Tax-Related Identity Theft (Andover and Fresno IPSU Only)* (May 29, 2013).

Cycle time from the taxpayer's perspective in the ID theft example



This convoluted example may seem contrived, but it is, unfortunately, a very typical identity theft case. Identity theft victims routinely must deal with three or four IRS functions to resolve all of their account issues. Most specialized units treat the identity theft as a separate case and work its inventory on a FIFO basis from the perspective of that specialized unit. Under this "silo-FIFO" approach, a taxpayer who reported the identity theft incident two weeks ago may be placed in the queue ahead of a victim who has been trying to obtain a refund for 20 months, if the latter taxpayer had the misfortune of dealing with other IRS departments to resolve related issues. By having the IRS work identity theft cases as FIFO from the perspective of each "silo," rather than holistically from the taxpayer perspective, we not only harm taxpayers (the victims) but also give a distorted picture of IRS efficiency and productivity.

The Treasury Inspector General for Tax Administration has confirmed that identity theft cases are complex and easy for the IRS to lose in the shuffle. In its May 2012 report on IRS identity theft victim assistance, TIGTA selected a sample of 17 identity theft cases and found the IRS had opened 58 separate cases to resolve the accounts of those 17 victims – an average of nearly three and a half cases for each person.[28] The average cycle time for those cases was 414 days, which included an average of 86 days of inactivity.[29]

[28] *See* IRM 21.9.2.4.2, *Tax-Related Identity Theft (Andover and Fresno IPSU Only)* (May 29, 2013).

[29] *Id.*

I have long advocated for the creation of a "traffic cop" to guide cases through the bureaucracy and serve as the single point of contact for the victim. By assigning ownership of an identity theft case to a central unit, or even a single employee within that unit, the IRS can move the case forward in the most efficient manner and reduce delays and taxpayer frustration. Without this single point of contact to facilitate case transfers from one function to another and to ensure timeliness of actions, there is greater risk that cases will get "stuck" or lost in the process.

In contrast, when TAS works a case, we assign one case advocate to the taxpayer. After speaking with him or her and reviewing documentation, the case advocate:

- Determines what actions are needed;
- Develops an action plan that prioritizes the actions; and
- Works with the appropriate functions to see that the actions are taken in a timely manner.

This includes frequent follow-up with the functions and regular communication with the taxpayer. Each taxpayer who has a case accepted into TAS is assigned a single case advocate whose toll-free phone number is given to the taxpayer, and every Local Taxpayer Advocate office has a toll-free fax number, eliminating barriers to communication. I believe, and the data support me in saying, that this is the reason TAS can resolve identity theft cases in 88 days, while cases worked under normal IRS procedures can languish for more than a year. Although identity theft cases are complex, TAS case advocates have achieved a relief rate of 88.5 percent in identity theft cases in FY 2013 (compared to 78.9 percent for TAS cases overall). An overwhelming 94 percent of identity theft victims that come to TAS in FY 2013 (through March) have expressed satisfaction (compared to a customer satisfaction score of 90 percent for TAS cases overall in that time period).[30]

The IRS needs to approach its processes from a completely different perspective than it has to date. I have repeatedly proposed that the IPSU, the centralized IRS organization established in 2008 to assist identity theft victims, be designated to fulfill this key "ownership" role. I believe that the IRS should follow TAS's approach to case resolution, and allow the IPSU to "own" identity theft cases rather than simply "monitor" them. I had the pleasure of consulting with IPSU front-line managers and analysts earlier this summer in the Andover campus. I was pleasantly surprised at how open they were about their frustrations and suggestions for relieving those frustrations. Based on those conversations and on my observations over the years, I have formulated some specific recommendations that I believe will greatly benefit victims of identity theft and help the IRS operate more efficiently.

1. **Designate the IPSU as the centralized function that controls *all* identity theft cases.** Currently, the IPSU monitors identity theft cases only when

[30] Analysis conducted by TAS Business Assessment of customer satisfaction scores reported for FY 2013 (through March 2013); data obtained from TAMIS (July 1, 2013).

multiple functions are involved. *This is misleading, because the IRS treats all Compliance functions (such as ACS, ASFR, AUR, and Correspondence Exam) as "one function" for purposes of IPSU monitoring.* To avoid having identity theft cases bounce around from one Compliance function to another, with no function responsible for overall resolution of the case, the IRS should designate the IPSU as the responsible function for all identity theft cases, and staff it accordingly. (The IRS will be able to shift resources to the IPSU because our proposed approach will reduce rework and wasted, repetitive efforts in other identity theft-related areas, including answering and referring phone calls from frustrated victims experiencing endless delays and runaround.) Taxpayers who believe they are victims of identity theft should be directed to the IPSU from the beginning. The IPSU should collect all documentation and review it as soon as it is received, so the taxpayer can cure any defects immediately.

2. **Allow IPSU employees to make simple account adjustments.** Many IPSU employees have experience in adjusting taxpayer accounts from their prior positions in AM. When I met with IPSU employees this summer, some of them expressed frustration at not being able to make simple adjustments themselves. Instead, they must transfer control to a different function, request that account adjustments be made, and follow up periodically. It would be simpler (and more beneficial to the taxpayer) if IPSU employees had the delegated authority to make account adjustments.[31]

3. **Give "teeth" to the IPSU to make its involvement in cases more meaningful.** As stated above, the IPSU must rely on various functions to take certain actions, but has no authority to hold these functions accountable. When TAS works an identity theft case, we issue Operations Assistance Requests asking that a function complete an action within, for example, three days. If the function does not comply, we can follow up by issuing a Taxpayer Assistance Order *requiring* the IRS to take an action (or cease taking an action).[32] The IPSU has no similar tools at its disposal. I suggest that the IPSU enter into Memoranda of Understanding with all of the specialized identity theft units that specify the timeframes within which actions will occur and provides for regular reporting to IRS leadership to identify the frequency with which a function fails to meet those timeframes. Otherwise, involvement by the IPSU adds little value and is very frustrating for the IPSU employees.

4. **Implement "timeliness" measures to ensure cases do not languish.** TIGTA's report noted that the identity theft cases it reviewed showed an

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[31] For example, the Deputy Commissioner for Services and Enforcement delegated to the National Taxpayer Advocate the authority to perform routine customer service functions, including making certain account adjustments. *See* IRM 1.2.50.3, *Delegation Order 13-2 (Rev. 1)* (Mar. 3, 2008). (The National Taxpayer Advocate then re-delegated these authorities to case advocates.)

[32] *See* Internal Revenue Code § 7811.

average of 86 days of inactivity. In TAS cases, we institute "timeliness" goals that are intended to help our case advocates move cases along. The IRS should adopt a similar approach so its cases do not languish in one function. For example, an IPSU employee could have a goal to contact the taxpayer within two days of case receipt, develop a case action plan within three days of contact with the taxpayer, issue a request to a function within three days of developing the case action plan, follow up with the function within three days of the requested completion date, etc. The goal of these "timeliness" measures is to keep cases moving, which in turn will reduce cycle time in an organic way – not by artificially or arbitrarily setting a cycle time goal. Moreover, by centralizing cases in the IPSU, the IRS's cycle time measure will reflect the taxpayer's experience more closely, and the IPSU can designate certain taxpayer cases for expedited treatment in one function based on the overall cycle time of the case.

5. **Utilize Field Assistance employees in Taxpayer Assistance Centers more effectively.** I recognize that the IRS is trying to achieve efficiencies through specialization. But the IRS should not ignore the advantages of having geographically-dispersed Taxpayer Assistance Centers (TACs). For example, when a taxpayer comes to the TAC to present evidence of his or her identity, the Field Assistance (FA) employee may collect documentation, verify the SSN owner, temporarily suspend Collection action, and submit a referral to Exam. However, in order for the return to be processed, the FA employee must forward the case to SP. The resolution of the taxpayer's issue would still need to be handled by the three separate functions – Submission Processing, Collection, and Exam. A victim of identity theft should also be able to make an appointment to bring in all required documentation to a TAC so the return can be processed and account adjustments made as soon as the initial determination is made. From a taxpayer perspective, this would be a far better solution than waiting in various queues. Alternatively, the IRS should consider allowing victims of identity theft to make an appointment at a TAC and use virtual service delivery to connect the taxpayer with the appropriate unit for an immediate decision.

6. **Develop an identity theft database or system accessible to all functions working on identity theft cases.** As I discussed above, the IRS does not track cycle time from the identity theft victim's perspective; rather, each specialized function tracks the cycle time of the particular aspect of an identity theft case within its silo. With the vast majority of identity theft cases requiring action by multiple functions (even if not deemed to meet "multiple function criteria" under the IRS's misleading definition), the IRS does not have the capability to accurately track identity theft cases. By developing and utilizing a servicewide platform for tracking and monitoring its cases, the IRS could accurately assess the inventory at a given time and measure cycle time from the date the taxpayer identities himself or herself as a victim of identity theft. Such a system would also allow seamless transfers of cases from one function

to another. Additionally, a single identity theft database would allow for the sharing of information amongst functions. They could see if the taxpayer submitted documentation and what actions the other functions have taken, thereby helping to reduce duplicative actions by multiple functions. We recognize that the start date may differ depending on the facts and circumstances of the case, but the IRS should be able to develop guidance about when to start counting cycle time that more closely reflects the taxpayer's experience and more accurately flags over-aged cases. Currently, as the case example above shows, an identity theft case might not be considered over-aged until the victim has been in the system for over a full year.

IV. Conclusion

Identity theft causes significant problems for both the taxpayer and the IRS. IRS leadership has responded to this challenge not only by assigning more employees to work on identity theft but also by spending significant resources re-engineering its victim assistance processes over the years.[33] Certainly, some improvements have been made. Yet I think we can all agree that the IRS is not where it needs to be in terms of victim assistance.

Identity theft is a discrete problem, even if it has multiple parts. As such, it lends itself to developing a centralized unit staffed with experts whose work is given high priority by all the other units that handle aspects of the cases. That is what I expected from the IPSU when the Commissioner authorized the establishment of this unit in 2008. Yet five years later, it is clear that is not what the IRS has achieved. In fact, the IRS has gone in the opposite direction and has adopted a decentralized approach to identity theft victim assistance, one that imposes undue burden on the victims and creates procedures that would make Rube Goldberg proud.

The IRS needs to look at its processes from the perspective of the identity theft victim. Given the multiple points of contact, multiple inactive periods, and FIFO processing for each unit, the IRS might find, if it adopts our suggestions, that it would actually require **fewer** resources to do the same volume of work. I am confident that taxpayers – our customers – would be much more satisfied with their experience.

In my testimony, I have tried to identify a number of positive, practical, and achievable steps the IRS can take to improve its assistance to victims of identity theft. I thank the committee for its continued involvement and interest in this matter. I stand ready to help and appreciate the opportunity to testify.

[33] TAS had representatives on many of these task forces and re-engineering teams, yet I never got the sense that our voice was heard.

Mr. MICA. Our next witness is Michael McKenney, and he is the Acting Deputy Inspector General for Audit at the Treasury Inspector General for Tax Administration.

Welcome, Mr. McKenney, and you are recognized.

STATEMENT OF MICHAEL E. MCKENNEY

Mr. MCKENNEY. Chairman Mica, Ranking Member Connolly, and members of the subcommittee, thank you for the invitation to testify on the important subject of identity theft and its impact on taxpayers and tax administration. The Treasury Inspector General for Tax Administration, or TIGTA, has provided extensive coverage of tax fraud-related identity theft by conducting both audits and investigations. My comments today will focus on the results of our prior audit work and two audits that are ongoing.

The IRS has made identity theft a priority and has made some progress over the past year. However, significant improvements are still needed. As of June 30th of this year, the IRS reported that during the 2013 filing season it stopped the issuance of $4.2 billion in potentially fraudulent tax refunds associated with 860,000 tax returns that involve identity theft. For the 2013 filing season, the IRS increased the number of identity theft filters to 80 from the 11 it used in 2012. This enabled the IRS to identify almost twice as many identity theft tax returns as the prior year.

In our follow-up audit report that will be issued next month, we determined that for tax year 2011 returns, which are filed in 2012, there were approximately 1.1 million undetected tax returns with characteristics of identity theft. The associated fraudulent tax refunds totaled approximately $3.6 billion, which is a 30 percent decrease from the $5.2 billion of undetected fraud we found for tax year 2010.

Even with its expanded filters, it will remain a challenge for the IRS to detect these fraudulent returns unless it has access to third-party income and withholding information before the tax returns are processed. In this regard, the IRS is currently working with three States to determine how partial-year information may be used to identify fraudulent tax returns before the refund is paid.

Another challenging aspect to this problem is the use of direct deposit for the fraudulent tax refunds. Most of the tax year 2011 returns we identified with indicators of identity theft involved the use of direct deposit to obtain tax refunds. These totaled approximately $3.5 billion. In some cases, many fraudulent refunds are deposited to the same bank account. For example, one such bank account received 446 direct deposits, totaling over $591,000.

TIGTA recommended that the limited limit the number of tax refunds sent to the same direct deposit account. We also recommended that the IRS work with Federal agencies and banking institutions to ensure tax refunds are deposited only to an account in the taxpayer's name.

The IRS developed new filters for the 2013 filing season which are designed to identify and stop tax returns with similar direct deposit characteristics. As of May 30th of this year, the IRS indicated that it had identified over 154,000 such tax returns and prevented approximately $470 million in tax refunds with the use of these filters. In addition, as of the end of June, over 18,200 refunds were

returned from financial institutions, totaling more than $60 million.

The IRS still faces challenges in providing assistance to identity theft victims. In a current audit which reviewed cases worked in 2012, we found taxpayers have continued to face lengthy delays in the resolution of their identity theft cases. In addition, tax accounts were not always correctly resolved, which resulted in delayed or incorrect refunds.

One practice that is designed to protect taxpayers from being victimized again the following year is the issuance of identity protection personal identification numbers. The IRS issued almost three times as many of these numbers to taxpayers in 2013 as it did in 2012.

The IRS is continuing to take actions this year to improve its ability to expedite assistance to victims and prevent fraud. We will continue our work in this area to evaluate the IRS' progress. Chairman Mica, Ranking Member Connolly, and members of the subcommittee, thank you for the opportunity to share my views.

Mr. MICA. Thank you for your testimony.

[Prepared statement of Mr. McKenney follows:]

HEARING BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
U.S. HOUSE OF REPRESENTATIVES

"Refund-Related Identity Theft"

Testimony of
Michael E. McKenney
Acting Deputy Inspector General for Audit
Treasury Inspector General for Tax Administration

August 2, 2013

Washington, D.C.

TESTIMONY OF
MICHAEL E. MCKENNEY
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION
before the
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
U.S. HOUSE OF REPRESENTATIVES

"Refund-Related Identity Theft"

August 2, 2013

Chairman Mica, Ranking Member Connolly, and Members of the Subcommittee, thank you for the invitation to provide testimony on the important subject of identity theft and its impact on the Internal Revenue Service (IRS) and taxpayers. The Treasury Inspector General for Tax Administration (TIGTA) plays a critical role in providing taxpayers with assurance that the approximately 92,500 IRS employees who collect over $2.1 trillion in tax revenue each year, process over 147 million individual tax returns, and issue approximately $333 billion in tax refunds, do so in an effective and efficient manner while minimizing the risks of waste, fraud, and abuse.

TIGTA has provided ongoing oversight and testimony on the issue of tax fraud-related identity theft because of the rapidly growing nature of this tax crime. The IRS has made this issue one of its top priorities and has made some progress; however, significant improvements are needed. In addition, there is a portion of the problem that cannot be fully addressed until the IRS receives income and withholding information before tax returns are processed, which may require legislative action.

Incidents of identity theft affecting tax administration have continued to rise since Calendar Year (CY) 2011, when the IRS identified more than one million incidents of identity theft. As of June 29, 2013, the IRS had identified almost 1.9 million incidents of identity theft thus far in CY 2013. This figure includes approximately 212,000 incidents in which taxpayers contacted the IRS alleging that they were victims of identity theft, and almost 1.7 million incidents in which the IRS detected potential identity theft.[1]

[1] Taxpayers can be affected by more than one incident of identity theft. The 212,000 incidents affected over 180,000 taxpayers, and the 1.7 million incidents affected over 1.4 million taxpayers.

Since May 2012, my office has issued three reports on the subject of identity theft.[2] Our first report addressed the IRS's efforts to assist victims of identity theft, while the second dealt with the IRS's efforts to detect and prevent the filing of fraudulent tax returns by identity thieves. The third report, issued in June 2013, evaluated whether the Taxpayer Protection Program was effectively assisting taxpayers that the IRS proactively identifies as potential identity theft victims.[3] My comments today will focus on the results of those reports and on our ongoing work to assess the IRS's progress in detecting and resolving identity theft issues related to tax administration.

The IRS has described identity theft as the number one tax scam for 2013.[4] Identity theft occurs when someone uses another taxpayer's personal information, such as name, Social Security Number (SSN), or other identifying information, without permission, to commit fraud or other crimes. In many cases, an identity thief uses a legitimate taxpayer's identity to fraudulently file a tax return and claim a refund.

As we have reported, the total impact of identity theft on tax administration is significantly greater than the amount the IRS detects and prevents, and the IRS is not providing effective assistance to taxpayers who report that they have been victims of identity theft. Although the IRS is continuing to make changes to its processes to increase its ability to detect, prevent, and track fraudulent tax returns and improve assistance to victims of identity theft, there is still work that needs to be done.

One promising development occurred in March 2013 when the IRS announced it was expanding a program designed to help law enforcement obtain tax return data for their investigations and prosecutions of specific cases of identity theft. Under a pilot program, which started in April 2012 in the State of Florida, State and local law enforcement officials who had evidence of identity theft involving fraudulently filed tax returns were able, through a written disclosure consent waiver from the victim, to obtain tax returns filed using the victim's SSN. The pilot was expanded in October 2012 to eight additional States[5] and became permanent on March 29, 2013 as a nationwide program. In April 2013, the IRS announced that this partnership was expanded to

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[2] TIGTA, Ref. No. 2012-40-050, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (May 2012); TIGTA, Ref. No. 2012-42-080, *There Are Billions of Dollars in Undetected Tax Refund Fraud Resulting From Identity Theft* (July 2012); TIGTA, Ref. No. 2013-40-062, *The Taxpayer Protection Program Improves Identity Theft Detection; However, Case Processing Controls Need to Be Improved* (June 2013).

[3] This program reviews tax returns that are proactively identified by the IRS as potential identity theft and stops fraudulent refunds before they are issued.

[4] IRS Press Release, IR-2013-33 (March 26, 2013), available at http://www.irs.gov/uac/Newsroom/IRS-Releases-the-Dirty-Dozen-Tax-Scams-for-2013.

[5] Alabama, California, Georgia, New Jersey, New York, Oklahoma, Pennsylvania, and Texas.

include all 50 states, the District of Columbia, Guam, the Northern Marianas Islands, Puerto Rico, and the U.S. Virgin Islands. As of May 30, 2013, the IRS has processed 2,731 waivers from 244 different law enforcement agencies.

Detection and Prevention of Identity Theft

As of June 30, 2013, the IRS reports that during the 2013 Filing Season it stopped the issuance of $4.2 billion in potentially fraudulent tax refunds associated with almost 860,000 tax returns classified as involving identity theft. While the amount of fraudulent tax refunds the IRS detects and prevents is substantial, it does not know how many identity thieves are filing fictitious tax returns and how much revenue is being lost due to the issuance of fraudulent tax refunds.

Although the IRS identified significantly more identity theft incidents in 2013, this is still a growing problem area for the IRS. In July 2013, TIGTA issued a draft report showing that the impact of identity theft on tax administration continues to be significantly greater than the amount the IRS detects and prevents.[6] Using the characteristics of tax returns that the IRS confirmed as involving identity theft and income and withholding information the IRS received in 2012 and early 2013, we analyzed Tax Year (TY) 2011 tax returns processed during the 2012 Filing Season and identified approximately 1.1 million undetected tax returns where the primary Taxpayer Identification Number on the tax return was an SSN. These tax returns have potentially fraudulent tax refunds totaling approximately $3.6 billion, a decrease of $1.6 billion compared to the $5.2 billion we reported for Tax Year 2010.[7] Although these tax returns met the characteristics of IRS confirmed identity theft cases involving the use of an SSN, some potentially fraudulent tax returns we identified could also be the result of non-reporting of income and withholding by the employer or an individual using his or her own SSN to file a fraudulent tax return.

In addition, we expanded our TY 2011 analysis to include tax returns where the primary Taxpayer Identification Number on the tax return is an Individual Taxpayer Identification Number (ITIN). We identified more than 141,000 TY 2011 tax returns filed with an ITIN that have the same characteristics as IRS confirmed identity theft tax returns. Potentially fraudulent tax refunds issued for these undetected tax returns totaled approximately $385 million, which is in addition to the approximately $3.6 billion referred to earlier. Although these tax returns met the characteristics of IRS confirmed

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[6] TIGTA, Audit No. 201240044, *Detection Has Improved; However, Identity Theft Continues to Result in Billions of Dollars in Potentially Fraudulent Tax Refunds*, report planned for September 2013.
[7] TIGTA, Ref. No. 2012-42-080, *There Are Billions of Dollars in Undetected Tax Refund Fraud Resulting From Identity Theft* (July 2012).

identity theft cases involving the use of an ITIN, some of the potentially fraudulent tax returns we identified could also be the result of misreporting of income and withholding by the employer or an individual obtaining an ITIN for the sole purpose of using the ITIN to file a fraudulent tax return.

In total, the IRS could issue potentially fraudulent refunds of approximately $4 billion annually as a result of identity theft tax refund fraud. A common characteristic of tax returns filed by identity thieves is the reporting of false income and withholding to generate a fraudulent tax refund. Without the falsely reported income, many of the deductions and/or credits used to inflate the fraudulent tax refund could not be claimed on the tax return. Another aspect to this problem is that many individuals who are victims of identity theft may be unaware that their identity has been stolen and used to file fraudulent tax returns. These individuals are typically those who are not required to file a tax return. It is not until the IRS receives income and withholding information later in the year that the IRS may determine the tax return was false and possibly the result of identity theft. If the taxpayer is required to file a tax return, often the IRS discovers the identity theft when two or more tax returns are filed under the same name and SSN.

When the identity thief files the fraudulent tax return before the legitimate taxpayer, the IRS does not yet know whether the victim's identity will be used more than once. Instances of duplicate tax returns cause the greatest burden to the legitimate taxpayer. Once the legitimate taxpayer files his or her tax return, this tax return is identified as being a duplicate tax return and the refund is held until the IRS can confirm the taxpayer's identity. For TY 2011, we identified more than 174,000 SSNs that were used multiple times, *i.e.*, one or more potentially fraudulent tax returns were associated with the multiple use of an SSN.[8] We estimate that more than $183 million in potentially fraudulent tax refunds were paid to identity thieves who filed tax returns before the legitimate taxpayers filed theirs.[9] This is in addition to the $4 billion noted previously, which was related to taxpayers who do not appear to have a filing requirement.

Although the IRS is continuing to work towards finding ways to determine which tax returns are legitimate, it could do more to prevent identity thieves from electronically filing (e-filing) fraudulent tax returns by strengthening controls. The majority (93 percent) of the undetected tax returns TIGTA identified were e-filed. Before a tax return can be submitted electronically, the taxpayer must verify his or her identity with

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[8] This estimate includes only those tax returns filed on tax accounts that contain an Identity Theft Indicator added on or before December 31, 2011. Identity theft indicator codes were developed to centrally track identity theft incidents and are input to the affected taxpayer's account.
[9] This estimate is based only on the duplicate use of the primary SSN.

either the prior year's tax return Self-Select Personal Identification Number or Adjusted Gross Income. However, we determined that this control can be circumvented.

For the 2013 Filing Season, the IRS has required the taxpayer to provide additional personally identifiable information. Nonetheless, it remains a challenge to authenticate taxpayers who call or write to the IRS to request help with their tax account. The IRS has not adopted industry practices of shared secrets, such as security challenge questions, to authenticate taxpayers (*e.g.*, mother's maiden name or name of first pet).

Access to third-party income and withholding information at the time tax returns are processed is the single most important tool the IRS could use to detect and prevent tax fraud-related identity theft resulting from the reporting of false income and withholding. Having third-party reporting information at the time tax returns are processed would enable the IRS to identify the income as false and prevent the issuance of a fraudulent tax refund. However, most of this information is not available until well after taxpayers begin filing their returns.

Another important tool that could immediately help the IRS prevent tax fraud-related identity theft is the National Directory of New Hires.[10] However, legislation would be needed to expand the IRS's authority to access the National Directory of New Hires wage information for use in identifying tax fraud. Currently, the IRS's use of this information is limited by law to just those tax returns that include a claim for the Earned Income Tax Credit. The IRS included a legislative proposal for expanded access to this information in its annual budget submissions for Fiscal Years (FY) 2010 through 2013 and has once again included this proposal in its FY 2014 budget submission.

Identifying potential identity theft tax fraud is the first step. Verifying whether the returns are fraudulent will require additional resources. Using IRS estimates, it would cost approximately $22 million to screen and verify all of the over 1.2 million tax returns that we identified as not having third-party information on income and withholding. However, the IRS can maximize the use of its limited resources by reviewing tax returns with the highest risk for refund fraud.

Without the necessary resources, it is unlikely that the IRS will be able to work the entire inventory of potentially fraudulent tax returns it identifies. The IRS selects only those tax returns for which it can verify the identity of the taxpayer and/or the

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[10] A Department of Health & Human Services national database of wage and employment information submitted by Federal agencies and State workforce agencies.

income based on available resources. If the IRS does not have the resources to work the remainder of the potentially fraudulent tax returns it identifies, the refunds will be issued. The net cost of not providing the necessary resources is substantial, given that the potential revenue loss to the Federal Government of these tax fraud-related identity theft cases is billions of dollars annually.

As we reported in July 2008, July 2012, and again in our current Draft Report, the IRS is not in compliance with direct-deposit regulations that require tax refunds to be deposited into an account only in the name of the individual listed on the tax return.[11] Direct deposit, which now includes debit cards, provides the ability to receive fraudulent tax refunds quickly, without the difficulty of having to negotiate a tax refund paper check. The majority of the TY 2011 tax returns we identified with indicators of identity theft (84 percent) involved the use of direct deposit to obtain tax refunds totaling approximately $3.5 billion. There are indications that abusive practices are still ongoing. For example, one bank account received 446 direct deposits totaling over $591,000.

To improve the IRS's conformance with direct-deposit regulations and to help minimize fraud, TIGTA recommended that the IRS limit the number of tax refunds being sent to the same direct-deposit account. Limiting the number of tax refunds that can be deposited into the same account can minimize losses associated with fraud. While such a limit does not ensure that all direct deposits are for the legitimate taxpayer, it does have the potential to limit the extent of fraud. As of June 2013, the IRS is still considering this recommendation, but the IRS did develop new filters for the 2013 Filing Season designed to identify and stop tax returns with similar direct deposit characteristics. As of May 30, 2013, the IRS indicated it had identified 154,302 tax returns from these filters and prevented approximately $470 million tax refunds from being issued.

We also recommended, and the IRS agreed, that it should coordinate with responsible Federal agencies and banking institutions to develop a process to ensure that tax refunds issued via direct deposit, either to a bank account or to a debit card account, are made only to an account in the taxpayer's name. In January 2013, the IRS implemented a pilot program with the Department of the Treasury Fiscal Service[12] designed to allow financial institutions to reject direct deposit tax refunds based on mismatches between the account name and the name on the tax return. Once the refund is identified by the institution, it is sent back to the Fiscal Service to be routed

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[11] TIGTA, Ref. No. 2008-40-182, *Processes Are Not Sufficient to Minimize Fraud and Ensure the Accuracy of Tax Refund Direct Deposits* (Sept. 2008).
[12] Formerly, the Department of the Treasury Financial Management Service.

back to the IRS. As of June 29, 2013, there have been 18,247 refunds returned from financial institutions totaling more than $60 million. This is a promising first step in recovering fraudulent tax refunds issued via direct deposit.

In addition, the IRS continues to expand its efforts to identify fraudulent tax returns and prevent the payment of tax refunds by processing all individual tax returns through identity theft screening filters. These filters look for known characteristics of identity theft cases to detect fraudulent tax returns before they are processed and before any tax refunds are issued. In Processing Year 2012, there were 11 filters that identified approximately 325,000 tax returns and prevented approximately $2.2 billion in fraudulent refunds from being issued. In Processing Year 2013, the number of filters increased to more than 80, which has enhanced the IRS's ability to identify identity theft tax refund fraud. As of May 30, 2013, the IRS identified 151,010 tax returns and prevented approximately $840 million in fraudulent tax refunds from being issued. This represents a 90 percent increase over the number that the IRS identified for the same period in Processing Year 2012.

One of these filters uses benefit and withholding information from the Social Security Administration (SSA), which TIGTA had previously recommended. Beginning in Processing Year 2012, this information was used to verify that Social Security benefits and related withholding reported on tax returns matched the information reported by the SSA. Overall, this will help the IRS identify tax returns with false reporting of Social Security benefits and withholding in an attempt to obtain fraudulent refunds. As of May 30, 2013, the IRS indicated that it had identified 36,523 tax returns and prevented approximately $184 million in tax refunds from being issued based on the 2013 Filing Season Social Security filters.

Tax returns detected by the various expanded filters are held during processing until the IRS can verify the taxpayers' identity. IRS employees attempt to contact these individuals and request information to verify that the individual filing the tax return is the legitimate taxpayer. If the IRS cannot confirm the filer's identity, it suspends processing of the tax return to prevent the issuance of a fraudulent tax refund.

In January 2012, the IRS created the Identity Theft Clearinghouse within Criminal Investigation. The Clearinghouse was created to accept tax fraud-related identity theft leads from the IRS's Criminal Investigation field offices. The Clearinghouse performs research, develops each lead for the field offices, and provides support for ongoing criminal investigations involving identity theft. As of May 31, 2013, the Clearinghouse had received more than 3,400 identity theft leads that have resulted in the development of 478 investigations.

Finally, the IRS has significantly expanded the number of tax accounts that it locks by placing an identity theft indicator on the individuals' tax account.[13] Between January 2011 and May 2013, the IRS has locked approximately 10 million taxpayer accounts, which will assist the IRS in preventing future identity theft fraudulent tax refunds from being issued. Electronically filed tax returns using the SSN of a locked account will be rejected (the IRS will not accept the tax return for processing). Paper tax returns will be processed; however, the tax returns will not post to the taxpayer's account due to the account lock, and a refund will not be issued. As of May 31, 2013, the IRS had rejected 152,301 e-filed tax returns during the 2013 Filing Season. Additionally, the IRS has stopped 169,642 paper filed tax returns and prevented the issuance of approximately $5.6 million in fraudulent tax refunds since the inception of the lock.[14]

IRS Assistance to Victims of Identity Theft

In May 2012, we reported that the IRS is not effectively providing assistance to taxpayers who report that they have been victims of identity theft, resulting in increased burden for those victims.[15] Moreover, identity theft cases can take more than one year to resolve, and communication between the IRS and victims is limited and confusing. Victims are also asked multiple times to substantiate their identities. Furthermore, during the 2012 Filing Season, identity theft tax returns were not prioritized during the standard tax return filing process.

We are currently finishing our audit work on a follow-up review assessing IRS assistance to victims of identity theft and plan to issue a report in October 2013.[16] In this review, we selected a statistically valid sample of 100 identity theft cases closed between the period August 1, 2011 through July 31, 2012, and are reviewing the cases to determine whether the cases were timely and accurately resolved. Although the IRS was able to determine the rightful owner of the Social Security Number, cases continue to face delays, with some cases having significant inactivity in case processing. In addition, we are finding that tax accounts were not always correctly resolved before the

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[13] When an account is locked, tax refunds are held.
[14] The IRS locked the majority of the 10 million accounts in December 2012; therefore, the increased benefit of refunds prevented should be realized during Processing Year 2013.
[15] TIGTA, Ref. No. 2012-40-050, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (May 2012).
[16] TIGTA, Audit No. 201240041, *Effectiveness of Assistance Provided to Victims of Identity Theft (Follow-Up)*, report planned for October 2013.

cases were closed. The incorrect resolutions resulted in delays in issuing refunds to taxpayers and in some cases resulted in the IRS issuing an incorrect refund.

In discussions with the IRS regarding our review of the 100 cases, management indicated that they have implemented a number of actions for the 2013 Filing Season which will further improve the processing of identity theft cases. For example, they implemented a process to expedite the processing of tax returns with an attached Identity Theft Affidavit. Paper filed tax returns with an attached Identity Theft Affidavit or police report are being marked with a special processing code and expedited directly to the IRS's Accounts Management function for case processing. The IRS indicated that the direct routing of these tax returns will shorten case processing by one to two months. We plan to review this new process in our next audit of identity theft.

Some corrective actions planned by the IRS in response to our May 2012 report were not scheduled to be completed until September 2013 or were not fully implemented, so they were not included in our review. We will evaluate the effectiveness of these corrective actions and any new processes in our next follow-up audit.

Despite these corrective actions, the IRS will continue to face significant challenges in assisting victims of tax fraud-related identity theft. In our FY 2012 report, we reported on several of these challenges.

Resources were not sufficient to work identity theft cases dealing with refund fraud. IRS employees who worked the majority of identity theft cases were telephone assistors who also respond to taxpayers' calls to the IRS's toll-free telephone lines. In addition, telephone assistors are not examiners and are not trained to conduct examinations. We recommended that the IRS provide additional training for assistors, to include training on the importance of documenting case actions and histories. We are currently evaluating the actions the IRS has taken on training for assistors.[17]

The management information system that telephone assistors use to control and work cases can add to the taxpayer's burden. For instance, the IRS may open multiple cases for the same victim, and multiple assistors may work that same victim's identity theft issue. In our May 2012 audit, we found that victims were frustrated when they were asked numerous times to prove their identities.

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[17] TIGTA, Audit No. 201240041, *Effectiveness of Assistance Provided to Victims of Identity Theft (Follow-Up)*, report planned for October 2013.

The IRS sends the victims duplicate letters at different times, wasting agency resources and possibly confusing the victims. For example, the IRS sent taxpayers two different letters several weeks apart advising that the taxpayer's identity theft case has been resolved. Neither letter advised when the taxpayer should expect to receive his or her tax refund.

In addition, identity theft case histories were so limited that it was difficult to determine what action had been taken on a case. During our 2012 audit, we could not determine if some cases had been resolved or why those cases were still open. In most cases, the auditors had to reconstruct the cases to determine if all actions had been appropriately taken to resolve them.

Taxpayers could also be further burdened if the address on the tax return filed by the identity thief is false. If the identity thief has changed the address on the tax return, the IRS does not know that the address change is inappropriate and will update its account record for the legitimate taxpayer. The IRS does not notify the taxpayer that his or her account has been changed with the new address.

In such cases, while the IRS is in the process of resolving an identity theft case, the identity thief's address becomes the address on the taxpayer's record. Any IRS correspondence or notices unrelated to the identity theft case will be sent to the most recent address on record. As a result, the legitimate taxpayer (the identity theft victim) may be unaware that the IRS is trying to contact him or her.

This situation can also create disclosure issues. For example, if the legitimate taxpayer's prior-year tax return has been selected for an examination, the examination notice will be sent to the address of record – the address the identity thief used on the fraudulent tax return. The identity theft victim is then at risk that his or her personal and tax information will be disclosed to an unauthorized third party (whoever resides at that address). In response to our May 2012 report, the IRS stated that in January 2012 it expanded its identity theft indicator codes that annotate the taxpayer's account when there is a claim of identity theft and will explore leveraging these new indicators to suspend certain correspondence. The IRS's corrective actions are not expected to be fully implemented until September 2013. We plan to evaluate whether the IRS is effectively implementing these corrective actions in a future follow-up audit.

The IRS took steps in FY 2012 to improve assistance for taxpayers who learn that another taxpayer has filed a tax return using his or her identity. For example, the IRS reorganized to establish an Identity Theft Program Specialized Group within each of the business units and/or functions where employees are assigned to work the

identity theft portion of the case. It has also revised processes to shorten the time it takes the IRS to work identity theft cases and has refined codes to better detect and track identity theft workloads.

To further assist victims in the filing of their tax returns, the IRS began issuing Identity Protection Personal Identification Numbers (IP PIN) in Fiscal Year 2011 to these individuals. The IP PIN will indicate that the taxpayer has previously provided the IRS with information that validates his or her identity and that the IRS is satisfied that the taxpayer is the valid holder of the SSN. Tax returns that are filed on accounts with an IP PIN that has been correctly entered at the time of filing will be processed as the valid tax return using standard processing procedures, including issuing any refunds, if applicable. A new IP PIN will be issued each year before the start of the new filing season, for as long as the taxpayer remains at risk of identity theft. For the 2012 Filing Season, the IRS sent 252,000 individuals an IP PIN. For the 2013 Filing Season, the IRS reports that it issued 759,000 IP PINs.

Finally, in January 2012, the IRS established a Taxpayer Protection Program to manage work arising from the identity theft indicators and filters used to detect tax returns affected by identity theft – both to stop the identity thief's tax return from being processed and to ensure that the legitimate taxpayer's tax return is processed. However, during the 2012 Filing Season, taxpayers found it difficult to reach employees in this Program. The Program received approximately 200,000 calls during FY 2012, but was only able to answer about 73,000. The average wait time for taxpayers was 33 minutes. For the 2013 Filing Season, the IRS increased the number of employees answering this Program's telephone line from 10 to more than 200 employees.

In June 2013, we issued a report on our audit of the Taxpayer Protection Program, which evaluated whether the Program helps the IRS to effectively assist taxpayers and resolve identity theft cases. We found that the Program has improved identity theft detection. For example, the Program identified 324,670 tax returns in CY 2012 that involved identity theft and prevented the issuance of fraudulent refunds totaling $2.2 billion. These tax returns were identified before processing was completed to protect tax refunds from being issued. However, controls over identity theft tax returns worked in the Program need to be strengthened. We found that required identity theft indicators were not always input on taxpayer accounts. When these indicators are not input, there is the risk that the IRS will issue a fraudulent refund to an identity thief and the taxpayer continues to be at risk of an identify thief filing a fraudulent tax return using his or her identity.

In addition, we found that cases were not being clearly documented or closed accurately. For example, for the 12 cases we judgmentally selected and reviewed, we were not able to determine from the case notes whether the IRS took the appropriate actions when working the case.[18] We also determined that timeliness measures to track the time frame to resolve identity theft cases have not been established. Finally, we found that the IRS could not provide support confirming that employees working the cases received the required identity theft training to perform their assigned duties. The IRS agreed with all of our recommendations and plans to take actions to address our concerns.

Criminal Investigations of Identity Theft

Not only does identity theft have a negative impact on the economy, but the damage it causes to its victims can be personally, professionally, and financially devastating. When individuals steal identities and file fraudulent tax returns to obtain fraudulent refunds before the legitimate taxpayers file, the crime is simple tax fraud, which falls within the programmatic responsibility of IRS Criminal Investigation. TIGTA's Office of Investigations focuses its limited resources on investigating identity theft that has any type of IRS employee involvement, the misuse of client information by tax preparers, or the impersonation of the IRS through phishing schemes[19] and other means. Where there is overlapping jurisdiction, TIGTA and IRS-Criminal Investigation will work together to bring identity thieves to justice.

IRS employees are entrusted with the sensitive personal and financial information of taxpayers. Using this information to perpetrate a criminal scheme for personal gain negatively impacts our Nation's voluntary tax system and generates widespread distrust of the IRS. TIGTA aggressively investigates IRS employees involved in identity theft crimes. When the Office of Investigations completes an identity theft investigation, it is referred to the Department of Justice for prosecution.

For example, a former IRS employee was arrested after being charged by a Federal grand jury on June 26, 2012, for aggravated identity theft, mail fraud, unauthorized inspection of tax returns and return information, and unauthorized

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[18] There were 309,836 cases in the population that we selected the judgmental sample from. We selected a judgmental sample to determine if there were indications of problems and we did not plan to project the error rate to the population.

[19] Phishing is an attempt by an individual or group to solicit personal and financial information from unsuspecting users in an electronic communication by masquerading as trustworthy entities such as government agencies, popular social web sites, auction sites, online payment processors, or information technology administrators.

disclosure of tax returns and return information. She subsequently pled guilty to those charges on August 14, 2012, and was sentenced on March 28, 2013, to 28 months of imprisonment with three years of supervised release.[20]

TIGTA also investigated a tax preparer who stole the personal identifiers of several individuals and unlawfully disclosed the information to others to fraudulently obtain tax refunds. According to the indictment, the subject of the investigation worked as a tax preparer from January 2002 to June 2008. In 2010, he used the personal identifiers of other individuals to file false income tax returns and obtain refunds from the IRS. The preparer obtained most of the personal identifiers in the course of his prior employment as a tax preparer and from other employment positions he held. He disclosed this information to co-conspirators so they could also file false income tax returns and obtain refunds from the IRS. The subject and his co-conspirators ultimately defrauded or attempted to defraud the IRS out of at least $560,000 in tax refunds.[21] The subject was sentenced to 15 years in prison and ordered to pay restitution in the amount of $515,257.75.[22]

Identity thieves may also commit identity theft by impersonating IRS employees or misusing the IRS seal to induce unsuspecting taxpayers to disclose their personal identifiers and financial information. One such criminal posed as an IRS "Audit Group Representative" and, according to the indictment, sent letters to various employers demanding that they send him the names, contact information, dates of birth, and SSNs of their employees. He then prepared and filed false Federal tax returns with the IRS in the names of various such employees without their knowledge or consent. The tax returns contained W-2 information, such as income and withholding, that was falsely and fraudulently inflated. The subject of the investigation used the refunds to purchase personal items. The subject pled guilty to false impersonation of an officer and employee of the United States; identity theft; subscribing to false and fraudulent U.S. individual income tax returns; and false, fictitious, or fraudulent claims. He was sentenced to 41 months of imprisonment and three years of supervised release. He was also ordered to pay $8,716 in restitution.[23]

Finally, TIGTA investigated a phishing scheme in which several individuals were deceived into divulging their personal identifiers and banking information to identity

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[20] E.D. Pa. Arrest Warrant executed July 5, 2012; E.D. Pa. Crim. Indict. filed June 26, 2012; E.D. Pa. Crim. Docket dated Jan. 22, 2013.
[21] S.D. Cal. Superseding Indict. filed June 19, 2012.
[22] S.D. Cal. Judgment dated May 30, 2013.
[23] S.D.N.Y. Crim. Indict. filed Jan. 25, 2012; S.D.N.Y. Minute Entry filed July 11, 2012; S.D.N.Y. Judgment filed March 25, 2013.

thieves who then defrauded them of over $1 million. The subject and his co-conspirators operated a scheme to defraud numerous individuals through Internet solicitations, stealing more than $1 million and the identities of those individuals. The subject of the investigation was sentenced to a total of 30 months of imprisonment and five years of supervised release for Aggravated Identity Theft and Conspiracy to Commit Wire Fraud. He was also ordered to pay $1,741,822 restitution to his victims.[24]

While phishing schemes may vary in their technical complexity, many share a common trait: They involve computers located outside the United States. Despite the significant investigative challenge this poses, TIGTA has been successful in working with law enforcement personnel in foreign countries to identify the perpetrators and obtain prosecutions.

TIGTA's Office of Investigations investigated an individual who, along with his co-conspirators, engaged in a fraud scheme that specifically targeted senior citizens. As part of the scheme, a co-conspirator would send e-mails to victims representing that he was an attorney or foreign government official who was responsible for distributing an inheritance. The e-mails sent to the unsuspecting victims falsely informed them that they owed additional taxes to the IRS, or had inherited millions of dollars but needed to pay processing fees to release the funds. When the victims responded to the e-mails, the subject of the investigation, or one of his co-conspirators, contacted them by telephone and e-mail pretending to be someone who could assist them in obtaining the promised inheritance. The victims were led to believe that these contacts were from legitimate business people, and were deceived into paying fees in advance of receiving the inheritance. However, the funds were never used to pay any fees, nor were any inheritance payments made to the victims. The subject of this investigation pled guilty to an indictment charging him with 15 counts of wire fraud and is awaiting sentencing.[25]

In addition to these TIGTA investigations, in February 2013, the IRS announced the results of a nationwide effort with the Department of Justice and local U.S. Attorneys offices targeting identity theft suspects in 32 States and Puerto Rico, which involved 215 cities and surrounding areas. This joint effort involved 734 enforcement actions related to identity theft and refund fraud, including indictments, informations, complaints, and arrests.

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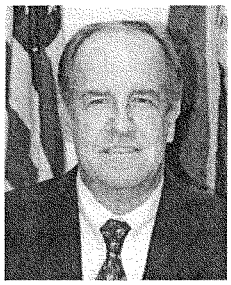
[24] E.D.N.Y. Response to Defendant's Sentencing Letter filed Dec. 19, 2011; E.D.N.Y. Judgment filed Aug. 9, 2012.

[25] C.D. Cal. Opposition to Defendant's Ex Parte Application to Continuance of Trial Date filed June 6, 2012; C.D. Cal. Indict. filed Oct. 21, 2009; C.D. Cal. Crim. Complaint filed Aug. 3, 2009; C.D. Cal. Crim. Minutes Change of Plea filed July 31, 2012.

In conclusion, the IRS has undertaken important steps and initiatives to prevent the occurrence of identity theft and associated tax fraud. It has made some progress in addressing the rapidly growing challenge of identity theft. Nevertheless, we at TIGTA remain concerned about the ever-increasing growth of identity theft and its impact on victims of identity theft and on the Nation's system of tax administration. Because of the importance of this issue, we plan to provide continuing audit coverage of the IRS's efforts to prevent tax fraud-related identity theft and to provide assistance to those taxpayers who have been victimized. In addition, we will continue to conduct vigorous criminal investigations of identity theft violations involving IRS employees, tax return preparers, and individuals impersonating the IRS.

Chairman Mica, Ranking Member Connolly, and Members of the Subcommittee, thank you for the opportunity to update you on our work on this critical tax administration issue and to share my views.



Michael E. McKenney
Acting Deputy Inspector General for Audit
Treasury Inspector General for Tax Administration

Mike McKenney serves as the Acting Deputy Inspector General for Audit for the Treasury Inspector General for Tax Administration (TIGTA). He leads a nationwide audit function consisting of 260 staff members who strive to promote the economy, efficiency, and effectiveness of tax administration.

The Audit program's reports and recommendations to the Internal Revenue Service (IRS) have focused on improving tax administration and addressing the IRS' management challenges in the areas of data and employee security, computer modernization, tax law compliance and complexity, human capital, and improper and erroneous payments.

Prior to this, Mike served as the Assistant Inspector General for Audit (Returns Processing and Account Services) for TIGTA, where he was responsible for providing audit oversight of IRS operations related to the preparation and processing of tax returns and the issuing of refunds to taxpayers. This includes customer service activities, outreach efforts, tax law implementation, taxpayer assistance, accounts management, notices, submission processing, and upfront compliance such as the Frivolous Returns Program and the Questionable Refund Program.

Mike served in various managerial positions with TIGTA, covering a broad range of IRS areas including the IRS Oversight Board, Agency-Wide Shared Services, Chief Human Capital Office, Office of Appeals, Taxpayer Advocate Service, Office of Research and Analysis, and the Office of Professional Responsibility. Mike also opened and managed TIGTA's Denver field office for the Office of Audit. He began his Federal auditing career in 1992 with the IRS Inspection Service in Los Angeles. Mike graduated from California State University, Fullerton with a B.A. in Business (Accounting).

Mr. MICA. And we'll turn to our last witness in this panel, Mr. Douglas MacGinnitie. And he is the State Revenue Commissioner at the Georgia State Department of Revenue.

Welcome, and you are recognized.

STATEMENT OF DOUGLAS MACGINNITIE

Mr. MACGINNITIE. Thank you, Mr. Chairman, Ranking Member Connolly, and members of the subcommittee. I am the Commissioner of the Georgia Department of Revenue. And I'd like to thank you all for having me here today.

First, I think it's always helpful to start a little bit with the big picture. Georgia is the ninth-largest State in the Union. We have approximately 9.8 million residents. And in 2012, we had about 5 million taxpayers; 4.25 million individuals and about 750,000 companies.

In Georgia, the Department of Revenue collects about $20 billion in taxes each year, which is about 98, 99 percent of all State revenue. So we're the tax collector in the State. And the vast majority of our revenue is individual income tax and sales tax, which comprise about 85 percent of all State revenue.

Last year we processed 4.25 million individual returns. And of those, just about 3 million were refund requests, totaling about $2 billion. So like all taxing authorities, we're just a big data processor, right? We bring in $20 billion a year, but then we have to keep and manage all that information related to the $20 billion.

Turning to the fraud issue, several years ago, long before my time at the Department, folks at the Department started to recognize that there was a problem with fraud and started trying to fight it. In 2005 a group was formed within the agency called the Office of Special Investigations—it always has to sound official and catchy—to fight the fraud. We started out by putting some pretty simple rules in place, I gather much like the IRS in their filters, to process those returns. So, as an example, if too many refunds were going to the same bank account or the same address, we would start flagging those returns. There might be a good reason that that many were going to one address or one bank account, but there might not be, and we wanted to take a closer look.

Well, as we evolved and as the criminals evolved, we began to realize that the vast majority of the fraud involved identity theft. Some of the fraud was the actual taxpayer making fraudulent claims on their own tax return, but more often someone was using a legitimate taxpayer's information in filing a fraudulent came in their name.

We also realized that our ability to look at a return and tell that the filer was not who they said they were was very limited. Just looking at a return doesn't really tell you much. And our ability to access all sorts of third-party data was and to a great extent still is very limited. Taxing authorities don't have all that information most of the time.

And personal experience showed it could happen to anybody. In 2011, after I had started my job, my wife's identity was stolen. So when my wife and I filed our joint return, it was kicked out. Someone had already used her name and Social Security number and filed a return. And if that's not the definition of irony, I don't know

what is. But we had to process paperwork both at the IRS and the State level. So I understand this both from an administrative perspective, but also as a semi-victim.

All that said, our rules-based approach made a difference. Last year, in 2012, for the 2011 tax year, our program stopped 114,000 refunds, totaling about $75 million. But as I noted, we still knew we had a significant hole around identity theft. And in 2011, we were approached by a company call LexisNexis to help fight that ID theft. I remember clearly the meeting with LexisNexis, thinking not only do they understand what the problem is, but also I think they have a program that might fix it. Often we're called on by consultants who want to sell us something. They can help us identify the problem, which we all can see, but much less clear how they're going to fix it.

So in 2012, we started this program, and it works as follows. After all of our systems are done checking a return, we think it's okay, we will send that refund request to LexisNexis with some very limited information. LexisNexis will scrub it through their databases. And based on the filters that we've set up along with them, if it seems suspicious, it'll be flagged. If a return is flagged, an email and a letter is send to the taxpayer asking them to go to a Web site and answer a few simple questions that only the taxpayer should know, much like if you've ever had your credit card stolen, same kind of system. If they can answer those questions online, the refund gets put back in the queue and out it goes; nobody has to touch it. If they can't answer it or they refuse to try to answer the questions, we hold that refund in abeyance and eventually we reverse it out and treat it as if it was a fraudulent refund.

In putting together the program, we attempted to balance the various goals of processing refunds as quickly as possible, protecting the State's money, i.e., taxpayer money, and protecting taxpayer identities. We've run the program now for two seasons, and in the first year there was definitely a learning curve, but this year it went pretty smoothly.

From our perspective and from taxpayers' perspectives, the results have even excellent. It's added about 1 to 5 days to the processing of a refund, and in 2012 it stopped over 44,000 refunds, totaling over $23 million. It cost the State about $2.6 million. So from a business perspective, the program is a no-brainer. We spent $2.5 million, $2.6 million, and we stopped $23 million in fraudulent refunds.

At the same time, the agency avoided all sorts of costs associated with having to help taxpayers deal with the mess when somebody's filed a fraudulent refund, much like my wife and I went through.

So one final thought for you all. Our experience is that the tax fraud is a growing and serious problem. Last year, our two programs combined stopped 160,000 fraudulent returns, totaling $99 million, just shy of $100 million dollars. And if you do the math, that means approximately 4 percent of all returns that were filed with us and over 5 percent of the refund claims were fraudulent. I'll let you do the extrapolation from that, but it doesn't take long to get to some pretty big numbers when you look at other States and obviously at the Federal level.

So thanks for the opportunity to be here. I'm happy to answer any questions that you all might have.

Mr. MICA. We thank you for your testimony.

[Prepared statement of Mr. MacGinnitie follows:]

Statement
Of
Douglas J. MacGinnitie

Before the
House Committee on Oversight and Government Reform
Subcommittee on Government Operations

Hearing
On
Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS
Friday August 2, 2013

Intro

Chairman Mica, Ranking Member Connolly, and members of the Sub-Committee, my name is Doug MacGinnitie. I am the Commissioner for the Georgia Department of Revenue. I'd like to thank the Committee on Oversight and Government Reform, Subcommittee on Government Operations for inviting me to speak this morning. To give you some brief background, I have been Commissioner for 2 ½ years. Prior to my involvement in the public sector, I was in the insurance industry so the only background I had in the tax business was as a payer.

Background on Georgia Taxes

First, I think it is always helpful to start with the big picture. Georgia is the 9th largest state in the Union with approximately 9.8 million residents. In 2012, we had roughly 5 million taxpayers: 4.25 individuals and 750,000 companies. The Georgia Department of Revenue collects approximately $20 billion in taxes, which is 98/99% of all state tax revenue in Georgia. The vast majority of state tax revenue in Georgia is individual income tax (50%) and sales tax (35%)

Last year, we processed 4.256 million individual income tax returns. Of those returns, 2.95 million were for refunds totaling $2.1 billion. So we are, like all taxing authorities, a big data processor. We process $20 billion a year but have to keep and manage all of the information related to that $20 billion.

To help visualize how a Revenue Department works, I like to ask people to visualize an old conveyor belt manufacturing process. A return shows up at the Department (either electronically or paper). That return is loaded into our systems (if paper, we scan it and shred the paper) and then it starts its way down the conveyor belt. As it goes down the conveyor, we check the return for all sorts of things. Do the numbers add, are they taking the correct deductions, ... If something isn't right with the return, it is kicked off the conveyor belt into a pile and each pile has to be reviewed/worked by someone at the Department. If the return checks out, it hits the end of the conveyor and a refund is issued.

Once the systems are set up, the number of returns coming to us matters less than how many people we have to work the manual piles.

Fraud

Several years ago, long before my time, folks at the Georgia DOR began to see fraudulent returns and then they started trying to fight the fraud. In 2005, a group within the agency was established with the mission to processing of fraudulent

returns and prosecuting those individuals who were filing them. It is called the Office of Special Investigations (OSI).

At first, OSI helped put in place some pretty simple rules that the system used to check refund claims. Back to the conveyor analogy, as a return/refund was moving down the conveyor belt it was checked against those fraud rules. If the return/refund failed those rules, it would be kicked out and someone at the Department would review the return. If it looked fraudulent, then it would be held indefinitely. If it checked out upon further review, it would be processed. An example, if too many refunds were being sent to the same post office box, we would stop processing any more returns to that address. Might be ok, but might not and we wanted to take a closer look.

Well, as we evolved and as the criminals evolved we began to realize that the vast majority of the fraud involved identity theft. Some of the fraud was the actual person making fraudulent claims on their tax return, but more often someone was using a legitimate taxpayers information and filing a fraudulent claim in their name with the legitimate taxpayer having no idea someone had filed a return in their name – at least until the legitimate taxpayer tried to file and was blocked because someone had already used their name and social security number.

We also realized that our ability to look at a return and tell that the filer had appropriated someone else's identity was limited. Just looking at a return doesn't really tell you much, and our ability to look at other sources of data was/and to a great extent still is limited.

Personal experience showed it could happen to anyone. In 2011, when my wife and I filed our joint return, it was rejected because someone had already filed a federal and state tax return in her name. If that doesn't seem ironic to you, nothing will. So not only am I familiar with this topic as a tax administrator, I am also familiar with it as a victim (or semi-victim)

Current Program

All of that said, our old rules based approach made a difference. In 2011, that program stopped 132,006 refunds totaling $91,546,874, (that's calendar year; FY is 109,884 refunds totaling $71.6 million); but as I noted above, we knew we still had a significant hole around identity theft.

In fall of 2010, approached by a company called Lexis/Nexis with a proposal to help fight the ID theft. Not surprisingly, we get called on all of the time by various vendors and consultants who pitch us on ideas on how to make our operations more efficient or solve a problem for us. Usually I leave these meetings thinking – "Well, you are right about what the problem is" but with no real confidence they can help us fix the problem – at least not cost-effectively.

I remember clearly leaving the meeting with Lexis/Nexis thinking – not only do they understand what the problem is, they have put together a program that might really work – and they were willing to get paid only if it was a good investment for the state.

So in 2012, after a record short deployment, we implement a 2nd part to our fraud fighting program with Lexis/Nexis. The program works as follows:

After our systems are done checking a return/refund, information from every refund that we think is ok to process is sent to our vendor who runs it through their databases to look for signs of identity theft. If, based on the criteria we have set up with L/N, the refund looks suspicious, we will hold the refund and a letter and email is sent to the taxpayer asking the taxpayer to go to a website and answer a few questions about the taxpayer that only they would know – much like if you credit card is stolen. If the questions are answered correctly, the refund goes back into queue and it is paid. If the questions are not answered correctly or no attempt is made to answer the quiz, the refund is held indefinitely and then eventually reversed out.

In putting together the program, we attempted to balance the various goals of processing refunds as quickly as possible, protecting the state's money, and protecting taxpayer's identities. We have now run this program for 2 processing seasons. In the first year, there was definitely a learning curve but this year it went very smoothly.

The results have been very good. The process adds1 to 5 days, depending on how long it takes the taxpayer to receive an email or letter to the processing of a refund. In 2012, the program stopped 44,158 refunds totaling $23,483,870. It cost us $2,604,516 ($2.5 million base fee plus, $104,516 commission).

From a business perspective, the program is a no-brainer. We spent $2.6 million and saved $$23.5 mil ($23, 483,870) and protected numerous taxpayers from having the hassle of dealing with us and fixing their accounts.

Final thoughts

Our experience is that tax fraud is a growing and serious problem. Last year, our programs stopped 160,000 fraudulent tax returns totaling $99 million. That means3.8% of all returns filed with the Georgia DOR were identified as fraudulent.

Our anecdotal experience, based on investigations of various fraud schemes, is that many of the schemes appear targeted at the federal level with the state portion being a bonus. The dollars involved federally are much larger – because of higher income tax rates. But even if you just take the 3.8% number and don't change the dollar amounts, the stakes are huge for the state and the IRS.

Criminals react to what we are doing and are getting more sophisticated. But the challenges we are facing are not unique. Every financial institution and data processor are facing the same challenges, and we need to look to what they are doing as a model. We are by no means stopping 100% of the fraudulent filings, but we need to keep evolving.

Thank you again for the opportunity to appear before you today. I am happy to answer any questions you may have.

Douglas J. MacGinnitie was appointed by Governor Nathan Deal to serve as Georgia's State Revenue Commissioner on January 18, 2011. Doug is a former member of the Sandy Springs City Council.

Professionally, Doug served as COO of Grassroot Soccer, a non-profit organization that uses soccer to save the lives of youth in southern Africa. He co-founded and served as Chief Operating Officer and a Director of Beecher Carlson, a commercial insurance brokerage firm headquartered in Atlanta. He is the former General Counsel at Hobbs Group, and a former corporate attorney. He served as a Law clerk for Judge Stanley F. Birch on the 11th Circuit Court of Appeals.

Doug grew up in Dunwoody, Georgia. He is a Magna Cum Laude graduate of Dartmouth College, with a B.A. History, where he was also voted the Ivy League Soccer Player of the Year. Doug received his J.D. from Emory School of Law, where he was Woodruff Fellow.

Doug serves as a Board Member of the Truancy Intervention Project, a non-profit based in Atlanta, and St. Martin's Episcopal School.

Doug and his wife, Missy, reside in Sandy Springs with their three children.

Mr. MICA. And each of your witnesses. And we'll turn immediately to some questions here.

Again, I'm conducting the first hearing on this. I heard one of our witnesses said she had been involved in seven. And I think this subcommittee has done four of those. The problem is, though, with the rip-off and refunds that are fraudulent, it's spun totally out of control. I mean, we had 456,000 cases in 2009, we heard up in 2011 we were at 1.1 million; 2013, the estimates today are 1.9 million. And some steps have been put into place, but obviously we don't have a handle on this.

Did you testify, Mr. McKenney, that one account received 446 refunds.

Mr. MCKENNEY. That's accurate. Yes.

Mr. MICA. I mean, that's astounding that something wouldn't trigger. I just renewed my American Express, and they had a series of questions. And then also I found any type of financial activity out of the ordinary is immediately triggered, I get a call from their security folks.

Mr. Werfel, can't we put in place some protections? And you heard recommendations or some ideas from Georgia. Where are we?

Mr. WERFEL. Yes, we can, and we should. And with respect to the situation where money goes to the same bank account, we have now effective in filing season 2013 implemented a filter in our system to catch it.

Mr. MICA. So the 446 would be triggered in the multiple——

Mr. WERFEL. Yes. Now it would be triggered. This is part of our evolving learning process. As we learn and understand the schemes, we make adjustments. For us, the goal is to get ahead of them so we can figure out where the schemes are going before they emerge. And that's part of our challenge at the IRS.

Mr. MICA. Well, we've heard the nightmare that was described—actually, the ranking member gave his constituent experiences and being jerked around by, I think you said, a half a dozen different folks. One of the recommendations from victims assistance was a central unit, I guess. We have 21 units or have had, and I think you'd probably have to have some enforcement or investigations units. But, Mr. Werfel, what about some one stop for the taxpayer who is caught in this horrible situation.

Mr. WERFEL. I think that's a very important thing. We're evolving in that direction. We have what's called the Identity Protection Specialization Unit that essentially helps us coordinate when you have multiple parts of the IRS involved in a single identity theft case to make sure there's coordination. But as Ms. Olson points out in her testimony, the Taxpayer Advocate has specific recommendations about how we can enhance that centralization role and make it even more one stop.

And for us, my commitment is to evaluate Ms. Olson's recommendation. It's a question of making sure, can we do that evolution effectively and serve the victim? And can we also do it within our resource constraints. So there's a combination of things.

But I think the bottom line is we're very concerned about the impact this is having on victims. Obviously, the impact it's having on the deficit in Treasury is significant. But the impact it's having on

victims is significant, and we're committed to figuring out what we can do to help.

Mr. MICA. Well, Mr. Werfel, you've heard of Willie Sutton, haven't you? The famous bank robber.

Mr. WERFEL. Yes.

Mr. MICA. Well, Mr. Connolly, now, I thought you had some great testimony there. What was the number you said were prosecuted?

Mr. CONNOLLY. I——

Mr. MICA. I have to question this witness.

Mr. CONNOLLY. I believe, Mr. Chairman, that at the last hearing we had, I want to say, because I asked, I want to say there were four convictions.

Mr. MICA. Four convictions. We're lucky that Willie Sutton isn't around today, because you could scam the IRS and get away with it. Can you tell us where we are on prosecution?

Mr. WERFEL. Yeah. I don't have the exact number, but I can tell you that in the area of criminal investigation, just like in some of the other areas we've described, there is significant ramp-up in activity. We had 1,100 investigations under way this year. We have convictions——

Mr. MICA. How many?

Mr. WERFEL. I don't know the exact number. I know that many of them were——

Mr. MICA. Well, again, the ranking member has said it's just a handful, and that's disgraceful.

Mr. WERFEL. I can get you the number. I will say that some——

Mr. MICA. People are stealing from the taxpayer and they're getting away with it. When the staff told me that some of the drug dealers are switching out to scamming and ripping off the IRS with, again, these illegal payments, that should raise eyebrows because we're talking about billions.

Mr. WERFEL. Yeah. I will get you the number of prosecutions. We are seeing sentences now at 20-plus years, which we think is a good deterrent. We're getting positive feedback.

Okay. I just received a note that we have 785 indictments on identity fraud.

I just wanted to point out that I was on the phone recently with the field directors in Tampa Bay and Miami for the IRS, in terms of our work down there. They feel they've really turned a corner with local police and local law enforcement, getting positive feedback from local law enforcement about how the IRS efforts are stepping up in this area. So we have a lot of work to do. I think the point is, is that things are trending better in terms of our activity in this area.

Mr. MICA. Well, finally, can you tell me, again, I've heard 90,000 to 100,000 employees, what's the current number of employees with IRS?

Mr. WERFEL. We have roughly 85,000 full-time employees. And then when you add in part-time employees, it gets to about 95,000. And that's, by the way, that's an 8 percent reduction from where we were in 2010.

Mr. MICA. Now, again, but a lot of people who are involved in this use the cost-effective means. We heard from Georgia, and a

limited number of personnel, a lot of electronic monitoring that the private industry is doing. And somewhere we're doing it in a very expensive, ineffective fashion.

Let me yield to Mr. Connolly now.

Mr. CONNOLLY. Mr. Chairman, I see the chairman of the full committee is here.

Mr. ISSA. I'm just——

Mr. CONNOLLY. All right. Because I'd be more than happy to yield to the chairman.

Mr. MICA. I was going to get to him immediately after you.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Welcome to our panel.

I'm glad to hear, Mr. Werfel, that the number of investigations, criminal investigations, and the number of prosecutions has gone up. I do think we need to know the number of convictions.

Mr. WERFEL. Yes.

Mr. CONNOLLY. Because my recollection, honestly, was last time we met in the last Congress was it was in the single digits, which was a shocking statistic, given the magnitude of the problem.

Mr. WERFEL. Okay, so we have 301 sentences to date in 2013. So, again, the numbers are increasing. And I don't know that that's the right number.

Mr. CONNOLLY. Right.

Mr. WERFEL. The trend is improving.

Mr. CONNOLLY. But I think all of us could agree, and this isn't only the responsibility of IRS, nor do I mean to imply that, but the idea that there are almost 1.9 million cases of identity theft, which then involve the kinds of problems Mr. McGuiness—I mean Mister, I'm sorry——

Mr. MACGINNITIE. MacGinnitie.

Mr. CONNOLLY. MacGinnitie. So it's Irish.

Mr. MACGINNITIE. A little bit.

Mr. CONNOLLY. All right. And his wife experienced, you know, 1.9 million, even the convictions of only 300 and something people is not earth-shattering and not reassuring to the consumer, to the, you know, the taxpayer.

So are you getting cooperation from U.S. attorney's offices on this? Are they taking this more seriously?

Mr. WERFEL. Yes, as an emerging risk for the IRS and for the broader tax community and tax system, there's a lot going on. You know, obviously, technologies are changing, we're training our employees differently, and we're forging new partnerships with U.S. attorneys, local law enforcement, States. All of this is happening, it needs to happen quickly and effectively, because as the chairman pointed out, this is a problem, and that you point out, this is a problem that's growing exponentially.

Mr. CONNOLLY. Right.

Mr. WERFEL. And I think what the IRS is doing is showing that we are moving quickly to deal with this emerging risk, but it's growing very quickly. And so we need some very sophisticated solutions here.

Mr. CONNOLLY. Yeah, because here's the message. The chairman referenced Willie Sutton. If Willie Sutton were in the game today, he'd probably focus on the IRS rather than a bank, because the

chances of your being caught, tried, and convicted are minuscule. I mean, if you're looking at probabilities, it's a good place to go for a penalty-free crime. And that is of great concern I think to this subcommittee.

And of course one of the things I want to give you, you mentioned in your testimony, Mr. Werfel, that some of this has to do with resources. A billion dollars of cuts in the budget of IRS does circumscribe the IRS' ability to full-throated respond to this exponential threat.

Mr. WERFEL. Yes, there's many examples of that. I mean, what we are worried about is, as our resources decline, can we keep up with the level of service that we need to provide to taxpayers and appropriate enforcement activities. And, you know, on the positive side, as our resources go down, we become more efficient. And I can point to a lot of different areas, and I think the chairman mentioned in our conference spending we had a significant decline. And right now we're at very low levels of travel and training and conference spending as part of our efforts to become more efficient.

But there's only so much efficiencies we can drive before the budget cuts start to impact our ability to tackle huge issues like identity theft. And, you know, at the appropriate setting we can sit down and walk through the President's 2014 budget request and how we plan to deploy resources in a way to get to at identity theft.

Mr. CONNOLLY. I want to get at two other issues in my limited time.

Mr. McKenney, you talked about direct deposit. So here's something presumably to try to make more efficient and more immediate the tax refund to the taxpayer. But unwittingly it also makes more efficient and in some ways easier for, you know, the bad guys to interrupt that flow and redirect it somewhere else. What can we do about that? And should taxpayers now insist that they want a check and not have it directly deposited?

Mr. MCKENNEY. One of the things we recommended that they do and work with Treasury on is to validate that the account that they deposit this refund into is an account in the taxpayer's name. And the IRS has started a pilot in that regard—or Treasury has—and that's starting to show a benefit. So the more they can authenticate things before they deposit into an account, the better off they'll be.

Mr. CONNOLLY. Well, but they do have the option of asking for it in a check form. Is that correct?

Mr. MCKENNEY. Yes, that's true.

Mr. CONNOLLY. And do we find that the incidence of identity theft is much higher with direct deposit than it is with, say, old fashioned——

Mr. MCKENNEY. Yes, most of it's direct deposit now. So it's so quick for a person to take that and have it put to a prepaid debit card or whatever they can accomplish there, whatever they're trying to do much faster.

Mr. CONNOLLY. Mr. Chairman,my time has expired. And I will withhold my last question until—unless——

Mr. MICA. Thank you. No, that electronic thing doesn't work, though, because they sent my refund, but my wife got it and there was nothing I could do about it.

Pleased to welcome and recognize the chair of the full committee, Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman. I'll talk to Pat about joint account and the benefits thereof, I guess.

Mr. Werfel, this is an important hearing, and I want you to continue working on it. Obviously, the IRS is behind, clearly, behind the thieves. They're getting better at it. I think Mr. Connolly brought the right point, which is, why rob a bank when you can rob Medicare, Medicaid, and the IRS. It's so much easier to rob the Federal Government through fraud and identity theft, candidly, than it is to walk in with a gun into a bank.

However, I have some frustrations I'm bringing to you today. As you know, a number of months ago the President made it clear that the behavior that occurred in an isolated basis in Cincinnati was unacceptable, and he charged that we'd get to the bottom of it. Well, we've gotten to the fact that it's not isolated to Cincinnati, as was said. It's not isolated to Washington. It goes to your Chief Counsel's office.

And as we go to do our discovery, that's where the rub is. You promised us full cooperation. And yet the Office of Chief Counsel apparently has 70 attorneys, they're delivering four documents a day per attorney to us, and they look like this. And in minute print it says 6103.

Now, if a lawyer is working on a document, four pages a day per lawyer, are you going to tell me that this is, in fact, minimal redaction as required by law?

Mr. WERFEL. Well, there's a couple of statements that I'd like to make if I could.

Mr. ISSA. No, I'd just like your answers, please.

Mr. WERFEL. The lawyers take very seriously their legal responsibilities to redact information under the law, to redact information that is specific to an individual taxpayer. And all such information, bottom line, Mr. Chairman, is all such information, whether redacted or unredacted, is delivered to this Congress. It is delivered——

Mr. ISSA. You have delivered less than 1 percent—excuse me for standing, but I kind of have to get over your stack—you have delivered less than 1 percent of the documents, actually, to the Ways and Means Committee. You are not delivering to the Ways and Means Committee.

Mr. WERFEL. I disagree with that conclusion.

Mr. ISSA. I'm afraid that's what Chairman Camp put out, and he put it out in writing.

Mr. WERFEL. And I disagree with that conclusion, and if I'm allowed to explain, I can provide specific facts that would support my disagreement with that conclusion.

Mr. ISSA. Here is my question to you. We produced, I believe, 63 search terms. You added some search terms. I'm not disagreeing with your adding progressive and looking for progressive. That's fine. I want more, not less.

You came up with this, it added up to a total of about 80 search terms, and then unilaterally your people, the Office of Chief Counsel, reduced that down to a dozen. They are not searching on the terms we've asked for.

Our request is for all information related to this. When you eliminate search terms unilaterally, you're obstructing us by limiting the scope of discovery. Do you understand that, Mr. Werfel?

Mr. WERFEL. I do, but I disagree with the premise of your question and the facts that you're offering.

Mr. ISSA. Did you, in fact, did your people limit the search terms below the search terms that are delivered actually in your response letter today if you have looked at it?

Mr. WERFEL. We are prioritizing searches in order to get you more documents more quickly, and that is having an impact. In fact, this week alone the amount of document production that we have been able to produce has increased dramatically. That doesn't mean that we've eliminated search terms permanently. It means that we're making modifications in order to make sure that we are zeroing in on——

Mr. ISSA. That is not your call, Mr. Werfel.

Now, let's go into a little quick detail. What's interesting about this page, I understand why you've removed taxpayer specific. But this is also—this information is being delivered without headers. If the names were there, I still wouldn't know what those numbers are. Somebody deliberately printed out information, or actually created digital, in which they stripped out the meaningful data so you know actually what these columns are. Even Mr. Connolly would say this doesn't look like a spreadsheet he has normally had because spreadsheets say what's on top of it.

Additionally, we asked you for information. We set the priority, if you are going to slow roll us, and you are slow rolling us.

Mr. WERFEL. That is not true.

Mr. ISSA. Mr. Werfel, you frustrated this committee. You promised to do things and you're not. The Office of Chief Counsel, as far as we know, have made the decisions to limit search terms. Is that correct, or did you?

Mr. WERFEL. I'm working together with the Office of Chief Counsel. We are not limiting the search terms in a permanent way. We are prioritizing to get the most relevant documents. If I can make a point—if I can make a point——

Mr. ISSA. Please. I'd ask unanimous consent for an additional 4 minutes to explore this.

Mr. CONNOLLY. Mr. Chairman, I will gladly give that unanimous consent, provided that the Democratic side of the aisle be allowed to respond, given the fact that we are now off topic with respect to this hearing. I respect the wish and the prerogative of the chairman to use this opportunity to query Mr. Werfel on a different matter, and I respect that, but I'd like an equal opportunity to respond.

Mr. MICA. I would grant the full committee chair that time, and we will grant additional time to the minority.

Mr. CONNOLLY. I thank the chair for his graciousness.

Mr. ISSA. Thank you.

Mr. Werfel, let's go through the numbers.

Mr. WERFEL. I thought I was about to——

Mr. ISSA. No, no, I have only been granted additional time.

Mr. WERFEL. Okay.

Mr. ISSA. Since the Democrats seem to be carrying your water, I think I'll just use my——

Mr. WERFEL. I think they're just important facts for me to get out and hopefully I can get them out.

Mr. ISSA. Yes, they're important facts to get out and you're obstructing them. So now——

Mr. WERFEL. I am not. That is not true——

Mr. ISSA. So now——

Mr. WERFEL. —and not supported.

Mr. ISSA. Mr. Werfel, apparently you were put in by the administration to run cover until somebody new would come in.

Mr. WERFEL. Again, that is not true.

Mr. ISSA. It is now my time, and I'm going to explain to you what this committee has found.

Mr. Werfel, in 2 months, out of 64 million pages, you have delivered 12,100, and this is over 2,500 of them. They are completely useless. Your interpretation of 6103 is so broad that you are delivering no meaningful information.

More importantly, we have prioritized a number of discovery. Lois Lerner, a woman who did not properly, but did attempt to take the Fifth before our committee, we have asked for all correspondence. It has not been forthcoming. We have asked for correspondence with the White House.

Mr. Werfel, let's understand something. Correspondence with the White House, by definition, had darn well better not include 6103, so redaction is not appropriate. We are not covered by the Privacy Act. Therefore, even if it includes names of individuals like Sheldon Adelson and how you're going to target him or something, even if it included that, quite frankly, it would not be 6103. It would be communications with the outside.

Additionally, your people have unilaterally chosen to redact, according to them, private information. Mr. Werfel, you don't have the right to have private communication on government time and government equipment. If Lois Lerner or others had private communications, they are not subject to 6103, because if there's 6103 in there, we expect them to be immediately referred for criminal prosecution. You can't have private conversations and release 6103. That, of course, would be wrong.

So as we go through this discovery and find far excess redacting, no question at all, slow rolling discovery, limiting search terms, you may call it prioritizing, but you are not prioritizing as we need them. It is my expectation that we should have already received communications to and from the White House. We should have already received communication between anyone who was conducting non-6103 business. We should have already received Lois Lerner's entire packet.

These are not my expectations. These are the American people's expectations. Your speed of delivery is such that you will be long gone, the President will be long gone, Lois Lerner will have retired before we would receive a sufficient amount of information to be meaningful.

You're leaving me no choice. I've asked you for information. You're not forthcoming. Your own Chief Counsel's office appears to be clearly compromised. The lawyers there are included in this in-

vestigation. The communications to and from those lawyers clearly mean that the Office of Chief Counsel, a political appointed office, has been compromised. You're leaving me no choice, I will be preparing and sending a subpoena for these documents to the Secretary of the Treasury, who will be remaining on, and our expectation is that the Treasury Department will take over the delivery of documents in a timely fashion, use such attorneys as they may see fit that they believe are not compromised. And I would ask you to immediately instruct the Chief Counsel that they, the Chief Counsel's office, may not any longer be part of the decision making, only attorneys who are not part of our investigation.

And quite frankly, I'm deeply disappointed. It was my expectation with our past relationship and your past work that you would come in not just wanting to be a caretaker, but actually get to the bottom of this. But as Cincinnati turned to Washington, Washington turned to political appointee offices, and the President began calling this scandal phony, and Secretary Lew began calling this scandal phony, what I can't understand is how you can think the American people would accept this as phony.

This is a real investigation. We need real discovery. If these documents need to be redacted, then by definition you have no reason to deliver them. If you can only deliver me blank pages, completely blank pages, deliver them to the other committee.

But I'll tell you one thing, as these pages, which are almost impossible to figure out where they came from, are gone through by the Ways and Means Committee, you'd better hope, you'd better really hope that we don't find something there that clearly should not have been redacted, which we expect we will.

Moreover, I'm sad to see you go because I thought you could do something. I'm sad to have to issue a subpoena because that's not what I thought we were going to have. We did not enter this investigation thinking that this was some grand conspiracy. We entered this thinking this was something fundamentally wrong. My Democratic friends are convinced that progressives were targeted, even though your own Inspector General has said he found no evidence of it, while he did find evidence of other groups, generally called Tea Party groups, having been targeted.

We don't want to find only one side. We want to find anyone that's targeted, and we want to hold people responsible. Today Lois Lerner is being given full pay and not held accountable. Our job is to find out everyone that should be held accountable and make sure the American people can trust this will not happen again, because I believe if we're thwarted in this investigation this will become a pattern of behavior, whether by the chief executive of the United States or simply by individuals who have power within bureaucracies such as the IRS, the EPA, OSHA, and the like.

Mr. Chairman, I now owe 6 minutes to the Democratic member, and I understand. I yield back.

Mr. MICA. Duly noted. And I recognize at this point the ranking member of the full committee.

Mr. CUMMINGS. I counted 7.

Mr. MICA. Well, I'll make that determination.

Mr. CUMMINGS. I'm just looking at the clock.

Mr. MICA. We started at 4. You weren't here, sir. I will make the determination.

Mr. CUMMINGS. Thank you for recognizing me, Mr. Chairman.

Mr. MICA. You are recognized for 5 minutes, and then I will consult with the ranking member to see how we distribute the balance of the time, I promise. Thank you.

Mr. CUMMINGS. Mr. Werfel, first of all, I want to thank you for your service. I listened to what just was said to you, and I again thank you for your service. Earlier this week Chairman Issa accused you of obstructing the committee's investigation because you were not producing documents fast enough, in his opinion. You have produced to Congress tens of thousands of documents. We have interviewed 18 IRS witnesses. And today is the third time you have testified personally before our committee in the last 2 months.

In addition, Mr. Werfel, there's a law, Section 6103 of the Internal Revenue Code, that prohibits you from revealing information to our committee that identifies specific taxpayer information. Is that right?

Mr. WERFEL. Yes, that is correct.

Mr. CUMMINGS. And you need to review all the documents you are producing to our committee to first make sure they comply with the law. Is that correct?

Mr. WERFEL. Yes.

Mr. CUMMINGS. I'm not concerned with your compliance, Mr. Werfel, because I have seen it. My concern is the actions of the IG was blocking you from providing information about progressive groups to this committee.

Mr. Werfel, 2 weeks ago, on July 17th, you testified that some non-Tea Party groups received treatment similar to Tea Party applicants and the IRS denied at least one category of applicants after a 3-year review. Is that right?

Mr. WERFEL. That's correct.

Mr. CUMMINGS. In this instance, your career experts reviewed these documents and told you this information was okay to share with the committee, that it did not reveal specific taxpayer information and did not violate Section 6103. But just as you were about to produce the documents, this information to the committee and the information to the committee, the IG personally intervened and claimed that it might reveal specific taxpayer information. Is that right?

Mr. WERFEL. That's correct. The IG reached out to me and expressed concerns about our pending delivery of the information.

Mr. CUMMINGS. So you were about to hand us documents, the same kind of documents Mr. Issa just asked about, but then the IG says no. Is that right?

Mr. WERFEL. The IG raised serious concerns.

Mr. CUMMINGS. When we asked the IG about this, he confirmed that his effort to block your disclosure to the committee was unprecedented. We don't hear those complaints coming from over the other side now. When we pressed him on this, he said he was still in: "ongoing discussions" with the office, and that he would resolve this issue with you: "sooner rather than later." The problem is we have not heard a single word from the IG since then.

Can you give us an update? Has he withdrawn his objection? Are your discussions still: "ongoing"?

Mr. WERFEL. They are. I have spoken to him recently about it. He reasserted his concern and indicated that he was still not convinced that the information was not taxpayer——

Mr. CUMMINGS. The information about the progressive groups?

Mr. WERFEL. In this case, yes.

Mr. CUMMINGS. Do your career experts at IRS still believe it would be appropriate to provide this information to the committee?

Mr. WERFEL. Yes, they do.

Mr. CUMMINGS. I'm deeply disappointed that the IG continues to block the production of information about progressive groups to the committee. Representative Connolly and I sent a letter to the IG yesterday asking him for an explanation.

Mr. Chairman, I ask that our letter be included in the record.

Mr. MICA. Without objection, so ordered.

Mr. CUMMINGS. As I have said throughout this investigation, our job is to ensure that all applications for tax-exempt status are treated fairly, regardless of whether they are conservative, progressive, or in between. If we do not receive a satisfactory response from the IG by next week, I would ask that you go ahead, Mr. Werfel, and produce these documents.

You know, the chairman just said, he just told you, he wants the documents. So let's get him the documents, even over the objection of the IG. We will follow up and let you know if we hear from him, but look forward to hearing from us.

Mr. WERFEL. Thank you. And if I can just make a point, you know, I'm not exactly familiar with the exact procedures of the committee in the hearing, but I would like an opportunity to respond to each of Chairman Issa's allegations and questions. A lot of them warrant corrections of fact and clarification. I wish he was here for me to respond to him directly, but at some point during the course of the events today I would appreciate the opportunity to respond.

Mr. CUMMINGS. May I use the other 5 minutes?

Mr. MICA. If you would like. You have 6 minutes.

Mr. CUMMINGS. Thank you. Thank you, Mr. Chairman.

One of the things that I remind my committee members is that when people come in here, they come here, these are public servants, they are giving their best, and their family, everybody is watching them on C–SPAN, employees, accusations are made, and they never have an opportunity to respond. And it really, really bothers me. And so I want you to respond, if you may. Try to leave me a few more minutes, because I need to ask you a few more questions. Do the best you can.

Mr. WERFEL. First of all, the notion that we're impeding or obstructing is completely false. In fact, the opposite is true. We are involved in a thorough, comprehensive effort to fully cooperate with all the congressional committees that are asking questions, asking for witnesses, asking for documents, and there's substantial facts in evidence that demonstrate our full cooperation.

And keep in mind, I have been in seat for 9 weeks, and this process is moving forward, and we are getting better and more effective at producing this discovery on a day-to-day basis. I have more than

100 employees working on the document request that Chairman Issa raised a concern about. This includes 70 attorneys working full-time to review documents. We are producing documents on a weekly rolling basis. This committee, as of today, will have over 16,000 pages of documents that have been delivered. But to Congress as a whole, as of today, there will be 70,000 pages of documents delivered.

Now, what's important about the redaction process here, and what's very important to make sure that the public and the American people understand is that all of these documents are being produced to Congress. We operate within legal constraints in terms of what we can deliver to who and to when. We have to protect taxpayer information, and there are rules enacted by this Congress that require that certain documents can only go to the tax communities while other documents can come to——

Mr. CUMMINGS. And if you violate 6103 what happens, what's the penalty?

Mr. WERFEL. It's criminal. It's a criminal violation.

Mr. CUMMINGS. Jail time.

Mr. WERFEL. Exactly.

Mr. CUMMINGS. All right. Go ahead.

Mr. CONNOLLY. Would the gentleman yield?

Mr. CUMMINGS. Of course.

Mr. CONNOLLY. Mr. Cummings, the very same chairman who just railed against Mr. Werfel in his 9-weeks tenure, did he not say on June 18th in defense of the Inspector General, Mr. George, that in erring on the side of caution, that was the right policy——

Mr. CUMMINGS. He certainly did.

Mr. CONNOLLY. —as to 6103? And therefore, the withholding of documents was justified.

Mr. CUMMINGS. That's right.

Mr. CONNOLLY. Is it also true, Mr. Cummings, that the list of search terms submitted to Mr. Werfel and IRS by the majority on this committee includes 81 items?

Mr. CUMMINGS. That's right.

Mr. CONNOLLY. And is one of the terms "audit," the word "audit"?

Mr. CUMMINGS. That's right.

Mr. CONNOLLY. Might that generate, I don't know, a lot of paper at IRS, Mr. Cummings?

Mr. CUMMINGS. Yes.

Mr. CONNOLLY. Thank you, Mr. Cummings.

Mr. WERFEL. And I'm going to get to that point, but let me quickly go through some of the statistics and facts to make sure that there is an understanding of the amount of discovery that's coming across from the IRS to these committees.

Mr. CUMMINGS. And intertwined in that, your testimony earlier, that you are losing, I think you said, 8,000 employees, 8,000.

Mr. WERFEL. Yeah. We take this very seriously, and out of Chief Counsel's office of 1,600 lawyers, we have 100 lawyers working on this; 100 people, 70 full-time. I said there was now 70,000 pages of documents as of today, by the end of the day today, that will be delivered to Congress. These have very relevant information on them that were specifically requested by the committee. There was

a prioritization. You asked for the BOLO spreadsheets; we got you them. You asked for the emails associated with the BOLO spreadsheets; we got you them. You asked for training materials, emails that were self-selected by witnesses appearing for interviews. All of those were delivered.

We've responded to 41 different letters from members of the committee. Including today's hearing, IRS officials, including myself, have appeared in 15 hearings since the IG report was issued. We have made 19 employees available for a total of 29 interviews. Supporting all of this is thousands and thousands of work hours as we work to be cooperative.

And I think the trend here, which is important, is that the document production in particular, because that's of concern, is increasing. In fact in this week alone we are having increases, and the reason is, is because over the last few weeks we have made important changes to that process. I have added more people. We're making technology enhancements.

But perhaps most important, to get to one of Chairman Issa's most critical concerns, which I think really warrants clarification, what happens is when we get 82 search terms it produces a large amount of documents, a majority of which are nonresponsive. And what happens is you have to look through every document. We have a responsibility to look at every page. And if you produce an enormous amount of documents to look through, it takes longer and longer to find those responsive documents and give them to you. Roughly 75 percent of all the documents that were being pulled based on the 80-plus search terms were nonresponsive, yet staff time was being eaten up going through each document.

So what we did is we tried to help the process along, not by permanently saying we're not going to search these search terms, but by saying, if we can take the search terms and ensure that we have a higher response rate in some of this information, then we're going to get the information that this committee and other committees want quicker.

So no unilateral decision has been made to alter the search terms in perpetuity, not at all. That's not true. What has happened is we have made an adjustment to the search term in order to increase the number of documents you get sooner rather than later. The fact that I'm able to deliver thousands of pages of documents today is because we have made these improvements. It doesn't mean that we're not fully committed to getting all these documents.

Mr. CUMMINGS. Before my time runs out, you're trying to obey the law, is that what you are telling us?

Mr. WERFEL. I'm trying to obey the law.

Mr. CUMMINGS. That we made, that this Congress made.

Mr. WERFEL. Yes.

Mr. CUMMINGS. And finally, I want to just enter in the record the letter of August 2nd, 2013, to Chairman Issa, Mr. Chairman, from Mr. Werfel. I would like to have that entered into the record.

Mr. MICA. Without objection, so ordered.

Mr. MICA. That concludes the time of the gentleman. And I will recognize then Mr. Jordan.

And Mr. Jordan, you have 25 seconds in addition to the 5 minutes.

Mr. JORDAN. That's fine. Thank you, Mr. Chairman.

Mr. Werfel, you know, 81 search terms, 12 search terms, 2,500 pages of redacted, you know, blank page, whatever. And you have got reasons and you gave your explanation, that's fine. But it's been almost 3 months since Lois Lerner had a planted question asked where she told the world that this was going on. And we have been asking ever since that happened for Lois Lerner's emails, and you guys won't give them to us. Now, that's not redacted. That's not 61. We just want the correspondence from the person at the center of the storm and you guys don't give it to us. It seems to me that's a couple hours. You got 1,600 lawyers. Why can't you give us her emails.

Mr. WERFEL. I don't know that that's the case. In fact——

Mr. JORDAN. Our staff told me we have not——

Mr. WERFEL. —we've provided all of the emails.

Mr. JORDAN. Our staff told me we have not gotten emails from Lois Lerner.

Mr. WERFEL. We should clarify that. In fact, I received a letter recently which attached an email from Lois Lerner that we produced. I mean, so we are producing these emails. In fact, when you make a specific request to us——

Mr. JORDAN. We want the emails from anyone at the IRS correspondence with the White House. Why can't we get that?

Mr. WERFEL. We've looked at those, too, and we've searched, and in some ways, in some searches, we came up with zero. There were no emails between that individual and the White House. But this is the point I'm trying to make. If you have a particular request, give it to us. We will move it higher in the priority list and we'll get you the documents.

Mr. JORDAN. Well, then why are we not getting this?

Mr. WERFEL. I don't know.

Mr. JORDAN. William Wilkins, we're not getting his emails.

Mr. WERFEL. That's also not true. Two things about William Wilkins, if I could. One, I think today or this week we are producing, because you made a specific request, and as part of our cooperation, if you want to put something in the front of the line, please, put something in the front of the line because that is going to help us. It's about prioritization.

The other thing about Bill Wilkins is we've offered Bill Wilkins to be interviewed by this committee. Last week we made that offer. It's a standing offer. At this time, your staff has not taken us up on this offer.

Mr. JORDAN. Oh, we will at some point. Trust me.

Mr. WERFEL. I hope do you, because this is not about obstruction. This is about offering as much information as we can. And the fact is, is that I know you have a lot of questions about Bill Wilkins, we want to get you those answers. We have offered him to be interviewed by your staff. You haven't taken us up on that.

Mr. JORDAN. So I just a want to be clear then. Every single email of Lois Lerner's that we have asked for, you have sent to us?

Mr. WERFEL. No. But we've provided hundreds of her emails. But, again, this is a process.

Mr. JORDAN. No, no, no, no, no, no. It's pretty simple. You go to her computer and you get her emails.

Mr. WERFEL. It's not that simple.

Mr. JORDAN. Well, it shouldn't take 3 months.

Mr. WERFEL. Well, the challenge that we have——

Mr. JORDAN. Well, here is the point. Just a little bit ago you said you did send us all the information. And then I asked you the question, did you send us every single email from Lois Lerner, and you said no. So which is it? Did you send them all or did you not send them all?

Mr. WERFEL. We sent many Lois Lerner, but not all of them.

Mr. JORDAN. So that's different than you first told me. You got to be square with us.

Mr. WERFEL. I'm being square with you.

Mr. JORDAN. We want every single email from Lois Lerner. We want every single correspondence from Bill Wilkins. And we would like any correspondence between the IRS and the White House. And you haven't given it all to us.

Mr. WERFEL. And here's my answer if I could, which is——

Mr. JORDAN. I'm giving you plenty of time to answer.

Mr. WERFEL. This is a process, and we are providing information on a rolling basis. We are getting it as quickly as we can to you. If you have a specific request, we will do our best to put that at the top of the priority ladder and get you that.

Mr. JORDAN. We have a specific request. We want every bit of correspondence from Lois Lerner and you won't give it to us. Here is the lady who broke the story with the planted question. Here is the lady who took the Fifth. Here is the lady who is at the center of this storm. And we want every bit of email from her, and you won't give it to us.

Mr. WERFEL. I will tell you I'm committed to.

Mr. JORDAN. And you have had 3 months to do it.

Mr. WERFEL. I will tell you what we're committed to. We're committed to reviewing every one of Lois Lerner's emails, and providing the response. Some of it has to be redacted for 6103. Some of it be reviewed for relevance and——

Mr. JORDAN. Why would Lois Lerner have 6103 information in her emails? She is the policy person. So she's got specific taxpayer information that she's sending all over the place?

Mr. WERFEL. It might be very normal for Lois Lerner to email someone inside the IRS who is authorized to have taxpayer information.

Mr. JORDAN. Well, let me ask you to do this for us.

Mr. WERFEL. A lot of her emails——

Mr. JORDAN. When you go back to the office today——

Mr. WERFEL. Yes.

Mr. JORDAN. —can you tell those 70 lawyers, amongst the 1,600 you have at the IRS, can you tell them to focus on one thing: Every single bit of correspondence Lois Lerner has sent to anyone on the planet, we want that information given to this committee so we can get to the bottom of the story. Can you do that?

Mr. WERFEL. I will go back and I will ask the team to prioritize that over other document requests that we've received, because you've asked, and that's part of the partnership.

Mr. JORDAN. If the President wants to work hand in hand with Congress and you guys want to get to the bottom of this story, why

wasn't that done back in May when this story broke? Here is the lady who has taken the Fifth, who broke the story with the planted question, who tried to blame it on two rogue agents, which you know isn't true. Here is the lady at the center of this storm. Why wasn't that done the very first day you came on the job where you said, you know what, here is the lady at the center of this whole thing, let's get every bit of correspondence and let's get that to the committee.

If the President really wants to work hand in hand with Congress to get to the truth, I would have expected that would be the very first action you would take, Mr. Werfel, and here we are 3 months later and you are telling us in this committee, we have only sent you some of Lois Lerner's emails. Why wasn't that done day one?

Mr. WERFEL. I think the process——

Mr. JORDAN. Don't you think the American people would have liked to have that information from day one?

Mr. WERFEL. Yeah, I know. A couple of other responses. First, Lois Lerner's emails are on the top of our list and we are working through it. But we're also producing——

Mr. JORDAN. That's not good enough. That's not. We want them and we wanted them in May and you still haven't got them to us. Here it's August.

Mr. WERFEL. And as I've demonstrated, we've produced a lot of information to you that's highly relevant to your investigation.

Mr. CUMMINGS. Mr. Chairman? Mr. Chairman?

Mr. MICA. Okay, wait a second. Okay. So we got 10 seconds. Go ahead.

Mr. CUMMINGS. Mr. Chairman, may I have 10 seconds just to——

Mr. MICA. The gentleman is recognized.

Mr. CUMMINGS. The gentleman just said that we hadn't received documents with regard to William Wilkins. We have received, I know we haven't received all of them, but I have got them right here. If the gentleman would like to have them, I will give them to him.

Mr. MICA. The gentleman yields back.

Okay, I think we've got even time now. And I think Mr. Turner, the gentleman from Ohio, is to be recognized.

Mr. TURNER. First off, let me join my colleagues, Mr. Jordan, of course the chairman, being outraged to the fact that the IRS in the beginning didn't tell the truth on this. We're not dealing with the IRS coming forward and saying this is what has happened, either to the American public or to this committee. The IRS came forward first with a fiction that this was something that was done by rogue agents down in IRS in Cincinnati. Now we are learning, of course, that it's not. Now they are not being forthcoming with information. And it's just astounding to have both members of this investigative responsibilities of this committee and certainly yourself, Mr. Werfel, defend not giving us, the American public, information. But the chairman has said, luckily, you know, we're not dependent upon your good graces to get this information. The chairman is issuing subpoenas. And we certainly have the full ability to use the Federal Government's authorities to compel your answers since you have not chosen to. And I look forward to the fact that that is com-

ing. I think it is hysterical that you keep saying we are doing this on a rolling basis because the only thing that's rolling is that you're rolling the American people and you're rolling this committee and it is going to stop.

Now, getting us back on topic. The issue of identity theft is certainly a very important one, and it's one that of course the IRS and its processes can have an effect upon where people have vulnerabilities. Commissioner MacGinnitie—did I pronounce that correctly—I appreciate your testimony. You mentioned LexisNexis. They're actually in my community, and I appreciate you working directly with them. I think it's important for us to look to industry and the ways in which some of the data processing, data mining efforts can be used to be able to detect issues of identity theft.

Now, Mr. Werfel, the financial industry and commercial tax software manufacturers have made recommendations to the IRS to improve its detection and prevention of identity theft. Additionally, the IRS has started two task forces to address fraud in tax preparation and bank settlement products. One positive step is the IRS' issuance of guidance that allows tax preparers to run algorithms that identify fraudulent returns and report that fraud to the IRS. The American Coalition for Taxpayer Rights has also worked with the IRS to ensure members of ACTR can send real-time reports of fraud to the IRS.

Mr. Werfel, the financial industry has important expertise and has taken steps to combat identity theft. How is the IRS working with the tax software companies on the issues of this problem? Also, we are aware that the State of Georgia has utilized the private sector to help identify potential fraud through third-party information. We understand the IRS has a program to receive information from industry. Could you describe this? And how have you worked with companies to help them identify consumer fraud and identity theft?

Mr. WERFEL. Well, we have a very critical partnership with private industry. They often are developing and are at the cutting edge of sophisticated solutions to deal with fraud or error. There are companies that we have working at the IRS right now that help inform on our filters, help inform on trends and schemes that we can help capture, help us, provide us information. We also benchmark and see what other companies are doing that can face similar challenges, whether it's a credit card company or other types of entities in the financial services industry.

So I think that we have a robust partnership with private companies and experts, and I think if we're going to tackle this issue effectively we're going to have to stay very close with our corporate partners because they are very——

Mr. TURNER. Mr. Werfel, one thing I'm interested in specifically is the interface between the private sector and the IRS. And obviously, there's a huge amount of communication that's going back and forth that includes opportunities for discovery of identity theft. Not just looking to how industry can be applied to your internal bureaucratic operations, but how also, through that collaboration, identity theft might be more easily identified.

Mr. WERFEL. Yeah, I completely agree. There is a lot of dimensions to this problem, and very often technology is going to be a

solution that helps us stay ahead of it. I mean, what we have been describing in this hearing is a problem that's emerging quicker than the solutions are to tackle it. Technology is the key.

Mr. TURNER. Mr. Werfel, now turning back to the IRS scandal, I want to say this. You know, when you first came on and sat in front of these committees and gave everybody and the American public your statement that you were going to get to the bottom of this, you don't get to just decide that. You have to actually prove it. And the fact that you're not standing in front of the committees and readily disclosing the information that would establish both what happened, that you're stopping it and correcting it, is a tremendous amount of arrogance. And I certainly hope that you will become forthcoming.

Mr. WERFEL. It's not true. It's just simply not true. We are providing the information. We are doing it——

Mr. TURNER. I yield back.

Mr. WERFEL. We are doing it in a robust and legally appropriate way. But any indication that we are standing in the way of discovery is just not true.

Mr. MICA. Thank the gentleman.

Recognize now the gentleman from North Carolina, Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman.

Thank you, each one of you, for being here.

Mr. Werfel, and Mr. McKenney, if I could direct your attention. As we look at tax preparation and the industry and addressing this issue of tax fraud, you know, what are the recommendations that have been made that have not been addressed or that we're failing to address with regards to the IG, with areas—because we're seeing that it's growing. According to Mr. Werfel's testimony, it says that it's growing. So what have we not addressed?

Mr. MCKENNEY. At least from our perspective, the main concerns the IRS needs to be in a position to be able to do is authenticate kind of in three areas. One, as the tax return comes in the door, make sure they authenticate that it's from the right taxpayer. When they validate the income and withholding, they need to run that against income and withholding to verify that. And then on the end of where they deposit into a bank account, that also needs to be authenticated so that they deposit to a bank account that's in the name of the taxpayer. So those are the three areas where we believe it needs improvement.

Mr. MEADOWS. So, Mr. Werfel, why do you think we have not been more successful in addressing that? Is this a lack of working with the tax preparers?

Mr. WERFEL. I think, you know, we want to achieve more than we can given time and resources. The schemes emerge, the identity theft problem grows quicker than we want.

I'll give you an example. You know, one of the things that the IG has pointed out is that we can do more to use the standard authentication procedures that are using credit cards. Like if you are authenticating yourself, they might ask for your mother's maiden name or something that potentially the identity thief might not know about you. They might, but they might not. It improves the chance. So we've developed this program we call our out-of-wallet

program, where we are implementing those very types of procedures, but we are finding that it takes resources. The more people——

Mr. MEADOWS. So this all gets down to money, is that what you're——

Mr. WERFEL. No, no, I'm just giving you an example.

Mr. MEADOWS. Okay.

Mr. WERFEL. It's a combination of knowing about the solution and having the resources to effectively implement it and make sure that it is going to have the most positive return on investment. So there's a lot of factors at play.

Mr. MEADOWS. All right. So let me go with this, because we've got an issue. You've said that this is increasing, this problem is increasing, and yet what we have is we have—and I've talked to some of the groups that are actually working to try to solve this in the private sector. And so if it's increasing, and they are making recommendations on how to fix it, the private groups that you work with, where is the problem? Is it that they are making ineffective recommendations or we're just not implementing it at the IRS? Who's at fault?

Mr. WERFEL. I don't know if I want to say it's a fault. It's an inherent reality that the problem grows quicker than our solutions can track it.

Mr. MEADOWS. So if it's growing bigger, and they're identifying, because I've talked to some of the stakeholders, and they have a lot of recommendations, and they would indicate that you all are not acting on a lot of their recommendations. Would you agree with that? Or are they just not telling me the truth.

Mr. WERFEL. I'd want to take some time before I would concur with that. I mean, I think we are looking at——

Mr. MEADOWS. Are you aware of any times where they've made good recommendations that you have not implemented at the IRS? In preparation for this hearing, did you see, my gosh, we should have done that?

Mr. WERFEL. I didn't see any, so let me go back and talk to the team about whether there are any such situations, and I can make you aware of them.

Mr. MEADOWS. Okay. Let me go on a little bit further. In recent years, we have seen and you talked about instances of hundreds of direct deposits going to banks——

Mr. WERFEL. Yes.

Mr. MEADOWS. —and going to the same bank account. What steps are we taking? I mean, that seems like that would be a very easy programming issue to deal with in working with financial institutions, and yet I have heard of one that had 400. I have heard of another that had 1,000 going to the same bank account, you know.

Mr. WERFEL. Yeah.

Mr. MEADOWS. How can you not address this?

Mr. WERFEL. We are absolutely addressing it. And as I mentioned earlier——

Mr. MEADOWS. You mean you are going to be addressing it?

Mr. WERFEL. No, we are, effective with filing season 2013, we have put in place new filters to help us identify redundant bank

accounts. And as Mr. McKenney testified earlier, he gave some of the facts of what an impact that's having. So I would have liked to have caught that before. This is one of those things where a scheme emerges, and we can hit it as soon as it emerges, or we can be out in front and——

Mr. MEADOWS. I would encourage you to work closer with those stakeholders to do this. I have a few other questions here, but I'm running out of time, so let me finish with this one. Do you not see a problem with Obamacare coming in and with the subsidies that are about to be asked for under just, you know, in terms of just saying, well, I qualify, do you not see schemes that could come out of that that would make this pale in comparison?

Mr. WERFEL. We're certainly focusing on potential risk of fraud in the——

Mr. MEADOWS. Yes or no? Do you see the potential for great schemes?

Mr. WERFEL. I see it. But there is one point I want to make about the Affordable Care Act which is important, is when people get tax credits under the Affordable Care Act to help subsidize their premiums, they don't get the money. The money goes to the insurance company. So if I'm an identity thief or someone who is looking to defraud the government, I'm going to prioritize a place where I'm actually going to get cash——

Mr. MEADOWS. So what you're saying is we should just get rid of where we pay people when they haven't paid any taxes, that would get rid of all of this, all the tax credits that we give to people when they haven't paid taxes?

Mr. WERFEL. No, what I'm suggesting is, is that because the Affordable Care Act is structured such as if you get the economic benefit, you don't get the money, it goes directly to the insurance company, that that is a disincentive for identity thieves and other fraudsters to come in and try to defraud that program, because there is never a point in the process where they are going to get cash in hand when they're doing that type of premium tax credit application.

That doesn't mean that in the entire lifecycle of the Affordable Care Act we aren't concerned about certain vulnerabilities that we're working on. I'm just suggesting that that's a critical part of IRS' role, and there you have something in place that's going to disincentivize tax frauds from leveraging.

Mr. MEADOWS. Well, I thank the chairman for his indulgence.

Mr. MICA. Well, they haven't called a vote yet. They are going to call a couple of vote in a few minutes. So I guess with agreement with the ranking member, we'll just divide remaining time, 6 minutes a side.

And, Mr. Connolly, you can divide your 6 minutes. I'll recognize you at this time.

Mr. CONNOLLY. I thank you, Mr. Chairman, and I thank you for being fair in allocating time.

Let me just say, speaking for myself, Mr. Werfel, I apologize for the treatment you have gotten here today. One can stand up on a pile of paper, and that act could be construed, I'm sure it was not intended, to be an intimidating act. One can use those histrionics to hide the fact that, in fact, if anybody has blocked the issuance

of documents that counter a narrative, it's the Inspector General, Mr. George, who is not here today.

Mr. George testified under oath in response to questioning to me that the 202 unidentified entities he was looking at, he could not—there was no way of ascertaining whether progressive groups could be included in their number. And yet, subsequently, I believe on the 18th, under oath again, in response to questioning from Mr. Cartwright of this committee, he said he had indeed been apprised that there were BOLOs for progressive titles as well before the 22nd hearing. And in my view, that is at best, most charitably, an elusive answer under oath.

We now have the Inspector General blocking documents being made available to this committee in an abundance of caution with respect to 6103, according to your own testimony. And it's been described as an unprecedented intervention by an IG on the eve of producing documents. I don't hear any outrage about that. That's just perfectly fine. It's the General Counsel who's the problem.

I say it's the Inspector General who's the problem. I say the Inspector General has not provided objective and independent analysis before this committee. I say he has compromised his integrity and his credibility as a witness in this trumped-up so-called scandal.

The fact of the matter is, based on everything we know, the IRS messed up in Cincinnati. They created so-called Be On the Look Out, BOLO's, to try to screen an avalanche of tax-exemptions applications, some of which were clearly triggered by the Citizens United decision by the Supreme Court. And overwhelmed, they tried to create a filter. They did it badly. They were cautioned not to do it and they persisted. Wrong. And my colleagues on the other side of the aisle are right, as are we on our side, to criticize the IRS.

You came in, in the midst of that, to help try to clean up that and get to the bottom of it, and I congratulate you in trying to do so. And I have no evidence in front of me that you have done anything to obstruct or block. And I will say it is unfortunate that we could not go forward on this committee on a bipartisan basis and understand that both progressive and conservative groups apparently were targeted, and that's wrong. It's wrong if it's conservative. It's wrong if it's progressive. It's wrong if it's both.

But the idea that there is some underlying scandal here that is political and goes all the way to the top was indeed the narrative before any facts were even known. And it was wrong.

So I'm not surprised at the drive-by shooting nature of some of what's taken place here. And I regret it, because I do not think it's worthy of this committee. I think we could have and should have had a bipartisan analysis of what went wrong. But that narrative just won't plow.

And, Mr. Cummings, I'd be glad to yield to you the balance of my time.

Mr. CUMMINGS. Thank you very much. Thank the gentleman for yielding.

Going back to the letter of August 2nd, 2013, Mr. Werfel, that I introduced a few minutes ago, and it states—because I need to this be—I need the folks to hear this—and it states that as of today

you have provided more than 16,000 pages of documents to the committee and more than 70,000 pages of documents to those committees that are authorized to receive taxpayer-specific information. Is that correct?

Mr. WERFEL. Yes.

Mr. CUMMINGS. Given the importance of protecting the confidentiality of taxpayer information, can you explain what additional steps are required before the IRS can produce responsive documents to our committee and what you have done to assure this process is expedited?

Mr. WERFEL. Yeah. So under the law we are required to make sure that no information that's specific to a taxpayer can be disclosed to anyone that's not authorized to receive it. And under the law, the tax committees, in particular Chairman Camp, Chairman Baucus, and their designees, under the law are the only entities that can receive that type of information in Congress.

And if I could offer an example——

Mr. CUMMINGS. Quickly, because I want to address something Mr. Jordan said. Go ahead.

Mr. WERFEL. Just the one example I want to give, it's easy to pick up a document with a bunch of black on it and say you've redacted everything, this is unacceptable. But the reality is, some of the documents requested by the committees are taxpayer case files. They say, I'm going to pick taxpayer X. I want their file. I want their application for tax-exempt status. I want everything associated with it. So we grab a file and give it to them and it might be a bunch of pages, but because it's a taxpayer file, the entire file is protected under 6103 and it would be a crime for us to disclose that to any unauthorized sources.

So we can have someone, you know, kind of indicating, look at all these pages that are completely blacked out. But what I want to make sure is we get the facts out. The facts are, those documents are coming to the Congress. We are working furiously to get them up here. But just the fact that they're blacked out is not in any way an obstruction. It's a legal responsibility that we have. And if there are concerns about the way in which we are redacting, I've said it before, we should talk to Chairman Camp, we should talk to Chairman Baucus. They have authorities to provide that information as well to other Members of Congress.

There's a checks and balances program here in place to make sure that the right discovery receives to the right hands. And I just want to make sure that we are leveraging those checks and balances and understanding the facts.

Mr. CUMMINGS. Again, thank you for your service. I see my time has run out.

Mr. MICA. Thank the gentleman.

Let's see, we have 6–1/2 minutes left now. I'll yield 4 minutes to Mr. Meadows, and I think he is going to yield some of that time to Mr. Jordan.

Mr. MEADOWS. For each one of you that have come here today, I thank you. We have a number of questions that we will give to you. We ask that you respond in terms of for those particular information.

Mr. MEADOWS. Mr. Werfel, I want to give you a chance to change what you just responded to with Ranking Member Cummings. You said that we have 16,000 documents at this particular time in Oversight, and that's——

Mr. WERFEL. Let me clarify that.

Mr. MEADOWS. Because we have 12,000.

Mr. WERFEL. Right. Today, as of today, we are scheduled to produce by the end of the day today, you know, it's on schedule, I hope—that's my goal, that by the end of the business day today we have additional pages of documents that will put you at about 16,500 pages for the total.

Mr. MEADOWS. Will those be any more meaningful than what we have already gotten?

Mr. WERFEL. They are responsive to the documents that you have asked for.

Mr. MEADOWS. Will they be any more meaningful? You're an educated individual. Will they be any more meaningful?

Mr. WERFEL. I don't know how to respond to that because they're the documents that you requested. We are trying to provide you responsive documents, so they will be meaningful in some way if they are responsive. I don't know how——

Mr. MEADOWS. Well, you're sending a very clear message. It's just not one, I don't think, that——

Mr. WERFEL. I will say, if I can respond, you said any more meaningful than the documents that we provided. We provided you BOLO lists. We provided you emails associated with BOLO lists. We provided you training materials. We furnished for you 19 witnesses that have been interviewed 29 different times by committees. That's meaningful information. I think it's very meaningful information. So the notion that we're providing you information that's not meaningful I don't think is correct, and I want to clarify the record on that.

Mr. MEADOWS. Well, I'll yield to the gentleman Mr. Issa.

Mr. ISSA. Thank you. I didn't plan on coming back, but I just want to go through a couple of things.

Mr. WERFEL. Please.

Mr. ISSA. According to you, nothing on this page is anything but 100 percent taxpayer-specific information, taxpayer identity information. Identity.

Mr. WERFEL. It may be. And as I was just explaining, I think you missed it, right before you came in, if I could explain——

Mr. ISSA. No, no, look, I've gone through the 6103 and I'm going to get to my point very quickly, because Mr. Cummings made a point, and it's a good one. Except he made a point trying to disparage a long-serving government servant, the IG.

The IG has been consistent, as far as I can tell, in a highly, highly limited release under 6103. In other words, the ranking member is upset because he's not getting progressive groups that under oath the IG said were not targeted in his evaluation looking at the information. The amazing thing is, you didn't defend him, and I'm shocked. I'm shocked that you would not at least say that the Office of the Inspector General, which includes key lieutenants, one of whom was the Democratic deputy staff director here, that they are above politics, they are above partisanship, that they have a

level of consistency. Instead, you let him imply that he was basically trying to thwart an investigation on progressives. Will you——

Mr. WERFEL. That was not my intent.

Mr. ISSA. Will you make it clear today——

Mr. WERFEL. I will.

Mr. ISSA. —that as far as you know he has been consistent in what he has said; that his office, although it includes people that at certain times worked for Republicans or Democrats, that it is considered to be nonpartisan, and their actions to this day, to the best of your knowledge, have been above question?

Mr. WERFEL. I will respond in this way: I have a deep respect for Russell George and his office. I have had a longstanding relationship with him and other members of the IG community. In my short tenure here, there have been moments along the way where we have disagreed. We have disagreed on the nature of whether something is 6103 protected. We have disagreed on the nature of some of the facts and data associated with the 501(c)(4) backlog, et cetera.

But to your point, I have no basis to challenge his integrity in any way, shape, or form. I think he is an individual of great integrity, and I'm glad you asked the question.

Mr. ISSA. Well, then, his integrity was challenged by the ranking member.

Mr. CUMMINGS. That's not true.

Mr. ISSA. Well, I'm afraid——

Mr. CUMMINGS. There you go again.

Mr. ISSA. —that the record will speak for itself.

Mr. Chairman, I haven't done my second round. The ranking member has. Could I have my 5 minutes.

Mr. MICA. Well, okay, we had divided time up. We have 2–1/2 minutes left on our side.

Mr. ISSA. If I could have that I will be brief. Thank you.

Mr. MICA. The gentleman is recognized.

Mr. ISSA. I'm asking you today as we send a subpoena—I have signed it now.

Mr. WERFEL. Okay.

Mr. ISSA. —to Secretary Lew—who, by the way, I'm hoping he can get above his statements on a phony scandal about this and realize this scandal is real. Real Americans were really victims.

Now, those victims, I'd love you to sit down, look at the law, and make the appropriate decision, which is withholding details on people who were victimized is not the intent of 6103 and that the clear intent can be recognized. When you hand—oh, people are smiling and smug behind you. I just wish the camera could see there. Sort of, oh, well, we're going to get past that.

The fact is, Chairman Camp is looking at a lot of this information. Today you've talked about how fast you're delivering things. All you had to do was hand his people basically the keys to the search, and they could have looked online over your shoulder. They have complete right to 6103. You don't have any redacting capability. They have the right to everything you see, they can see. And still he's received a fraction of the documents. You continue to essentially slow roll. He is getting documents in the order that you

choose to give them, and that's wrong. That's just plain wrong. So we can——

Mr. WERFEL. That's not true.

Mr. ISSA. No, no, it's my limited remaining time. I was with Chairman Camp earlier today. I've looked at his releases. I'm up to date. He is frustrated and said so in a letter to you with the speed of the release, with the fact that you don't have a reason to do anything other than comply and turn over.

The fact is the American people need answers and people who have been victimized need it. So I'm joining with the ranking member in one sense, not that you invent out of thin air and help support this progressives were victimized, when in fact we have a sworn statement that they weren't, but that you make available every possible piece under a uniform interpretation of 6103. And if you want to go to the level that Mr. Cummings wants on what 6103 is, great. Be consistent, lower it to lowest level, and more importantly, go back and soul search with that legion of attorneys and say, how in the world can we keep victims a secret? And that's what you are doing today. You are keeping victims a secret standing behind this.

I do not believe that this is minimum redaction under 6103. I don't think you believe it either. And as you go off into your private life, I want you to think about the legacy of whether you helped victims or hindered this investigation.

I thank the chairman and yield back.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. MICA. Okay. We could probably get 2 minutes in a side.

Mr. Cummings, 2 minutes.

Mr. CUMMINGS. Let me be very clear. With regard to the IG, there were things that were left out of his report that he admitted—that he admitted. There was disagreement, Mr. Werfel, with regard to documents, 6103, and what came under 6103. And clearly you had, based on the testimony that we had in the last hearing, you had career folk whose job it was to determine what was or was not 6103 to say that these documents could be released. Is that right?

Mr. WERFEL. That's correct.

Mr. CUMMINGS. And there was disagreement. The mere fact that one disagrees with someone does not mean you question their integrity. I disagree with my wife a lot, but I love her to life and I trust her. But what we have said is that we want the truth, the whole truth, and nothing but the truth, so help me God. That's what we want. Whether it's progressives, whether it's liberals, whether it's conservative, anything in between, we simply want the whole truth.

And so, you know, on the one hand they say in one hearing, oh, we've got to be real careful with 6103. Then in the next hearing they said, dammit, we don't like the way you're dealing with 6103. Give us everything as fast as you can.

Seventy lawyers—70 lawyers—working full-time going through documents. Let me tell you something. On the one hand, if you release information about taxpayers they'd be all over you. I'm just saying, I mean, you're damned if you do and you're damned if you don't. And I think the best thing to do is to obey the law, period.

And, Mr. McKenney, you have got recommendations. Mr. Werfel talked about 8,000 employees, losing 8,000 employees, sequestration. How does that affect your recommendations, the loss of employees?

Mr. MCKENNEY. As it relates to identity theft?

Mr. CUMMINGS. Yeah.

Mr. MCKENNEY. Well, obviously, when they have a problem they have to deal with they have to draw from their existing employee base, which affects their other operations. That's the concern, and it would be a concern of ours also.

Mr. MICA. Okay. Let's see, you have 2–1/2 minutes. Mr. Jordan, you are recognized.

Mr. JORDAN. Thank you, Mr. Chairman. I would just say this: They did release 6103 information, the Inspector General said so four different times, and one of those cases was referred to the Justice Department for prosecution, and this Justice Department won't prosecute. So they did exactly what—I want all the information. So we have the IRS releasing 6103 information, but they can't give us Lois Lerner's emails. I don't care, you said 70,000 pieces, you know, you can make it a million pieces of information, but if you don't give us her emails, what does it mean?

I want the emails. Here is an example. We got some limited emails regarding Mr. Wilkins. Here is an email from Janine Cook, who I think works in the Chief Counsel's office, an email she sent to Mr. Wilkins. And she says, "Bill, thought you might be interested in this"—it deals with the Tax Code, Citizens United—she says, "Bill, thought you might be interested in this in light of your earlier email." So we get that email, but we don't get the earlier email. We want all the emails.

I mean, this is a great example of, you know, you keep saying, well, we are sending you some. Mr. Werfel, we want them all. And let me ask you this: Why have you limited the search? Why have you limited the search to May 10th, 2013? There are still all kinds of cases pending. People still haven't got a resolution to their tax-exempt status. Why are you limited to that day?

Mr. WERFEL. I can answer all those questions. First, let me just point out that this process moves forward. It's not like it's over today. There is a cooperation that can exist. And if you have particular documents that you're not seeing coming through in the midst of all these tens of thousands of pages, you bring it to our attention——

Mr. JORDAN. You told me earlier, Mr. Werfel, that you have not sent us all Lois Lerner's emails.

Mr. WERFEL. We have not. We're reviewing them. And I can explain to you the subject of that review. As they're ready they come over. But they're being reviewed for responsiveness.

Mr. JORDAN. All right.

Mr. WERFEL. And as an example, we might get an email that we pull down that's an email exchange between a worker and their spouse about an upcoming medical appointment that they might have, or day care arrangements. And we're not going to send that over, it's nonresponsive. And if we did send that over, you'd say you're loading these documents with things that are, you know, not helpful to our review.

So these are just, I think, standard procedures that a government agency would go through to make sure that we're giving you——

Mr. JORDAN. Well, you can't have it both ways. You can't brag about 70,000 pieces of information and documents you've sent over and then say, oh, but we don't want to send you too much, we want to just—we want to have——

Mr. WERFEL. We want to be responsive. That's the key. So if you have a particular email——

Mr. JORDAN. I'll tell you what. I'll tell you what. We'll take all Lois Lerner's emails, we'll take all Bill Wilkins' emails, and we'll take all the emails from IRS staff to the White House. We'll take all those, and we'll be the judge if you're being—if you're sending us too much information.

Mr. WERFEL. I'm going to review them for responsiveness, because that's a standard procedure that's done. But let me make one point. You picked up a piece of paper that we've provided to you, discovery, and you've said, this is interesting, I have an additional question based on this email. That's great. Tell us that, and we'll look for the very document that you're asking for, because this is a cooperative process.

Mr. JORDAN. We will do that.

Mr. WERFEL. This is cooperation. This is not impedement, this is cooperation. And that's my commitment.

Mr. MICA. I thank the gentleman, both the witnesses and members of the panel for participating today. As we conclude, just let me say that we started out, of course, on the issue of identity fraud and the way IRS is dealing with it and the revelations that the IRS is being used somewhat as a piggy bank for fraudulent tax returns right now.

As I said when we started, we are trying to look at some of the problems within IRS, and we've looked at the conference spending, we've looked at the contracts in another hearing, and today the fraudulent returns. We'll continue that. We want to correct the situation. And we do have these scandals to deal with.

We diverted a bit to the, I guess, the frustration by members on our side. And when you have, you know, thousands of pages, you did in fact provide the pages, and then the President and others orchestrating the phony scandal title to these investigations.

Just in closing, I'll put in the record the statement of the President in May when this became public about the scandal. "I've reviewed the Treasury Department watchdog report. The misconduct that it uncovered is inexcusable. It's inexcusable. And Americans are right to be angry about it, and I'm angry about it and will not tolerate this kind of behavior by any agency, but especially IRS." These are the words of the President. And then he directed Secretary Lew of Treasury to follow up with the IG to see who is responsible. We're trying to find out who's responsible, too, and we'll do that, and continue to do that.

So I thank you for being with us and participating as members of the panel. There being no further business before the Subcommittee on Government Operations, we'll leave the record open a total of at least 7 days for additional questions may be submitted to the witnesses.

Mr. MICA. Again, thank you for participating, and this hearing is adjourned.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Opening Statement

Subcommittee on Government Operations
"Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS"
August 2, 2013, 9:00 a.m., Rayburn 2247

- In recent months, there has been a number of what the President has called "phony" scandals at the IRS.
- These so-called phony scandals include $50 million in wasteful conference spending, which makes the GSA conference spending scandal look mild.
- Another scandal is the $500 million the IRS improperly awarded in contracts to Strong Castle Inc. – Tammy Duckworth's Testimony (June 26th)
- Today though, we are here to talk about what everyone should agree is a real scandal, that is costing us billions of dollars every year – identity theft related tax fraud.
- The incidents of identity theft related tax fraud have grown from about 456,000 cases in 2009 to 1.9 million in 2013. This is a 416 percent increase.
- The Treasury Inspector General for Tax Administration, or TIGTA, estimates that the IRS could issue $21 billion in fraudulent returns over the next five years. TIGTA says this is a conservative estimate.
- In 2011 alone, over $5 billion went out the door in potentially fraudulent returns.
- It can take months or years to resolve a case of identity theft related tax fraud. This is a huge burden for victims who have their identities and their credit scores compromised. They are left in limbo.
- Identity theft tax fraud is actually taking work away from drug dealers because it is easier and safer to scam the IRS than it is to sell drugs.

- There are simple steps the IRS could take to address this. Georgia has taken action and has drastically reduced this problem at the state level.

- The IRS has complained of a lack of resources, and says it would need another $22 million to examine all cases of potential fraud. Perhaps it could have used some of the money it wasted on conferences or improper contracts.

- There are also steps the IRS could take without costing any money. Right now, there are 21 separate divisions at the IRS that deal with identity theft. If it consolidated them, it could reduce potentially duplicative work and make it easier for victims to get help at the IRS.

- This subcommittee had four hearings on the issue in the 112th Congress, yet we are still finding ourselves dealing with a skyrocketing problem. I hope that today we can come up with some solutions.

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Opening Statement
Congressman Gerald E. Connolly (VA-11)
Ranking Member of the Subcommittee on Government Operations
Hearing

Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS

August 2, 2013

Thank you Mr. Chairman for holding today's hearing on this critically important issue. As a member of the Subcommittee on Government Organization in the 112th Congress, I was able to review this issue alongside Chairman Platts and Ranking Member Towns and look forward to doing more review in partnership with Chairman Mica in this subcommittee.

Identity theft is a serious problem, as is tax-related identity theft. According to the IRS Taxpayer Advocate, tax-related identity theft jumped more than 650 percent between 2008 and 2012. Last year alone, there were 1.8 million incidents of identity theft and fraudulent refunds.

In my own District, a gentleman and his wife who filed their 2010 tax returns electronically in April of 2011 fell victim to tax-related identity thieves. Their tax filing was rejected because someone else had used his Social Security Number and received a refund before he had filed his legitimate return. My constituent tried for two years to resolve the theft of his tax refund. He spoke with six different individuals at the IRS between April and August of 2011 and was given six different time lines for the issue to be resolved, ranging from 6-8 weeks to a year. Further, the IRS provided conflicting information about forms to fill out, where to send the forms, and whether he should follow up with the IRS or wait for the IRS to contact them. In November of 2011, they received their refund and thought the issue was resolved.

In May 2012, two of my constituents tried to refinance their home and were rejected by their mortgage company because the company was using fraudulent IRS documents. When my constituent called the IRS, they stated "Everything looks fine here. I can't explain it and if there is a problem, I cannot do anything about it." After many ill-fated pursuits at clearing up the situation, the gentleman eventually gave up in frustration; his problem left unsolved.

This is simply unacceptable.

To be fair, the IRS recognizes this fact, and is implementing reforms to enhance its efforts to combat identity theft by adopting a three-pronged approach.

The first prong is prevention, which means stopping this type of tax fraud from being successful in the first place. Clearly, given the prevalence of this crime, much more work needs to be done in this area.

The second prong is providing taxpayer services for those who have been the victims of identity theft. This is a significant focus of the IRS, but it appears that the agency is falling short in some instances.

For example, an audit by TIGTA sampled 17 different identity theft cases and found that the average time it took for these cases to be resolved was 414 days.

The third prong of the IRS's approach is catching and convicting the criminals who have committed these crimes. This is a critically important step. If we can step up enforcement, it will deter the amount of tax-related identity theft that we have been seeing increase over the years.

I am interested in learning more about the IRS's efforts to expand upon this three-pronged approach, including examining IRS successes, as well as challenges they still face. I also would like to hear more about how customer service is being improved to prevent the bureaucratic nightmare that my constituent, as well as millions of other Americans, face every year.

This year, as with every year, taxpayers face a number of issues and obstacles as they try to file their returns. I look forward to working with the IRS to implement corrective actions that will strengthen taxpayer assistance initiatives during what can be a very difficult time for many citizens. I hope today we can have a productive discussion as to how to achieve that goal.

Contact: Jennifer Hoffman, Communications Director, (202) 226-5181.

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August 1, 2013

The Honorable J. Russell George
Treasury Inspector General for Tax Administration
U.S. Department of the Treasury
City Center Building
1401 H Street, NW Suite 469
Washington, D.C. 20005

Dear Mr. Inspector General:

It has been two weeks since you testified before our Committee on July 18, 2013, and we are writing to inquire about the status of your objection to the IRS providing information to the Committee relating to the scrutiny of progressive applicants for tax exempt status. When you appeared before the Committee, you testified that you were engaged in "ongoing" meetings with IRS officials who determined that producing this information to the Committee would be appropriate and consistent with the law, and that you would have a resolution of this matter "sooner rather than later."

When IRS Acting Commissioner Danny Werfel appeared before the Committee on July 17, 2013, he testified that some progressive or left-leaning groups applying for tax-exempt status received treatment similar to Tea Party applicants, including at least one category of applicants that had their applications denied by the IRS after a three-year review. Ranking Member Cummings had this exchange with Mr. Werfel:

Cummings:	During our interviews, we have been told by more than one IRS employee that there were progressive or left-leaning groups that received treatment similar to the Tea Party applicants. As part of your internal review, have you identified non-Tea Party groups that received similar treatment?
Werfel:	Yes.
Cummings:	We were told that one category of applicants had their applications denied by the IRS after a three-year review. Is that right?
Werfel:	Yes, that's my understanding—that there is a group or set of groups that had that experience, yes.[1]

[1] House Committee on Oversight and Government, Subcommittee on Energy Policy, Health Care and Entitlements, and House Committee on Homeland Security, Subcommittee on Cybersecurity, Infrastructure Protection and Security Technologies, *Joint Hearing on Evaluating*

During your appearance before the Committee on July 18, you and your lead auditor testified that you did not examine the treatment of progressive, Occupy Wall Street, or other categories of left-leaning applicants. You explained that you did not know the meaning of the term "progressive":

> I have no idea what that stands for, sir. Teddy Roosevelt ran for president under the Progressive Party banner. Would you consider him a Democrat or a Republican?[2]

Further, your lead auditor had this exchange:

> Q: Were tea party, 9/12, patriot groups treated predominantly differently than the occupy or progressive groups that we have?
> A: We don't know. We did not audit "occupy" or the other names you've used.[3]

You testified on July 18 that when you appeared previously before our Committee in May 2013, you knew generally that IRS employees were screening for "Occupy" groups, but that you "had no information whatsoever how, if at all, that information was used or misused." You had this exchange:

> Q: When did you first find out there were BOLOs about liberal or progressive groups?
> A: It was the night before I was testifying before the Senate Finance Committee at around 6:30 p.m.
> Q: And was that before your testimony here on May 22nd?
> A: That was before, yes.
> Q: So you were here on May 22nd, testifying about BOLOs about tea party groups, and when Mr. Issa questioned you specifically about other groups, you said there were no others—
> A: Well—
> Q: —but you didn't say a word about BOLOs that you knew were about progressive or liberal organizations even though you just admitted today—
> A: Yeah—
> Q: —that you were aware of that as of your May 22nd testimony. Am I correct in that, Mr. George?
> A: Sir, I need to clarify something. One, it was on—the BOLO group name was on "occupy." And I can use that word because it's generic. We had no information whatsoever how, if at all, that information was used or misused.
> Q: It doesn't matter. You knew there were BOLOs about "occupy."

Privacy, Security, and Fraud Concerns with ObamaCare's Information Sharing Apparatus (July 17, 2013).

[2] House Committee on Oversight and Government Reform, *Hearing on The IRS's Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013).

[3] *Id.*

A: But we—
Q: You didn't say a word about it in your last testimony here in this committee May 22nd.
A: Yeah.[4]

As we have stated on multiple occasions, our interest is in obtaining as much information as possible so we can draw accurate conclusions about the treatment of all applicants for tax exempt status, regardless of their political affiliation. Since your audit failed to examine the treatment of progressive groups, it is essential that the Committee receive information from the IRS about entities that were treated similarly.

To date, however, you have blocked the IRS from producing this information. At the Committee's July 18 hearing, you confirmed that you personally intervened to prevent our Committee from receiving documents related to categories of progressive or left-leaning groups that received treatment similar to Tea Party applicants:

Cummings: Mr. Werfel said that career experts at the IRS determined that it was permissible to share this information with our committee because it related to categories of groups rather than specifically identifiable taxpayers, but Mr. Werfel said you personally intervened and objected to the legal determination of these career IRS officials who make these determinations for a living. I want to read exactly what he said yesterday under oath and then get your response. He said, and I quote, "We were imminently going to produce a document in an unredacted form that would indicate the identity of a grouping of entities that we felt were similar in a kind of scope as Tea Party in terms of its grouping so that it wouldn't be able—you wouldn't be able to identify a particular taxpayer because the grouping name was so broad and he," meaning you, Mr. George, "he reached out when he learned that we were about to produce this information and expressed concern and indicated a disagreement with our internal experts on whether this information was 6103 protected or not," and that's the end of the quote. Mr. George, is that true?
George: It is—
Cummings: Did you personally contact Mr. Werfel's office and—
George: Yes, I did. Yes, I did.[5]

At the hearing, you also confirmed that this was the first time you ever intervened to object to a legal decision made by career experts at the IRS regarding the planned release of information:

Cummings: So we asked Mr. Werfel whether this has ever happened before—that is, an Inspector General intervening personally in a production of documents

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[4] *Id.*

[5] *Id.*

that Congress based on a disagreement with career IRS experts. And Mr. Werfel went back to his office and checked and then provided us with this response and let me read it. And keep in mind according to law this is still under oath—this written response. "I had my staff check with the current IRS disclosure counsel and one retired disclosure counsel. None of the people we checked with recalled a situation where the Inspector General told the IRS that a planned release of information by the IRS would constitute a Section 6103 violation after the IRS disclosure counsel determined that particular material was releasable to the public or to Congress under Section 6103," end of quote. So, Mr. George, he is basically saying your intervention is unprecedented. That's what he's saying.

George: You know, there's a first time for everything, sir.[6]

At the hearing, you explained that your initial concern with the production of the information stemmed from the fact that career IRS employees who make legal decisions about the disclosure of sensitive taxpayer information had altered their conclusions without briefing you personally. You explained:

George: I was contacted by counsel on my staff about the overall situation that you described and that there was a dispute, there was some concern, because the career IRS officials that you referred to—

Cummings: Yes.

George: —you cited Mr. Werfel—

Cummings: Yes.

George: —had indicated their original position was that this was 6103 protected information.

Cummings: Okay.

George: And then lo and behold, after all of this has broken into the public, they all of a sudden changed their legal, you know, decision—

Cummings: Okay.

George: —position on this, and without providing me personally with a legal analysis. Now, I have had subsequent conversations with my staff and we are still in the process of discussing this. But if I'm going to err, sir, it's going to be err on the—I'm going to err on the side of protecting confidential taxpayer information and not on some willy nilly decision by some unnamed career IRS employees to release sensitive taxpayer information.[7]

You explained that discussions with the IRS regarding this information were ongoing, and that you would withdraw your objections if your career disclosure experts and the IRS's career disclosure experts could come to an agreement:

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[6] *Id.*

[7] *Id.*

Cummings:	Mr. Werfel testified yesterday that the IRS has asserted its position that he has been in further discussions with your office and that if you—if you withdraw your objection he will send over the documents to our committee. And so, you said those discussions are continuing. Is that what you said?
George:	That is correct.
Cummings:	And if you all can come to an agreement, you will allow us to see those documents?
George:	Most definitely. We're going to comply with the law, sir.[8]

Chairman Issa also supports the Committee's right to this information. He had this exchange with Committee Member Jackie Speier:

Speier:	Mr. Chairman, based on these training materials, I think we need to see what is under those redactions and examine in more detail how these progressive cases were handled as well.
Issa:	I agree with the gentlelady. We would like to see the claim of 6103 modified to be more reasonable.[9]

When asked when you would resolve this issue, you responded that meetings were ongoing and that a resolution would be coming soon:

Cummings:	And how soon do you think a decision might be made?
George:	That, I have no—I don't know, sir. I don't know the answer to that.
Cummings:	I mean, are there planned meetings already, or what?
George:	They are ongoing. It's going to be sooner rather than later.[10]

Despite your assertions, we have received no indication of when or whether you plan to lift your objection to the Committee receiving this information. For these reasons, we request that you appear personally tomorrow alongside your Deputy Inspector General for Audit, who has already agreed to testify before the Subcommittee on Government Operations with Acting IRS Administrator Werfel. The question to be answered is not whether you disagree with the legal conclusions of IRS career experts, which has been established, but whether career IRS experts are so unreasonable in their legal conclusions as to be in violation of federal law.

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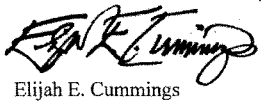
[8] *Id.*

[9] *Id.*

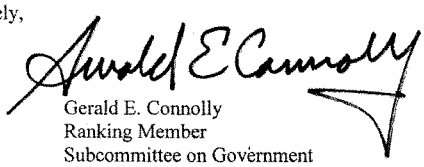
[10] *Id.*

Thank you for your cooperation with this request.

Sincerely,



Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



Gerald E. Connolly
Ranking Member
Subcommittee on Government
Operations

cc: The Honorable Darrell E. Issa, Chairman

The Honorable John L. Mica, Chairman

DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

August 2, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jim Jordan
Chairman
Subcommittee on Economic Growth, Job Creation
and Regulatory Affairs
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Issa and Chairman Jordan:

I am responding to your letter dated July 30, 2013. Your letter suggests we have not fully cooperated with the Congress. Those statements are inaccurate and unfair. The IRS is fully committed to transparency and cooperation with the ongoing review being conducted by four committees of the Congress, including your committee.

This commitment is demonstrated by our level of effort to date. The IRS is working hard to provide information requested by you and other committees as quickly as possible and to respond to your other requests. No process is perfect, but we are continually striving to improve this one. This effort includes:

- Dedicating more than 100 employees who are working diligently to gather documents, review them, and protect the taxpayer-specific information in them as is required by law. This includes 70 attorneys who are reviewing documents full time.
    - Providing – as of today – weekly rolling productions of documents, including more than 70,000 pages of documents produced to Congress, which includes more than 16,500 pages of documents after review to remove taxpayer information. These include significant documents specifically requested by you and other committees such as: various iterations of "Be on the lookout" or BOLO spreadsheets; the transmission emails associated with those spreadsheets which reflect changes made to the spreadsheets; training materials used by screeners; emails self-selected by witnesses appearing for interviews with your staff; responsive documents in the electronic materials of Doug Shulman that contained the terms tea party,

White House, 501(c), patriot and variations of 9/12; and responsive documents from the electronic materials of Chief Counsel Bill Wilkins and the Office of Chief Counsel, as described more fully below.

- Responding to more than 41 different letters from Members of Congress about these issues.
- Answering questions related to the subjects of your investigation at 15 different hearings as of the end of this week, four of which were hearings before your committee.
- Dedicating hundreds of staff hours in meetings with congressional staff and internal meetings to help ensure we are responsive to questions asked at congressional hearings.
- Engaging in dozens of phone calls and meetings with staff of your committee and others regarding documents and witnesses.
- Facilitating 29 interviews of 19 employees by congressional committees. Many of these employees traveled for full day interviews and spent additional time preparing to answer the questions of congressional staff.

By any measure, this is an enormous undertaking for the IRS. We are aggressively working to share, gather and provide information requested by your committee and others, and we intend to continue to do so. That said, any process can be improved, and we are refining ours on a regular basis. As always we are happy to continue to discuss any specific issues with you and your staff.

Now I will turn to the specific points in your letter. Your letter contains certain misunderstandings I would like to correct.

<u>There are not 64 million responsive documents.</u>

Sixty-four million is not an accurate number to use when determining a baseline for document production in this matter. That number referred to raw data that is largely unrelated to and unresponsive to congressional requests. To ensure documents are responsive to congressional requests, the initial set of raw electronic data must be processed with preliminary search terms that eliminate a portion of non-responsive information. For example, we eliminate material created prior to 2008 because it is not responsive to congressional requests. To date, this application of preliminary search terms to raw data associated with 48 individuals resulted in identification of approximately 660,000 documents, which we loaded into our document review system. Ultimately, once we load into the system information from the remaining individuals identified by your committee and others, we expect there may be a rough approximation of 1.64 million documents to be reviewed by IRS attorneys to further eliminate non-responsive information and for other purposes as described below.

Seventy-two percent of the documents reviewed by the IRS are not responsive to congressional inquiries.

We have found that a high percentage of the documents already reviewed by IRS attorneys are not responsive to congressional requests. Our manual reviews by IRS attorneys indicate approximately 28 percent of documents already reviewed are responsive to the various requests and 72 percent are not. This means that a fraction of the 1.64 million documents will ultimately be produced. We have attempted to prioritize the document review to focus on the information from those individuals we anticipate had the most significant involvement with the issues your committee is reviewing; thus, the ultimate production set may be smaller than a straight extrapolation of 28 percent would suggest.

There are a variety of reasons the material is so heavily non-responsive. First, some of the 119 individuals have little knowledge and information about the events under review because they were identified for collection simply because they work in an IRS office that had involvement with these events. Many of the names were put on the list at the request of congressional staffers, including your staff, and not because the IRS determined that they had a major role in the events under investigation. Second, even individuals who have been identified as having the most involvement in the events under investigation have large amounts of information unrelated to these events. For example, individuals who work in the Exempt Organizations Determinations Unit may work predominantly on cases in which there is no connection to political activity, and their electronic material will contain information largely relating to matters that are not at issue in your investigation.

The IRS is working hard to speed its production, protect taxpayer information as required by law, and respond to specific requests from Congress.

The IRS is taking important steps to ensure we are producing material as quickly as possible to the congressional committees. First, we have tasked 70 IRS attorneys, out of a Chief Counsel office of approximately 1,600 attorneys, to work full-time reviewing documents. These attorneys have ramped up from training to full-time review work over the course of the last four weeks and are now fully engaged on this project.

Second, the IRS is taking its obligations to protect the confidentiality of tax returns and return information under IRC § 6103 very seriously. Protecting taxpayer rights is a core obligation of this agency. Each document that the IRS contemplates releasing must be carefully reviewed by professionals trained in disclosure and privacy law to ensure that confidential tax information is not disclosed in an unauthorized fashion. We have thus dedicated a team of disclosure experts to work full time on this exacting and time-consuming task. Sometimes this process results in the redaction of whole pages, for example if the document is a memorandum about a particular taxpayer and may have come from that taxpayer's application file. Other times we are able to redact just words or lines, as in the case of the BOLO spreadsheets. Importantly, however, I must emphasize that we have produced in unredacted form to Chairman Camp, Ranking Member Levin,

Chairman Baucus and Ranking Member Hatch all of the material that we have produced to you in redacted form.

Third, we have reviewed the search terms requested by committee staff to identify those causing the most nonresponsive or false, "hits." Your staff and the staff of other committees provided the IRS with a total of approximately 80 search terms (initial version attached), some of which were generic and non-specific, for example "election, "independent, and "c3," (which are used in the context of many tax issues within the IRS). Some appear to be completely unrelated to the congressional investigations. The application of this unfocused set of search terms has produced an artificially inflated number of documents to be searched by IRS attorneys on a document-by-document basis. Some terms, such as "C3" are particularly problematic because employees in the Exempt Organizations Determinations Unit work on a broad range of cases and issues involving IRC §501 (c)(3) applications that have no indicators of political activity, such as applications by schools. Accordingly, to be responsive to the concerns raised by your committee and the Ways and Means Committee, this week we are beginning to switch to more focused search terms. We expect this closer focus to boost the percentage of documents reviewed that are responsive to your requests, reduce the total number of documents that must be reviewed manually by attorneys, and ultimately result in documents getting to you faster. We will continue to evaluate and refocus the search terms as needed.[1]

Fourth, we work very hard to provide to you and other committees documents responsive to particular requests. For example, an IRS employee, Ms. Cindy Thomas, wished to provide IRS materials containing confidential taxpayer information to your staff prior to a scheduled interview. As you know and as discussed above, IRC §6103 permits such information only to be given to the Chairs of the tax-writing committees of the Congress or their designees. Accordingly, we needed to review this material in order to redact confidential taxpayer information. Had we not done so, Ms. Thomas would have faced civil or criminal exposure for making an unauthorized disclosure of taxpayer information.

Ms. Thomas' attorneys initially provided a disk of information to the IRS document production team that was password protected by Ms. Thomas, and she was unable to provide the password. Close to a week later, late afternoon on June 24, 2013, we received another disk and a working password. Because this was just days before her scheduled interview, my team informed your staff that processing the documents and redacting any confidential taxpayer information was going to be time-consuming and that we would not be able to perform the redactions in advance of her interview. We then provided it as soon as we were able to complete those redactions.[2]

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[1] We are focused on maximizing the efficiency of our document production efforts, which includes eliminating duplicates to the extent possible. In this regard, consistent with the prevailing practice both in and out of government, the IRS relies on e-discovery technology to eliminate duplicate documents. Although our system eliminates a substantial number of duplicate documents from the set(s) of documents that we ultimately produce to the Congress, the elimination rate is not 100 percent. We are actively working with our technology team to find ways to further eliminate duplicates from the documents we produce to Congress.

[2] I have been informed by my staff that your reference to 288,000 pages of documents cannot be confirmed. We received a disk from Ms. Thomas' attorneys that contained some documents that were either password-protected or unreadable, as we noted in our cover letter. The disk contained 425 emails and attachments that we could review. As we explained in our production letter to you, we

In another example, we quickly worked to address your requests for information from the Office of Chief Counsel as well as Chief Counsel Bill Wilkins. As we stated in our July 26 letter, we searched for emails to/from the Office of IRS Chief Counsel and the Treasury Department and to/from the Office of Chief Counsel and the White House with the specific terms you requested (Citizens United, 2010 election and tea party), and there were zero responsive emails. We specifically included the White House domain as well as Treasury domains in our search.

In addition, we searched all of Mr. Wilkins' emails for the following terms (using these terms only as search terms and not as a reference to any particular taxpayer or group of taxpayers): BOLO, lerner, paz, tea party, we the people, 9/12, political advocacy, emerge, patriot, occupy, acorn and progressive. That search produced seven emails with five attachments. Of those, we produced to you six emails with their attachments. The other document referred to in that letter is an email forwarded to Mr. Wilkins with a draft copy of the TIGTA report, which, as you know, has 6103 information in it; that document is being produced today with redactions. Although our July 26 letter indicates we did not search documents with the tag "private," my staff has reviewed the documents stored in our e-Discovery platform, and there are no documents from Mr. Wilkins tagged "private," so none were withheld on that basis.[3] Further, we have offered to have Mr. Wilkins participate in an interview with your staff, and, they have indicated they prefer not to interview him at this time.

I continue to strongly disagree with the characterization of the facts set forth in your July 30 letter and your statement that the IRS has attempted, in any way, to impede the on-going investigations being conducted by your committee. I remain committed to working with the Congress and the ongoing investigations, and to restoring public trust in our nation's tax system.

Sincerely,

Daniel I. Werfel
Principal Deputy Commissioner

Enclosure

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produced the material dated prior to May 10, 2013, because the material after that date appeared to raise issues of privileges available to the IRS. We explained that we would supplement the first production with additional materials from Ms. Thomas, and we will do so. That production will include the materials we have gathered from her computer, and thus, we expect, will contain the material we were unable to access on her disk.

[3] Many documents the IRS has collected from individuals in connection with these congressional investigations have nothing whatsoever to do with the subject of the congressional investigations. Our instruction to the document reviewers is to tag as "private" a document that looks personal, such as a document discussing day-care arrangements or medical appointments. Documents that are truly private in nature are not responsive to the congressional requests.

EDR 2013 – 064 SEARCH TERMS 20130611

1) "Democrat!"
2) "Independent"
3) "Left wing"
4) "tea party"
5) "9/12"
6) "912"
7) "9-12"
8) "patriot"
9) "make america a better place to live"
10) "conservative"
11) "conservative!"
12) "republican"
13) "republican!"
14) "right wing"
15) "progress!"
16) "liberal"
17) "BOLO"
18) "watch list"
19) "task force"
20) "emerging issue"
21) "High" w/3 "profile"
22) "Government" w/4 "debt"
23) "We the People"
24) "Government" w/4 "spending"
25) "America" w/4 "better place to live"
26) "Critical" w/s "country"
27) "C(4)"
28) "C4"
29) "C(3)"
30) "C3"
31) "501c"
32) "Citizens United"
33) "TIGTA"
34) "Inspector General"
35) "Russell George"
36) "Audit"
37) "Issa"
38) "Oversight"
39) "Ways and Means"
40) "Camp"
41) "Boustany"
42) "Perjur!"
43) "Election"
44) "Be on the Lookout"

45) "Triage"
46) "Advocacy" w/3 "group"
47) "Criteria" w/5 "identify"
48) "Criteria" w/5 "search"
49) "Pro-life"
50) "Pro-choice"
51) "Pro-Israel"
52) "Glenn Beck"
53) "Constitution"
54) "Bill of Rights"
55) "Romney"
56) "Leadership Institute"
57) "Koch"
58) "Wynn"
59) "Adelson"
60) "Rove"
61) "Media"
62) "Donor!"
63) "White House"
64) "WH"
65) "Obama"
66) "POTUS"
67) "Rahm"
68) "Jarrett"
69) "Cutter"
70) "Kelley"
71) "NTEU"
72) "Union"
73) "Lerner"
74) "Paz"
75) "Roady"
76) "American Bar Association"
77) "ABA"
78) "Political"
79) "Campaign"
80) "consisten!"
81) "Emerging" w/2 "issue"

Any email message in which the to or the from line contain the terms:

a) "Treasury"
b) "treas"
c) "who.eop.gov"

The White House
Office of the Press Secretary
For Immediate Release May 15, 2013

Statement by the President

East Room

6:21 P.M. EDT

THE PRESIDENT: Good afternoon, everybody. I just finished speaking with Secretary Lew and senior officials at the Treasury Department to discuss the investigation into IRS personnel who improperly screened conservative groups applying for tax-exempt status. And I look forward to taking some questions at tomorrow's press conference, but today, I wanted to make sure to get out to all of you some information about what we're doing about this, and where we go from here.

I've reviewed the Treasury Department watchdog's report, and the misconduct that it uncovered is inexcusable. It's inexcusable, and Americans are right to be angry about it, and I am angry about it. I will not tolerate this kind of behavior in any agency, but especially in the IRS, given the power that it has and the reach that it has into all of our lives. And as I said earlier, it should not matter what political stripe you're from -- the fact of the matter is, is that the IRS has to operate with absolute integrity. The government generally has to conduct itself in a way that is true to the public trust. That's especially true for the IRS.

So here's what we're going to do.

First, we're going to hold the responsible parties accountable. Yesterday, I directed Secretary Lew to follow up on the IG audit to see how this happened and who is responsible, and to make sure that we understand all the facts. Today, Secretary Lew took the first step by requesting and accepting the resignation of the acting commissioner of the IRS, because given the controversy surrounding this audit, it's important to institute new leadership that can help restore confidence going forward.

Second, we're going to put in place new safeguards to make sure this kind of behavior cannot happen again. And I've directed Secretary Lew to ensure the IRS begins implementing the IG's recommendations right away.

Third, we will work with Congress as it performs its oversight role. And our administration has to make sure that we are working hand in hand with Congress to get this thing fixed. Congress, Democrats and Republicans, owe it to the American people to treat that authority with the responsibility it deserves and in a way that doesn't smack of politics or partisan agendas. Because I think one thing that you've seen is, across the board, everybody believes what happened in -- as reported in the IG report is an outrage. The good news is it's fixable, and it's in everyone's best interest to work together to fix it.

I'll do everything in my power to make sure nothing like this happens again by holding the responsible parties accountable, by putting in place new checks and new safeguards, and going forward, by making sure that the law is applied as it should be -- in a fair and impartial way. And we're going to have to make sure that the laws are clear so that we can have confidence that they are enforced in a fair and impartial way, and that there's not too much ambiguity surrounding these laws.

So that's what I expect. That's what the American people deserve. And that's what we're going to do.

Thank you very much.

END
6:25 P.M. EDT

[redacted]

From: Head of Investigations [redacted]
Sent: Friday, May 03, 2013 3:34 PM
To: Principal Deputy IG; Head of Audits [redacted]; TIGTA Chief Counsel; Tax Exempt Audit Head TIGTA
Cc: [redacted] TIGTA; [redacted] TIGTA
Subject: Review of E-Mails

Gentlemen,

As a result of our meeting with Russell a couple of weeks ago, we agreed to pull e-mails from identified staff members of the EO organization in Cincinnati to find out 1). If an e-mail existed that directed the staff to "target" Tea Party and other political organizations and 2). If there was a conspiracy or effort to hide e-mails about the alleged directive.

Audit provided us with a list of employees in question, key word search terms and a timeframe for the e-mails. We pulled the available IRS e-mails, which resulted in 6,500 responsive e-mails.

Review of these e-mails revealed that there was a lot of discussion between the employees on how to process the Tea Party and other political organization applications. There was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them, not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated. The e-mail traffic indicated there were unclear processing directions and the group wanted to make sure they had guidance on processing the applications so they pulled them. This is a very important nuance.

[redacted]

[redacted]
Deputy Inspector General for Investigations

Questions for the Record

Hearing before the Subcommittee on Government Operations: House Oversight and Government Reform Committee

"Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS"

August 2, 2013

Questions from Chairman Mica

1) **There are many IRS stakeholders outside the IRS who have made recommendations to improve the detection and prevention of identity theft related tax fraud.**

   a) **What recommendations has the IRS received from stakeholders about this problem?**

   The IRS received suggestions from a number of external stakeholders through several IRS advisory committees.

   - The Electronic Tax Administration Advisory Committee (ETAAC) conveys the public's perceptions of IRS electronic tax administration activities, offers constructive observations about current or proposed polices, programs, and procedures, and suggests improvements. Suggestions from the ETAAC include the following:

     - The IRS should move aggressively to adopt a modern approach to detecting fraudulent and non-compliant tax returns – one that complements electronic filing and timely issuance of refunds, yet performs thorough detection prior to completion of return processing.[1]

     - To mitigate the effects of tax refund fraud, the IRS should enable a taxpayer to register and authenticate with the IRS and provide an email address, or other contact information, so the IRS can notify the taxpayer when a return is received using the taxpayer's social security number. Since fraud is usually not discovered until taxpayers file their returns, which can be months later, the SSN alert could greatly accelerate the implementation of appropriate anti-fraudulent actions. In addition, it may lessen the burden of fraud and decrease the time it takes for fraud victims to receive their tax refunds.[2]

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[1] ETAAC June 2013 Annual Report to Congress
[2] ETAAC June 2013 Annual Report to Congress

- The IRS should continue to examine alternative ways to provide proactive refund fraud discovery and prevention, including engaging industry for collaboration.[3]

- The Internal Revenue Service Advisory Council (IRSAC) conveys the public's perception of IRS activities. The IRSAC provides an organized public forum for IRS officials and representatives of the public to discuss relevant tax administration issues. The Council advises the IRS on issues that have a substantive effect on federal tax administration. Suggestions from the IRSAC include the following:
  - The IRS should continue its study of authentication procedures so that refunds can be processed more quickly for those taxpayers whose identity is authenticated. It may be possible to allow authentication to be made by a third party. Consideration should be given to requiring fingerprints or other unique identifiers that can be associated with the social security number on the income tax return as authentication. This could be done by local police or other approved groups and included by the taxpayer on the signature line of the return.[4]
  - The IRS should consider continued expansion of the identity protection personal identification number (IP PIN), a unique six digit identifier, for taxpayers who have had their identities stolen, and perhaps for all taxpayers who request refunds before verification. The IRS should also allow for the issuance of an IP PIN to taxpayers who become victims of identity theft during the filing season and permit any taxpayer with an IP PIN the ability to file their return electronically in all situations. In addition, there also needs to be a method of connecting a child's identity to their parent's return to protect the child's SSN from identity theft.[5]
  - The IRS should continue to work with the banking industry to find and prosecute the perpetrators who use debit cards.[6]
  - The IRS should continue its Criminal Investigation Division work with and prosecution by the Justice Department, making results public so that the consequences of identity theft are understood by the public.[7]
  - The IRS should publicize the protections that the IRS has in place and potentially slow down refunds until third-party reporting such as from employers and banks can be matched or verification can occur. Any matching would be improved by requiring Form W-2 and Form 1099 to be filed with the IRS by January 31, the date that forms must be furnished to taxpayers. In addition, the IRS should publicize the importance of properly

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[3] ETAAC 2012 Annual Report to Congress
[4] IRSAC 2012 Public Report
[5] IRSAC 2012 Public Report
[6] IRSAC 2012 Public Report
[7] IRSAC 2012 Public Report

estimating taxes payable each year to avoid significant overpayments that may be delayed due to a verification process.[8]

- The Taxpayer Advocacy Panel (TAP) listens to taxpayers, identifies taxpayers' issues, and makes suggestions for improving IRS service and customer satisfaction. The TAP acts as a two-way conduit, serving as a focus group for the IRS providing input on strategic initiatives, as well as providing a venue for raising issues identified by citizens. Suggestions from the TAP include the following
    - The IRS should make identity theft information more readily available to taxpayers, which entails updating the IRS.gov website so that information on identity theft is more prevalent and easier to find.[9]

In response to the growth of identity theft related tax fraud and consistent with some of the recommendations just listed, the IRS strengthened collaboration with software developers, banks, and other industry partners to determine how to better address identity theft and prevent federal monies from reaching the hands of identity thieves. Through these collaborative efforts, the IRS receives specific information about potential fraud schemes and then uses this information to improve its detection and prevention of identity theft-related tax fraud. This collaboration occurred with individual partners and by building and expanding relationships with the American Coalition for Taxpayer Rights (ACTR), BITS, and the Network Branded Prepaid Card Association (NBPCA).

- ACTR is an industry association of providers of tax return preparation software and financial tax products. Its members are responsible for over 90 percent of the electronic tax returns filed and for related refund processing.
- BITS is the technology policy division of the Financial Services Roundtable, a group representing 100 of the largest integrated financial services companies providing banking, insurance, and investment financial services. BITS's mission is to address issues at the intersection of financial services, technology, and public policy, where industry cooperation serves the public good, such as critical infrastructure protection, fraud prevention, and the safety of financial services.
- NBPCA includes issuers of prepaid cards that carry a brand network logo (such as Visa or MasterCard) for use at retailers nationwide.

b) Has the IRS reviewed and/or acted on any of these recommendations? If so, please provide information on the IRS actions in response to the recommendations?

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[8] IRSAC 2012 Public Report
[9] TAP 2011 Annual Report

The IRS is committed to continually enhancing our systems and business processes to improve our identification and prevention of tax fraud. As part of this effort, the IRS reviews, analyzes, and gives consideration to recommendations received from its stakeholders.

Examples include:

- The partnership with ACTR has led to IRS and industry action to address emerging fraud for the prior filing season and future filing seasons. Industry-provided leads about possible fraud schemes add to our detection and modeling efforts to identify additional fraudulent returns before processing begins. Working with ACTR, we established a new process for industry members to submit potential fraud schemes to the IRS and designated IRS employee contacts to receive and analyze the data. In efforts to strengthen taxpayer identification, we began a study of CAPTCHA, a challenge-response tool used to determine whether the user is human instead of a machine attempting high-volume fraud. We are running a small pilot to enhance the authentication of those filing tax returns by seeking answers to non-tax questions frequently called "out of wallet" questions because the answers are not easily available to identity thieves even if in possession of someone's wallet. We also began consideration of recommendations to add fields to the submission record of an electronically filed return to more accurately identify the physical source of the return and when return preparers have conducted in-depth identity confirmation.

- Working in coordination with IRS compliance organizations, BITS compiled information about emerging fraud to publish ID theft and fraud advisories to its member institutions. BITS also developed and published a scenario-based "escalation matrix" to assist members' fraud departments in identifying stolen identity refund fraud schemes. The partnership with BITS also helped expand participation in our External Leads program through which banks identify and return suspicious tax refunds to the IRS for additional scrutiny.

- The relationships with the NBPCA and other representatives of the prepaid debit card industry have provided the IRS with insight into the mechanics of prepaid cards and the security protocols used by the industry to verify their customer identities and prevent fraudulent use of prepaid cards. In turn, the IRS increased its communication with industry members about IRS operations and structure and connected them to IRS executives and staff working to combat refund fraud. Together, this led to increases in industry reporting of potential fraud schemes and the growth in the return of suspicious tax refunds to the IRS through our External Leads program.

- One tool in ensuring taxpayers are not victimized the following year is issuance of an identity protection PIN (IP PIN). The IP PIN program began in 2011 and has since been expanded and enhanced to protect victims of identity theft by creating an additional layer of security. If a taxpayer has been issued an IP PIN, the IRS will not process subsequent returns filed without this identifying number. For the 2013 filing season, the IRS issued more than 770,000 IP PINs to victims of identity theft and improved processing of returns filed with an IP PIN. Additionally, the replacement IP PIN process (for taxpayers who lose or misplace their original IP PIN) has been significantly streamlined to provide better service.

- The IRS expanded the identity theft web page on IRS.gov to provide victims of identity theft additional links to information and resources. The added Identity Theft link provides taxpayers with direct access to comprehensive resources on how to handle identity theft. This allows taxpayers quick and easy access to information to begin addressing their identity theft issue.

- We continue to build new technology called the Return Review Program to screen questionable returns with greater flexibility and greater power to improve detection, resolution, and prevention of identity theft and refund fraud.

- We are developing e-File authentication technology to authenticate taxpayer identities through the issuance and maintenance of persistent credentials and to authenticate each tax return at the time of submission against these credentials.

- The IRS uses a process of income verification in its risk assessment for identity theft related tax fraud. Employers and others report income information to the Social Security Administration (SSA) and the IRS on Form W-2 and Form 1099. Much of this reporting occurs after the start of the filing season. We accelerated the timing of the use of this information and by encouraging others to provide income information to the government earlier than the March 31 statutory deadline. Moving this matching process forward in time has enhanced our ability to better screen returns for identity theft before we process them. As discussed above, IRSAC and others have suggested that the statutory deadline for employers and others to report income to the government be earlier than March 31 to further improve our detection efforts during filing season.

- To address tax refund fraud associated specifically with direct deposit to prepaid and other forms of debit and bank accounts, the IRS and the Treasury Department's Bureau of the Fiscal Service collaborated with NACHA to develop an opt-in program for 80+ financial institutions. This opt-in program allows the institutions to reject direct deposits through the Automated Clearing House when the taxpayer associated with a refund does not match the identity of the account holder or when the institution otherwise suspects identity theft or fraud. The program assists in recovering improper refunds. The program also helps us identify emerging schemes and build better pre-refund filters to prevent future fraudulent refunds.

- In collaboration with the Department of Justice's Tax Division and local U.S. Attorneys offices, the IRS conducted a highly successful coordinated identity theft enforcement sweep in January 2013. This nationwide effort against 389 identity theft suspects led to 734 enforcement actions, including 189 indictments, informations and complaints, and 109 arrests. Around the time of the sweep, IRS auditors and investigators conducted compliance visits to 197 money service businesses in a variety of locations across the country to help ensure that these businesses were not facilitating refund fraud and identity theft.

c) Are there any recommendations that have not been implemented by the IRS, but that would help detect and prevent identity theft? If so, what are the recommendations and why have they not been implemented?

Some recommendations, such as establishing a new process for industry members to identify cases of potential fraud to the IRS and designating IRS employee contacts to receive and analyze the data, have been implemented. The IRS has not implemented other recommendations, such as those associated with extensive authentication, providing all taxpayers with an IP PIN, or the addition of fields to records. Implementation decisions rely on review and analysis of the burden on taxpayers and potential effectiveness of the recommendation. We also must consider budget, operational, and administrative constraints amid systemic changes required by legislative actions.

The Administration's Fiscal Year (FY) 2014 budget request includes four legislative proposals to address identity theft. Each serves as an additional deterrent to identity thieves. One proposes to restrict public access to a government-compiled list of personally identifiable information about deceased individuals called the Death Master File. Death records would be restricted to those users who legitimately need the information for fraud prevention purposes. The release of the DMF to all other users would be delayed for three years. This provision was recently enacted in P.L. 113-67, H.J.Res.59, Bipartisan Budget Act of 2013, which was signed by the President on December 26, 2013. Another proposes to authorize the Treasury Department to allow employers to truncate SSNs on a Form W-2 mailed to an employee. Another proposes to add tax offenses to the list of predicate offenses for aggravated identity theft to increase the enforcement tools available to prosecute identity thieves and the potential for an increased prison sentence. The final proposal would add a civil penalty to the Internal Revenue Code to be imposed in tax identity theft cases on the individual who filed the fraudulent return.

In addition, the budget request asks for an increase of $101 million to support IRS efforts to prevent identity theft-related refund fraud, protect taxpayers' identities, assist victims of identity theft, and enhance the revenue protection strategy implemented in FY 2013. The increase in funding will support the development and implementation of technology enhancements to identify noncompliant returns before refunds are issued.

2) How many cases of identity theft related tax fraud have lead to prosecution, and how many have resulted in convictions?

In Fiscal Year (FY) 2013, the IRS Criminal Investigation division initiated 1,492 identity theft related subject investigations, made 1,257 identity theft related prosecution recommendations, had 1,050 indictments in identity theft related cases, and 438 sentences in identity theft related cases with the average incarceration at 38 months. Please note sentenced cases are fully adjudicated cases which resulted in convictions. Conviction counts/rates are not available because criminal violations are not captured at time of conviction.

Questions from Representative Meadows

1) What has the IRS done to work with the tax preparation industry to address tax fraud?

The IRS collaborates with providers of tax return preparation software and financial tax products individually and through the American Coalition for Taxpayer Rights (ACTR). ACTR members are responsible for over 90 percent of the electronic tax returns filed and for related refund processing. Industry-provided leads about possible fraud schemes add to our detection and modeling efforts to detect additional fraudulent returns before processing begins. Working with ACTR, we established a new process for industry members to submit potential fraud schemes to the IRS and designated IRS employee contacts to receive and analyze the data. Our collaboration with ACTR also led us to begin a study of CAPTCHA, a challenge-response tool used to determine whether the user is human instead of a machine attempting high-volume fraud. We are running a small pilot to enhance the authentication of those filing tax returns by seeking answers to non-tax questions frequently called "out of wallet" questions because the answers are not easily available to identity thieves even if in possession of someone's wallet. We also began consideration of recommendations to add fields to the submission record of an electronically filed return to more accurately identify the physical source of the return and when return preparers have conducted in-depth identity confirmation.

The IRS also collaborates with members of related industries through BITS, the technology policy division of the Financial Services Roundtable, a group representing 100 of the largest integrated financial services companies providing banking, insurance, and investment products. Working in coordination with IRS compliance organizations, BITS compiled information about emerging fraud to publish ID theft and fraud advisories to its member institutions. BITS also developed and published a scenario-based "escalation matrix" to assist members' fraud departments in identifying stolen identity refund fraud schemes. The partnership with BITS also helped expand participation in our External Leads program through which banks identify and return suspicious tax refunds to the IRS for additional scrutiny. Collaboration with issuers of prepaid cards such as prepaid debit cards through the Network Branded Prepaid Card Association provided additional information about their security protocols and also helped expand participation in our External Leads program.

2) Has the IRS worked with the tax preparation industry to tag potential fraudulent tax returns, such as letting the industry know when a Social Security number is used multiple times?

Disclosure restrictions limit the IRS's ability to provide an alert that certain numbers have been used multiple times. The IRS will reject electronically filed returns that use a Social Security number found on an already filed return. The rejection message for a specific return is communicated back to the taxpayer through the companies and preparers involved with the return's preparation and submission. As stated above in response to question #1, the IRS collaborated with providers of tax return preparation software and financial tax products to establish a new process for submitting potential fraud schemes to the IRS and designated IRS employees to receive and analyze this data. The leads

assist our efforts to identify possible schemes and are used to modify our identity theft filters to detect additional fraudulent refunds before processing begins.

3) Have there been any recommendations made by the tax preparation industry to the IRS on how to address tax fraud? If so, what were those recommendations and what steps has the IRS taken to address these recommendations?

Partnering with industry has led to recommendations for change for the IRS and for industry. Many recommendations for the IRS are discussed in the answer to question #1. Some recommendations, such as establishing a new process for industry members to identify cases of potential fraud to the IRS and designating IRS employee contacts to receive and analyze the data, have been implemented. We have not implemented other recommendations, such as those associated with extensive authentication, providing all taxpayers with an identity protection personal identification number (IP PIN), or the addition of fields to the electronic records. Implementation decisions rely on review and analysis of the needed work and level of effort to implement, the burden of taxpayers, and potential effectiveness of the recommendation. We also must consider budget, operational, and administrative constraints amid systemic changes required by legislative actions. Refund fraud caused by identity theft is one of the biggest challenges facing the IRS today. The harm it inflicts on innocent taxpayers is a problem we take very seriously. The IRS has a comprehensive identity theft strategy focusing on preventing refund fraud, investigating these crimes and assisting taxpayers victimized by identity theft.

The agency's work on identity theft and refund fraud continues to grow, touching nearly every part of the organization. The IRS expanded these efforts for the 2013 filing season to better protect taxpayers and help victims. More than 3,000 IRS employees are currently working on identity theft – more than double the number at the start of the previous filing season. We have also trained 35,000 employees who work with taxpayers to recognize identity theft and help victims. So far this calendar year, the IRS has worked with victims to resolve more than 565,000 cases. This is more than three times the number of identity theft victim cases that we had resolved at the same time last year.

Our fraud detection efforts have increased as well. We expanded the number and quality of our identity theft screening filters, and we have suspended or rejected more than 4.6 million suspicious returns so far this calendar year. The number of identity theft investigations by our Criminal Investigation (CI) division continued to rise, with 1,492 investigations opened in Fiscal Year (FY) 2013. This is an increase of 66 percent from FY 2012.

Barriers to further progress do exist, however. One is the sheer volume and evolving complexity of these crimes, as identity thieves continue creating new ways of stealing personal information and using it for their gain. Another is the need to further upgrade our technology in order to implement improvements such as more sophisticated filters and better taxpayer authentication procedures.

The Administration's Fiscal Year (FY) 2014 budget request includes four legislative proposals to address identity theft. Each serves as an additional deterrent to identity thieves. One proposes to restrict public access to a government-compiled list of

personally identifiable information about deceased individuals called the Death Master File. Death records would be restricted to those users who legitimately need the information for fraud prevention purposes. The release of the DMF to all other users would be delayed for three years. This provision was recently enacted in P.L. 113-67, H.J.Res.59, Bipartisan Budget Act of 2013, which was signed by the President on December 26, 2013. Another proposes to authorize the Treasury Department to allow employers to truncate SSNs on a Form W-2 mailed to an employee. Another proposes to add tax offenses to the list of predicate offenses for aggravated identity theft to increase the enforcement tools available to prosecute identity thieves and the potential for an increased prison sentence. The final proposal would add a civil penalty to the Internal Revenue Code to be imposed in tax identity theft cases on the individual who filed the fraudulent return.

In addition, the budget request asks for an increase of $101 million to support IRS efforts to prevent identity theft-related refund fraud, protect taxpayers' identities, assist victims of identity theft, and enhance the revenue protection strategy implemented in FY 2013. The increase in funding will support the development and implementation of technology enhancements to identify noncompliant returns before refunds are issued.

4) In recent years, we have seen instances of literally hundreds of direct deposits of IRS tax refunds going into the same bank account.

a. What steps have been taken by the IRS to detect and address multiple payments going into a single account?

In 2012 and 2013, the IRS developed new filters to detect fraud, identity theft, and schemes at the point of filing. Earlier in 2013, the IRS detected specific patterns in returns and developed filters real-time during the filing season to stop refunds from being issued. In addition, we have developed new methods of clustering suspicious returns together to catch large numbers of returns that appear similar. These clusters include identifying multiple returns using the same filing and refund patterns, such as the same address. Returns identified by filters or clustering methods are examined real-time during the filing season to determine the most appropriate treatment and to respond to emerging schemes.

In addition, the IRS has several more complex models that examine every return claiming a refund. These models identify likely identity theft, fraud, and more. In some cases, returns flagged by these models are identified for audit. In other cases, IRS staff review returns flagged by these models real-time during the filing season and identify patterns and fraud schemes that lead to criminal investigation.

The use of a single bank account or address for multiple refunds does not always indicate fraudulent activity. The use of pooled bank accounts by residents of nursing homes and other long-term treatment facilities and by members of religious orders and Indian tribes complicates efforts to limit all payments to a single bank account.

We continue to investigate ways to identify the use of a single bank account or address for fraudulent activity, while balancing the needs of taxpayers who may use a single bank account or address for legitimate purposes. We also collaborate with our banking partners and providers of prepaid cards to educate them about tax fraud

and encourage them to assist in its detection. In 2013, the IRS and the Treasury Department's Bureau of the Fiscal Service collaborated with NACHA to develop an opt-in program for 80+ financial institutions. This opt-in program allows the institutions to reject direct deposits through the Automated Clearing House using a specific return reject code when the taxpayer associated with a refund does not match the identity of the accountholder or when the institution otherwise suspects identity theft or fraud. The program assists in recovering improper refunds and preventing the reissuance of those refunds prior to review by allowing banks to act when, looking at the identity of its customer, a bank is suspicious about the deposit of multiple refunds to an account.

b. Have you seen any improvements in the most recent filing season?

The IRS stopped 5 million suspicious returns in Calendar Year 2012 – up from 3 million suspicious returns stopped in 2011. In 2013, through September, we have suspended or rejected 6 million suspicious returns worth more than $13 billion. This $13 billion includes over $900 million protected through our clustering of suspicious returns using the same filing and refund patterns such as the same direct deposit bank account.

c. Do you have the tools you need to address this problem?

As mentioned, evaluating the payment of multiple refunds to a single account is complex because the government cannot know the identity of the bank's customers. We will continue to evaluate the competing interests of legitimate and illegitimate uses of multiple accounts and may reassess the rules that were in place for the 2013 filing season. While implementing policy changes and conducting outreach to banking partners require resources, we believe we can undertake additional steps to scrutinize the payment of multiple refunds to a single account without additional legislation.

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