

**MSP
#6****IDENTITY THEFT: The IRS Should Adopt a New Approach to Identity Theft Victim Assistance that Minimizes Burden and Anxiety for Such Taxpayers****RESPONSIBLE OFFICIALS**

Debra Holland, Commissioner, Wage and Investment Division

Mary Howard, Director, Office of Privacy, Governmental Liaison, and Disclosure

DEFINITION OF PROBLEM

Tax-related identity theft continues to impose significant burdens on taxpayers and the IRS. Since 2004, the National Taxpayer Advocate has identified this issue as one of the “Most Serious Problems” faced by taxpayers in nearly every annual report submitted to Congress.¹ In addition, the National Taxpayer Advocate has testified at numerous hearings on this subject, including seven since the start of 2012.²

Since 2004, the National Taxpayer Advocate has identified this issue as one of the “Most Serious Problems” faced by taxpayers in nearly every annual report submitted to Congress.

To its credit, the IRS has recognized identity theft as a major challenge and has devoted significant resources to addressing it. Yet the IRS still takes much too long to fully unwind the harm suffered by identity theft victims and issue refunds to the legitimate taxpayers. Moreover, the IRS has yet to implement an effective program for overseeing cases with multiple issues that require coordination among different IRS units, and is allowing too many victims to fall between the cracks of IRS bureaucracy. Thus, victim assistance overall, as well as the IRS’s specialized but decentralized approach, continues to be inadequate.

To start, the IRS should rethink how it views identity theft. It must recognize that identity theft is a traumatic crime. A person’s identity is core to his or her being — when someone steals and uses your identity, it is an invasion of your person. The IRS’s approach to assisting the victims ignores this important fact, and in many ways treats the victim as someone experiencing a minor inconvenience instead of a frightening personal disaster. The National Taxpayer Advocate believes the IRS should set up a centralized identity theft unit similar to the centralized innocent spouse unit that assists taxpayers who may have been victims of domestic abuse. Moreover, the IRS should assign one person within the centralized identity theft unit to work with the victim until all actions are taken to resolve all related tax issues; this is the approach that TAS takes with taxpayers that come to our office.

1 See, e.g., 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*).

2 See, e.g., *Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS: Hearing Before the H. Comm. on Oversight and Government Reform, Subcomm. on Government Operations*, 112th Cong. (2013) (statement of Nina E. Olson, National Taxpayer Advocate); *Tax Fraud, Tax ID Theft, and Tax Reform: Moving Forward with Solutions: Hearing Before the S. Comm. on Finance*, 112th Cong. (2013) (statement of Nina E. Olson, National Taxpayer Advocate).

ANALYSIS OF PROBLEM

Identity Theft May Cause Significant Emotional Trauma.

Identity theft is an invasive crime that can have a traumatic emotional impact. While Post Traumatic Stress Disorder (PTSD) is usually associated with service members returning from war, or victims of violent crimes, some psychiatrists believe the symptoms experienced by victims of identity theft are quite similar.³ The Identity Theft Resource Center found that victims of identity theft suffer from symptoms resembling those of PTSD.⁴

The IRS must recognize that victims of identity theft are not just experiencing minor tax issues, but are victims of a traumatic crime and re-evaluate its approach to identity theft victim assistance.

The IRS must recognize that victims of identity theft are not just experiencing minor tax issues, but are victims of a traumatic crime and re-evaluate its approach to identity theft victim assistance. The National Taxpayer Advocate suggests that the IRS adopt a design that mirrors its approach to aiding victims of domestic abuse who have filed for relief from joint and several liability, or “innocent spouse” relief and the Taxpayer Advocate Service’s approach to taxpayers who experience significant hardship as a result of the IRS’s actions or inaction.

In 1998, the IRS was given expanded authority for innocent spouse relief, following hearings that showed the IRS’s handling of these cases was not only insensitive but often downright harmful to victims of psychological, physical, or financial abuse.⁵ In response, the IRS set up a dedicated unit, the Cincinnati Centralized Innocent Spouse Operation (CCISO), that handles cases by assigning one person to interact with the taxpayer.⁶ Employees in CCISO are trained in working with taxpayers in difficult and emotional situations.⁷ This approach has enabled the IRS to deal with these taxpayers in a sensitive manner. The IRS needs to adopt a similar approach with identity theft victims.

The IRS Should Assign a Single Employee to Be the Point of Contact with an Identity Theft Victim.

The identity theft victim, who may have experienced significant trauma, needs to have one person at the IRS to contact and rely upon. If the IRS believes the most efficient approach is to utilize a specialized structure with upwards of 20 different units⁸ to resolve identity-theft related issues, this back-end process should be invisible to the taxpayer. As far as the victims are concerned, there should be *one* IRS employee who interacts with the taxpayer. That one employee should maintain control of the taxpayer’s case,

3 See T. Sharp et al., *Exploring the Psychological and Somatic Impact of Identity Theft*, J. of Forensic Sci., Vol. 49:131 (Jan. 2004); J. Monchuk, *Researcher Finds the Psychological Effects of Identity Theft Lingers with Victims*, (Apr. 20, 2011), available at <http://medicalxpress.com/news/2011-04-psychological-effects-identity-theft-lingers.html>.

4 See Identity Theft Resource Center, *ITRC Fact Sheet 108: Overcoming the Emotional Impact*, <http://www.idtheftcenter.org/Fact-Sheets/fs-108.html> (last visited Dec. 13, 2013); L. Carey, *Can PTSD Affect Victims of Identity Theft: Psychologists Say Yes* (July 29, 2009), available at <http://voices.yahoo.com/can-ptsd-affect-victims-identity-theft-psychologists-3915926.html>.

5 See IRC § 6015. “Innocent spouse relief” is frequently used to describe relief from joint and several liability under IRC § 6015(b). See also Joint Committee on Taxation, JCX-6-98, *Present Law and Background Relating to the Treatment of “Innocent Spouses”* (Feb. 9, 1998); *IRS Restructuring (Innocent Spouse Tax Rules): Hearing Before the S. Comm. on Finance*, 105th Cong. (1998).

6 See Internal Revenue Manual (IRM) 25.15.7.4, *First Read at the Cincinnati Centralized Innocent Spouse Operation (CCISO) Overview* (Feb. 19, 2013); IRM 25.15.8.2, *Innocent Spouse Relief* (Aug. 17, 2010); IRM 25.15.8.5.3.2, *CCISO Processing* (Aug. 17, 2010).

7 See http://win.web.irs.gov/innocentspouse/innocent_jobaids.htm (intranet site).

8 IRS responses to TAS information request (Oct. 30, 2013, and Nov. 13, 2013).

including ALL peripheral issues stemming from the identity theft. Otherwise, the IRS would be guilty of contributing to the problem and perpetuating the trauma to the victim.

The Taxpayer Advocate Service operates in a similar manner to the innocent spouse unit. Each taxpayer whose case is 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. TAS case advocates speak with the taxpayer to gather relevant information and perform initial triage, route requests to the appropriate unit (often to multiple units), negotiate timeframes for response, and track the IRS responses. TAS case advocates follow up to make sure the IRS meets those deadlines, and keeps the taxpayer updated on the case. If a case advocate will be on leave or otherwise unavailable for an extended time, he or she will find another case advocate or supervisor to conduct the follow-up actions so the case will not stall.

The identity theft victim, who may have experienced significant trauma, needs to have one person at the IRS to contact and rely upon.

We believe the primary reason TAS can resolve identity theft cases in 87 days, while cases worked under normal IRS procedures can languish for more than a year,⁹ is because our customers work with a single point of contact who is responsible for all aspects of their cases.¹⁰ Although the cases are complex, TAS case advocates have achieved a relief rate of 87 percent in identity theft cases in FY 2013 (compared to 78 percent for TAS cases overall).¹¹ An overwhelming 94 percent of identity theft victims who come to TAS in fiscal year (FY) 2013 (through June) have expressed satisfaction (compared to a customer satisfaction score of 90 percent for TAS cases overall in that period).¹²

The IRS can and should operate in a similar manner when assisting identity theft victims. Such an approach may even save resources by cutting down on phone calls and correspondence from the victims. Taxpayers may have more patience if they are assigned a single caseworker who keeps them updated on their accounts. If the IRS wishes to conduct a pilot program, it could test whether these assumptions hold true.

The IRS's Specialized Approach to Identity Theft Victim Assistance Has Proven to Be Inadequate.

As of the end of FY 2013, more than 3,000 IRS employees were working on identity theft — more than double the number at the start of the previous filing season.¹³ Yet the IRS has consistently refused to adopt the single point of contact approach that would provide sensitive, holistic assistance to victims of a traumatic crime. The IRS seems to be throwing bodies at the problem, without addressing fundamental problems with its processes.

⁹ See TIGTA, Ref. No. 2012-040-050, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (May 3, 2012); TIGTA, Ref. No. 2013-40-129, *Case Processing Delays and Tax Account Errors Increased Hardship for Victims of Identity Theft* (Sept. 26, 2013).

¹⁰ Analysis conducted by TAS Technical Analysis and Guidance of data obtained from TAMIS (Oct. 1, 2013).

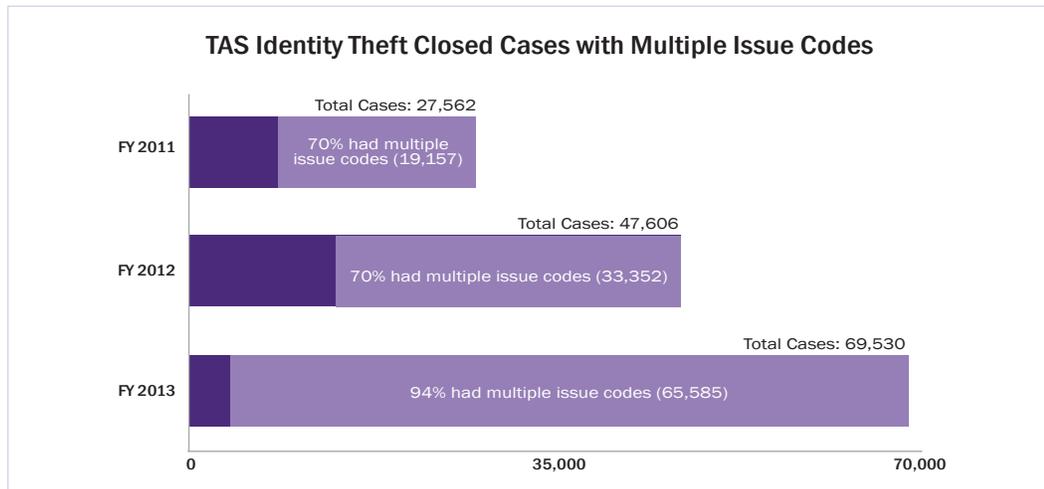
¹¹ *Id.*

¹² Analysis conducted by TAS Business Assessment of customer satisfaction scores reported for FY 2013 (through June 2013); data obtained from TAMIS (Oct. 1, 2013).

¹³ See IRS response to TAS information request (Nov. 13, 2013). However, these employees are spread among more than 20 different groups within the IRS. IRS response to TAS information request (Oct. 30, 2013, and Nov. 13, 2013).

In FY 2013, the IRS adopted 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. Because identity theft cases can be complex, they sometimes require adjustments by multiple functions.¹⁴

FIGURE 1.6.1, Percent of TAS Identity Theft Cases with Multiple Issue Codes, FY 2011–FY 2013¹⁵



Even where there is just one issue at hand, a case may still require multiple “touches” from various specialized units. Without a single person responsible for transferring cases from one function to another and for ensuring timely actions, the IRS creates greater risk that cases will become “stuck” or lost in the process.

Although IRS guidance instructs those working identity theft cases to identify all taxpayer issues, including possible multiple year involvement,¹⁶ the current procedures under this specialized approach fall short of having this initial IRS employee be responsible for ensuring all issues are addressed. Under the current approach, the IRS employee working an identity theft case will look only at the one issue being worked by his or her particular function, and not assessing the taxpayer’s problem holistically. Instead, because no single employee is responsible for the entirety of the case, the IRS is forcing the taxpayer to navigate an alphabet soup of departments, forms, and notices before the IRS can fully unwind the harm caused by the identity theft.¹⁷

The IRS has drafted a complex “transfer matrix” outlining situations in which a case must be routed from one specialized function to another. The National Taxpayer Advocate is concerned that routing cases

¹⁴ The IRS states that upwards of 20 different functions may touch an identity theft case. IRS responses to TAS information request (Oct. 30, 2013, and Nov. 13, 2013).

¹⁵ The IRS does not track the number of issues in a given identity theft case because, unlike TAS, it treats each module (year/tax/issue) as a different case. Accordingly, we can provide TAS data only. This chart is meant to illustrate that the vast majority of TAS identity theft cases involve multiple issue codes. The increase in the percentage of cases with multiple issue codes from FY 2011 to FY 2013 may be due to better coding by TAS case advocates to record secondary issue codes; it does not necessarily mean that TAS identity theft cases have become more complex in recent years.

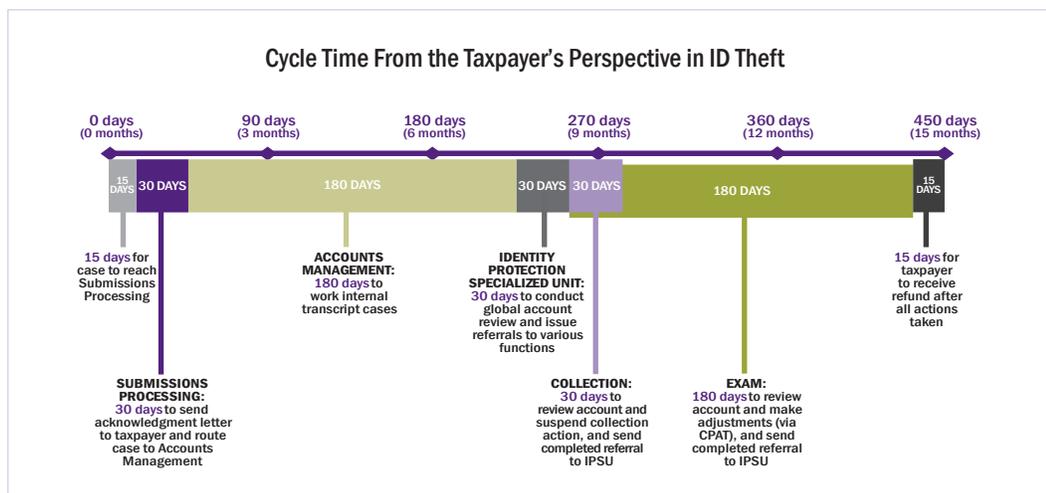
¹⁶ See IRM 10.5.3.2.1.2, *Assessing Scope of Taxpayer’s Issues* (May 8, 2013).

¹⁷ See *Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS: Hearing Before the H. Comm. on Oversight and Government Reform, Subcomm. on Government Operations*, 112th Cong. (2013) (chart included in statement of Nina E. Olson, National Taxpayer Advocate).

among functions sequentially is inefficient, causing excessive delays. Based on TAS’s experience with identity theft cases over the years, the National Taxpayer Advocate believes 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, we have provided a detailed example in congressional testimony that shows how complex identity theft cases are and the multiple units and delays involved.¹⁸ The timeline below illustrates the complex and convoluted process that taxpayers may need to navigate to receive full resolution of their identity theft issue.¹⁹

FIGURE 1.6.2, ID Theft Cycle Time for Taxpayers



Victims routinely must deal with multiple IRS functions to resolve all of their account issues. Generally, most specialized units operate in a silo, treat the identity theft as a separate case, and work inventory on a FIFO (first-in, first-out) basis from the perspective of that specialized unit. Under such an 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.²⁰ 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 (TIGTA) 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

18 See *Examining the Skyrocketing Problem of Identity Theft Related Tax Fraud at the IRS: Hearing Before the H. Comm. on Oversight and Government Reform, Subcomm. on Government Operations*, 112th Cong. (2013) (statement of Nina E. Olson, National Taxpayer Advocate), available at <http://www.irs.gov/Advocate/National-Taxpayer-Advocate-Congressional-Testimony>.

19 This example is not based on an actual or typical case; the timeline described is a hypothetical meant to show how many functions could be involved, and how much time could elapse, before an identity theft victim receives full relief. IRM 21.9.2.3, *Identity Theft – Telephone Overview* (Oct. 1, 2013); Letter 5073C; IRM 3.11.3-1, *Attachment Guide* (Jul. 25, 2013); IRM 10.5.3.2.4.1, *Multiple Function Criteria (MFC) Cases Requiring Referral to IPSU for Monitoring* (May 8, 2013); IRM 21.6.2.4.2.3, *Preliminary Research* (Oct. 1, 2013) IRM 4.19.13.25.11, *Referrals to CPAT/DITA* (Apr. 4, 2013); IRM 21.9.2.4.2, *Tax-Related Identity Theft – (Andover and Fresno IPSU only)* (Oct. 18, 2013).

20 IRS responses to TAS information request (Oct. 30, 2013, and Nov. 13, 2013).

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.²¹ In a follow-up report released in September 2013, TIGTA found that the typical identity theft case was assigned to an average of 10 different assistors (some of whom were within the same function) prior to case resolution.²²

The National Taxpayer Advocate continues to believe the IRS should follow TAS's approach to case resolution, and allow the IPSU to “own” identity theft cases rather than simply “monitor” them. Yet five years after establishment of the IPSU, it is clear that 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.²³

The IRS Should Track Cycle Time from the Perspective of the Victim.

Despite the commitment by former Commissioner Shulman in 2008 that the IRS would resolve identity theft victims' tax accounts “quickly and efficiently,” the IRS does not know whether its processing time for identity theft cases has been increasing or decreasing.²⁴ While some IRS functions can track the length of time a case is in their inventory, the IRS still cannot provide an overall cycle time from the taxpayer's perspective. For example, specialized units generally measure cycle time solely from the date they receive the case; their 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.”

The fact that the IRS cannot accurately track the cycle time of an identity theft case from the perspective of the victim is astonishing, disappointing, and inexcusable.

We recognize that cycle time start dates may differ depending on the facts and circumstances of the cases, but the IRS should be able to count cycle time in a way that more closely reflects the taxpayer's experience and more accurately flags over-aged cases. Currently, as the above case example shows, an identity theft case might not be considered over-aged until the victim has been in the system for more than a year.

In a September 2013 audit, the Treasury Inspector General for Tax Administration (TIGTA) reported the average cycle time for the 100-case sample of identity theft cases it reviewed was 312 days, including 277 days of inactivity.²⁵ In other words, though the cases lingered in various IRS units for 312 days or approximately ten months, the average case was resolved with just 35 days of direct contact.

21 See TIGTA, Ref. No. 2012-040-050, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (May 3, 2012).

22 See TIGTA, Ref. No. 2013-40-129, *Case Processing Delays and Tax Account Errors Increased Hardship for Victims of Identity Theft* (Sept. 26, 2013).

23 Merriam-Webster defines the adjective Rube Goldberg as “doing something simple in a very complicated way that is not necessary.” See Merriam-Webster online dictionary, <http://www.merriam-webster.com/dictionary/rube%20goldberg> (last visited Nov. 21, 2013).

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

25 See TIGTA, Ref. No. 2013-40-129, *Case Processing Delays and Tax Account Errors Increased Hardship for Victims of Identity Theft* (Sept. 26, 2013).

The National Taxpayer Advocate is concerned that unless the IRS significantly changes its procedures to keep identity theft cases moving, cycle time will continue to increase in the coming year as the IRS struggles to keep up with its inventory. The fact that the IRS cannot accurately track the cycle time of an identity theft case from the perspective of the victim is astonishing, disappointing, and inexcusable.

The IRS Should Institute “Timeliness” Measures to Ensure Identity Theft Cases Do Not Languish.

TIGTA’s 2013 report noted that the identity theft cases it reviewed showed an average of 277 days of inactivity.²⁶ The IRS should adopt an approach similar to TAS’s “timeliness” goals that are intended to help our case advocates move cases along. For example, an IPSU employee could:

- Set a goal to contact the taxpayer within three to five days of case receipt, depending on the nature of the case;
- Develop a case action plan within three days of contact with the taxpayer;
- Issue a request to a function within three days of receiving all information from the taxpayer necessary to address the issue; and
- Follow up with the function within one day of a missed requested completion date.

The goal of these “timeliness” measures is to keep cases moving, which in turn will reduce cycle time in an organic way — not by meeting an artificial or arbitrary goal. Moreover, by centralizing cases in the IPSU, the IPSU’s case 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.

The IRS Should Develop an Identity Theft Database or System Accessible to All Functions Working on Identity Theft Cases.

As noted 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 many cases requiring action by multiple functions, the IRS cannot track these cases accurately.

By creating 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 identifies 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 functions to share information. Any employee could see if the taxpayer submitted documentation and what actions the other functions have taken, thereby helping to reduce duplicative actions.

Proposed Enhancements to the Identity Protection Personal Identification Number (IP PIN) Process Make It Easier for Victims to Protect Their Accounts

In January 2011, the IRS initiated a pilot program to issue an Identity Protection Personal Identification Number (IP PIN) to a select group of taxpayers with an active identity theft indicator on their account.²⁷ An IP PIN is a unique code that the taxpayer must use, along with his or her taxpayer identification

²⁶ See TIGTA, Ref. No. 2013-40-129, *Case Processing Delays and Tax Account Errors Increased Hardship for Victims of Identity Theft* (Sept. 26, 2013).

²⁷ IRM 10.5.3.2.16(1), *Identity Protection Personal Identifying Number (IP PIN)* (Jan. 11, 2013).

number, to file electronically and bypass certain filters.²⁸ In prior years, taxpayers who lost, misplaced, or did not receive their IP PIN were required to contact the IRS to obtain a replacement IP PIN.²⁹ However, taxpayers who filed a return using a replacement IP PIN would be subject to delay in the processing of their return.

Effective in filing season 2014, the IRS is proposing to have taxpayers who have lost, misplaced, or never received their IP PIN retrieve their original IP PIN using an online application. This will allow the taxpayer's return to post to their account without additional delays. Under this proposal, only in instances where the taxpayer is unwilling or unable to use the online application will a replacement IP PIN be issued. We commend the IRS for considering this enhancement to the IP PIN program.

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.³⁰ Certainly, some improvements have been made. Yet the IRS is not where it needs to be on this serious taxpayer problem.

The IRS must design its processes around the key fact that victims of identity theft have suffered serious trauma and need a specially trained group of employees working identity theft cases, much like victims of spousal abuse who are helped by employees in the IRS's innocent spouse unit. One key component of such an approach is to ensure that the victim deals with a single employee within the IRS during the duration of the case. That employee will serve as a buffer between the victim and the complex processes and multiple functions necessary to resolve the problem.

Given the multiple points of contact, lengthy inactive periods, and first-in, first-out processing for each unit, we believe the IRS will find, if it adopts our suggestions, that it would actually require **fewer** resources to do the same volume of work. The National Taxpayer Advocate proposes that the IRS conduct a pilot program to test this hypothesis. In such a pilot program, the IRS could detail some of its IPSU employees to TAS and have them work identity theft cases in the same manner that TAS works them — and then measure cycle time and extent of relief (addressing all issues) compared to a control sample of cases handled in the way IPSU currently does.

The National Taxpayer Advocate is confident that taxpayers — our customers — would be much more satisfied with their experience. Unless the IRS wants to continue to add to the victims' grief and trauma, it must do this. There is a clear choice here.

28 IRM 10.5.3.2.16, *Identity Protection Personal Identifying Number (IP PIN)* (Jan. 11, 2013).

29 IRM 10.5.3.2.16(5), *Identity Protection Personal Identifying Number (IP PIN)* (Jan. 11, 2013).

30 The latest example involved the hiring of an external consulting firm to lead the Identity Theft Assessment and Action Group, which recommended the adoption of a specialized approach to identity theft victim assistance.

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. Designate the Identity Protection Specialized Unit (IPSU) as the centralized function that assigns a single employee to work with identity theft victims until all related issues are resolved.
2. Develop a method of tracking cycle time from the perspective of the victim.
3. Implement “timeliness” measures to ensure identity theft cases do not languish.
4. Develop an identity theft database or system accessible to all functions working on identity theft cases.