

MSP
#16**IDENTITY THEFT (IDT): The IRS's Procedures for Assisting Victims of IDT, While Improved, Still Impose Excessive Burden and Delay Refunds for Too Long****RESPONSIBLE OFFICIALS**

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TAXPAYER RIGHTS IMPACTED¹

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

DEFINITION OF PROBLEM

In general, tax-related identity theft (IDT) occurs when an individual intentionally uses the personal identifying information of another person to file a falsified tax return with the intention of obtaining an unauthorized refund.² Identity theft victims must substantiate their identity with the Internal Revenue Service (IRS), file various forms, and wait months or even years to receive their tax refunds and unwind the account issues.³

The National Taxpayer Advocate first raised concerns with the IRS's ability to resolve IDT cases in her 2004 Annual Report to Congress.⁴ Since then, the IRS has grappled to find the best approach for working IDT cases. In fiscal year (FY) 2012, the IRS dispersed responsibility for working IDT cases by creating more than 20 specialized IDT units.⁵ In FY 2015, the IRS changed course and reorganized its IDT victim assistance functions, centralizing them under one umbrella within the Wage and Investment (W&I) division.

The National Taxpayer Advocate is pleased with this reorganization, as she has long held the belief that a centralized approach to IDT victim assistance was necessary.⁶ However, the National Taxpayer Advocate remains much more concerned with the IRS's IDT victim assistance *procedures* than she is with the *organizational structure* of the IDT victim assistance unit. Since 2004, the National Taxpayer Advocate has made 46 recommendations to the IRS in her Annual Reports to Congress on improving its IDT victim

1 See Taxpayer Bill of Rights, available at www.TaxpayerAdvocate.irs.gov/taxpayer-rights.

2 This type of tax-related identity theft is referred to as "refund-related" identity theft. In "employment-related" identity theft, an individual files a tax return using his or her own tax identification number, but uses another individual's Social Security number (SSN) to obtain employment, and consequently, the wages are reported to the IRS under the SSN. The IRS has procedures in place to minimize the tax administration impact to the victim in these employment-related identity theft situations. Accordingly, we will focus on refund-related identity theft in this report.

3 National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 45-90 (*Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014*).

4 National Taxpayer Advocate 2004 Annual Report to Congress 133-36.

5 National Taxpayer Advocate 2012 Annual Report to Congress 45-46.

6 The National Taxpayer Advocate stated in her 2013 Annual Report to Congress that "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." See National Taxpayer Advocate 2013 Annual Report to Congress 75.

assistance, over half of which the IRS has eventually adopted.⁷ Although improvements have been made over the years, the IRS can still do much more to assist victims of IDT.

The continuing inadequacy of the IRS's IDT victim assistance is demonstrated by the growth in TAS IDT cases, which comprised 25 percent of TAS's case receipts for FY 2015.⁸ This growth was caused, in part, by certain IRS screening mechanisms; in one program, approximately one out of three returns suspended by the IRS were legitimate returns.⁹

In Volume 2 of the National Taxpayer Advocate's 2014 Annual Report to Congress, she made numerous recommendations to improve the IRS's IDT victim assistance procedures, including:

1. IDT victims with multiple issues should be assigned a sole IRS contact person (and provided with a toll-free direct extension to this contact person) who would interact with them throughout and oversee the resolution of the case, no matter how many different IRS functions need to be involved behind the scenes.
2. The IRS should track IDT cycle time in a way that reflects the taxpayer's experience more accurately — from the time the taxpayer submits the appropriate documentation to the time the IRS issues a refund (if applicable) or otherwise resolves all related issues.
3. The IRS should review its global account review procedures to ensure all related issues are actually resolved (including issuance of a refund, if applicable) prior to case closure, and conduct appropriate training for its employees.¹⁰

Identity theft victims must substantiate their identity with the IRS, file various forms, and wait months or even years to receive their tax refunds and unwind the account issues.

The National Taxpayer Advocate believes adoption and implementation of these recommendations will improve the IRS's ability to effectively resolve IDT cases. In addition, the IRS should expand its Identity Protection Personal Identification Number (IP PIN) pilot to allow all taxpayers the option to receive an IP PIN. This would not only provide taxpayers a right to quality service, but also protect the federal fisc.

In October 2015, the IRS began re-engineering its IDT victim assistance procedures, and has included TAS among the stakeholders in this re-engineering effort. The Re-engineering Team plans to make significant improvements in IDT victim assistance; however, the IRS has not yet agreed to any of the recommendations listed above.

⁷ The IRS adopted (fully or in part) 25 of the 46 recommendations on improving IDT victim assistance made by the National Taxpayer Advocate. Some of the adopted recommendations include:

- ◆ Standardize procedures as to what information is required from taxpayers complaining of stolen identities (National Taxpayer Advocate 2004 Annual Report to Congress 142; adopted in 2009);
- ◆ The IRS should use an electronic indicator on its master files to mark the accounts of taxpayers who have verified that they have been victims of identity theft (National Taxpayer Advocate 2005 Annual Report to Congress 191; adopted in 2008);
- ◆ The IRS should develop a form that taxpayers can file when they believe they have been victims of identity theft (National Taxpayer Advocate 2007 Annual Report to Congress 115; adopted in 2009); and
- ◆ Require the Identity Protection Specialized Unit (or in the case of a single-issue case, the specialized function) to conduct final global account reviews on all identity theft cases (National Taxpayer Advocate 2012 Annual Report to Congress 67; adopted in 2013).

⁸ See TAS Business Performance Review (BPR), FY 2015 (Oct. 1, 2015).

⁹ See IRS, W&I BPR, CY 2015 Results through September (Nov. 2, 2015) (showing a false positive rate of 34.6 percent for the Dependent Database IDT filters).

¹⁰ See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 45-90 (*Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014*).

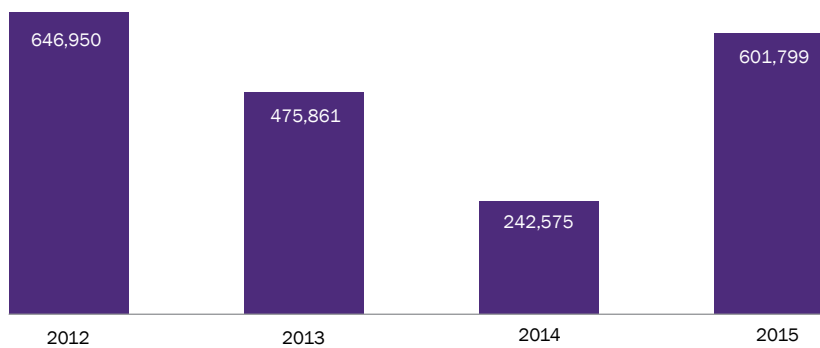
ANALYSIS OF PROBLEM

Background

The IRS continues to see a significant number of IDT cases. As of the end of September 2015, the IRS had over 600,000 IDT cases with taxpayer impact (excluding duplicates) in its inventory, up nearly 150 percent from September 2014.¹¹

FIGURE 1.16.1¹²

IRS Identity Theft Inventory on September 30, 2012-2015



Identity theft cases continue to make up a significant percentage of TAS caseload as well. TAS IDT cases increased nearly 30 percent from FY 2014 to FY 2015. In FY 2015, TAS received more than 56,000 IDT cases representing 25 percent of all TAS cases. In FY 2014, TAS received nearly 44,000 IDT cases representing 20 percent of all TAS cases.¹³

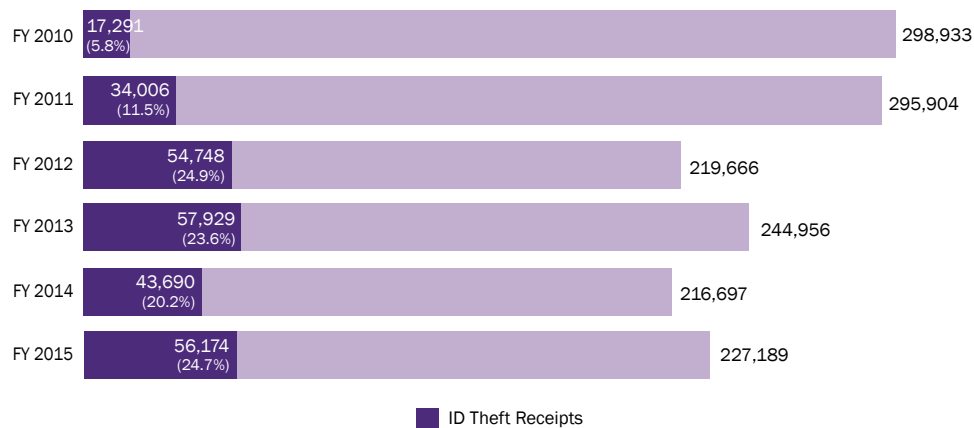
¹¹ IRS, *Global Identity Theft Report* (Sept. 30, 2015); IRS, *Global Identity Theft Report* (Sept. 30, 2014).

¹² IRS, *Global Identity Theft Report* (Sept. 30, 2015); IRS, *Global Identity Theft Report* (Sept. 30, 2014); IRS, *Global Identity Theft Report* (Sept. 30, 2013); IRS, *Global Identity Theft Report* (Sept. 30, 2012).

¹³ TAS received 56,174 IDT cases in FY 2015 and 43,690 IDT cases in FY 2014. See TAS BPR, FY 2015 (Oct. 1, 2015); TAS BPR, FY 2014 (Oct. 1, 2014).

FIGURE 1.16.2¹⁴

Identity Theft Case Receipts as a Percentage of TAS Case Receipts



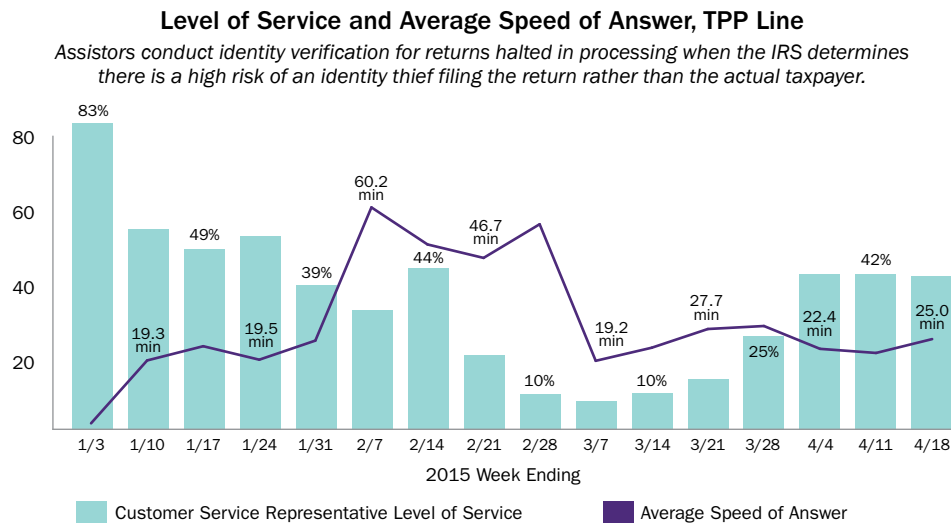
A significant portion of the TAS IDT cases in FY 2015 is attributable to the failure of the IRS to properly administer its Taxpayer Protection Program (TPP).¹⁵ The IRS uses advanced analytics to select and suspend the processing of tax returns it suspects were filed by identity thieves. When an IRS filter stops a return, the IRS sends the taxpayer a letter asking him or her to either call the TPP phone number or visit the Out-of-Wallet website to verify his or her identity. It turned out that approximately one out of three returns suspended by the TPP were legitimate returns,¹⁶ resulting in a severe backlog of calls to the TPP toll-free phone line. As shown in this figure below, the level of service (LOS) on the TPP line was particularly poor during the 2015 filing season, when the LOS dipped below ten percent for three consecutive weeks.¹⁷

14 Taxpayer Advocate Management Information System (TAMIS), *Receipts – Core Issues by BOD & Criteria – Cumulative* (run dates Oct. 1, 2015; Oct. 1, 2014; Oct. 1, 2013; Oct. 1, 2012; Oct. 1, 2011; Oct. 1, 2010).

15 Of the 56,174 IDT cases (primary issue code 425) received by TAS in FY 2015, 37,686 (67 percent) involved issues stemming from the TPP. TAMIS (run date Oct. 1, 2015); IRS Compliance Data Warehouse (CDW), Individual Master File (Oct. 2015).

16 IRS, *IRS Return Integrity & Compliance Services (RICS), Update of the Taxpayer Protection Program (TPP)* 9 (June 24, 2015).

17 IRS, Joint Operations Center, *TPP Snapshot Reports* (Jan.–Apr. 2015). The IRS attributes the low LOS for the TPP line to a number of factors, including budget challenges that impacted all toll-free lines, problems with the Out-of-Wallet website, and multiple weather-related closures in TPP call sites. Additional staff for TPP were trained and added in late March to improve LOS. Email from Senior Tax Analyst, Business Performance Laboratory, Return Integrity and Compliance Services (July 6, 2015).

FIGURE 1.16.3¹⁸

Reorganization

In February 2014, the IRS began to consider the feasibility of adopting a centralized approach to IDT victim assistance. As a result of this feasibility study, the IRS decided to take the following actions:

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

With this reorganization, the AM Director is now able to lead all IDT staff — including policy analysts — to ensure that IDT cases are worked consistently and tracked more easily. In addition, the IRS consolidated the Internal Revenue Manual (IRM) effective October 1, 2015, so that all IDT procedures fall under a single IRM chapter.¹⁹

The new IDT Victim Assistance unit will require its employees (including IDTVA Compliance employees) to use the Correspondence Imaging System (CIS) beginning in FY 2016. Documents and notes uploaded on CIS will allow any IRS employee with access to CIS to quickly get up to speed on a case. Using CIS will also allow the IRS the ability to balance the IDT work more effectively. Furthermore, having all IDT cases on one system will enable the IRS to more easily track the cycle time for IDT cases, which is something the National Taxpayer Advocate has pushed the IRS to do.²⁰

¹⁸ IRS, Joint Operations Center, *TPP Snapshot Reports* (Jan.–Apr. 2015).

¹⁹ IRM 25.23, *Identity Protection and Victim Assistance* (Oct. 1, 2015).

²⁰ See National Taxpayer Advocate 2013 Annual Report to Congress.

Results of 2014 Research Study

To gain a better understanding of what is really going on in the IRS inventory of IDT cases, TAS conducted a research study in 2014 where we (in coordination with W&I) pulled a representative sample of IDT cases from IRS inventory.²¹ The results of this comprehensive review confirmed many of the observations the National Taxpayer Advocate has shared over the past decade about how the IRS can improve its IDT victim assistance.

Here are three findings from the 2014 study that merit attention:

1. *Overall, about two-thirds (67 percent) of all IDT modules in our representative sample were either (1) worked in more than one function, or (2) reassigned to another assistor within a function.*²² A typical IDT victim who receives assistance from the IRS will be forced to bounce around from one assistor to another. Without a sole contact person assigned, there is a concern that an IDT case may fall through the cracks. Forty-two percent of the IDT modules analyzed in our sample had periods of inactivity (*i.e.*, periods of time when no work was being performed on the case for more than 30 days), with an average (mean) period of inactivity was 78 days.²³
2. *In 22 percent of IDT cases in our representative sample, the IRS closed an IDT module without taking the appropriate steps to fully resolve the victim's account.*²⁴ In our study, the IRS closed many IDT cases before all account actions were taken — for example, some IDT victims had not yet received their refund, the IRS failed to issue an Identity Protection Personal Identification Number (IP PIN), or update the victim's address.²⁵ This brings into question the effectiveness of the IRS's global account review process. Either the procedures are insufficient or the IRS needs to ensure its assistors are trained better.
3. *The average cycle time for the IDT cases in our representative sample was 179 days (nearly six months).*²⁶ While some functions (such as AM) tracked how long IDT cases stayed in their inventory, there was no standard calculation of cycle time across the IDT functions. The cycle times reported by various IDT specialized units did not reflect the time that has passed since the taxpayer filed a return or the time spent interacting with other functions. We believe this measure of 179 days more accurately indicates how long the IRS takes to resolve IDT cases, from the perspective of the IDT victim.

The Senate Appropriations Committee agreed with the National Taxpayer Advocate that the IRS should create a sole point of contact to deal with identity theft victims with multiple tax issues.²⁷ The Committee

21 See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 45-90 (*Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014*).

22 See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 52.

23 *Id.*

24 *Id.* at 53.

25 Of the 85 modules that we noted were prematurely closed, nine remained open as of Oct. 27, 2015.

26 See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 52-53.

27 S. REP. 114-97, at 34 (2015), available at www.congress.gov/114/crpt/srpt97/CRPT-114srpt97.pdf ("Some identity theft victims have only a single issue that requires resolution, but many victims have multiple issues that must be resolved before the IRS will issue their refunds. In addition, these victims often have to call the IRS numerous times and speak with numerous employees.... The Committee also directs IRS to report on the feasibility of assigning the cases of identity theft victims with multiple issues to a single IRS representative (and provide victims with a toll-free direct extension to this representative) who will manage the case, including coordinating the actions of different IRS functions, and work with the taxpayer until the case is fully resolved.").

further directed the IRS issue a report detailing procedural changes aimed to cut the cycle time of identity theft cases in half.²⁸

Re-Engineering Team

In September 2015, the IRS convened the IDT Re-engineering Team, a group of employees from across various functions empowered to make recommendations to improve the processing of IDT cases.

The IDT Re-engineering Team has formed sub-teams, including ones focused on improving the content and format of the IDT Global Report, strengthening global review procedures to ensure all actions are taken prior to closing an IDT case, and revisiting the role and scope of the IPSU. The IDT Re-engineering Team is led by the Director of the IDTVA organization and expects to submit recommendations to the Director of Accounts Management in early 2016.

IP PIN Expansion

In December of each year, the IRS issues IP PINs to certain victims of IDT whose identities and addresses have been verified.²⁹ An IP PIN is a unique code that some taxpayers must use, along with his or her taxpayer identification number, to file electronically.³⁰ IP PINs are a very effective way to prevent refund-related IDT; a would-be identity thief simply cannot e-file a tax return on a protected account without entering the IP PIN (which changes every year).

In 2014, the IRS conducted a pilot to expand the issuance of IP PINs. Residents of the District of Columbia, Florida, and Georgia were given the opportunity to opt-in to receive an IP PIN, regardless of whether or not they were victims of IDT.³¹ Although uptake was relatively low (0.08 percent), the IRS continued the IP PIN opt-in pilot for residents of these three high-risk states in 2015.³² One possible reason for the low uptake is the lack of effective outreach or notice about the program. For example, the National Taxpayer Advocate is a resident of the District of Columbia; she received no communication from the IRS that she could apply for an IP PIN for the 2015 filing season. Whether it involves mailing notices to all eligible taxpayers, using traditional or social media, or working with third parties such as tax software companies, the IRS can and must do better than achieving an uptake rate of less than 0.1 percent for such a valuable, no-cost service.

The IRS is currently exploring the feasibility of expanding the IP PIN opt-in pilot to nationwide, but is concerned about the costs of administering the program. The IRS estimates that it costs as much as \$36 per IP PIN over a three-year period (the costs of issuing replacement IP PINs are factored into this estimate).³³ For each taxpayer who opted to receive an IP PIN in 2014, \$193 of revenue was protected.³⁴

The average cycle time for the Identity Theft (IDT) cases in our representative sample was 179 days (nearly six months).

28 S. REP. 114-97, at 34 (2015), available at www.congress.gov/114/crpt/srpt97/CRPT-114-srpt97.pdf (“The Committee directs the IRS to institute, and share with the Committee within 90 days of enactment, an updated action plan and timetable predicated on a goal of reducing by half the average amount of time a taxpayer must await a disposition of a refund fraud claim.”).

29 IRM 25.23.2.21, *Identity Protection Personal Identification Number (IP PIN)* (Sept. 8, 2015).

30 *Id.*

31 IRM 25.23.2.21.2, *IP PIN Opt-In Available for Designated Taxpayers Who Are Not ID Theft Victims* (Sept. 8, 2015).

32 *Id.*; W&I Research and Analysis, *IP PIN Opt-in Pilot Executive Checkpoint* (Sept. 2015).

33 W&I Research and Analysis, *IP PIN Opt-in Pilot Executive Checkpoint* (Sept. 2015).

34 \$2.2 million net revenue protected / 11,400 opt-ins in 2014. See W&I Research and Analysis, *IP PIN Opt-in Pilot Executive Checkpoint* (Sept. 2015).

In other words, the IRS stopped \$5.36 in fraudulent refunds for every dollar it spent issuing IP PINs.³⁵ This is a conservative estimate which does not account for dollars protected in the second and third year of IP PIN use, while including the administrative cost of issuing IP PINs for three years. Based on these calculations, the IRS should secure the needed funds from Congress to expand the IP PIN opt-in program.

CONCLUSION

The National Taxpayer Advocate is pleased that the IRS leadership has decided to adopt the recommendation to change to a centralized approach to IDT victim assistance. With a centralized approach, the IRS is better positioned to evaluate and act upon the recommendations we made in our 2014 Annual Report to Congress. We look forward to working cooperatively with the new IDTVA unit to further improve service to this vulnerable population of taxpayers. We note that many of the ideas now under consideration by this unit were recommended by the National Taxpayer Advocate as far back as a decade ago. Had the IRS adopted these recommendations at that time, millions of taxpayers would have been spared tremendous anxiety, economic harm, and burden. The IRS should learn from this past lesson and not delay another ten years before embracing the recommendations in this report.

RECOMMENDATIONS

The National Taxpayer Advocate recommends that the IRS:

1. For identity theft victims with multiple issues, assign a sole IRS contact person (and provide with a toll-free direct extension to this contact person) to interact with identity theft victims throughout and oversee the resolution of the case. Alternatively, the IRS should conduct a pilot where selected identity theft victims with multiple issues are assigned a sole employee, and compare results (case resolution time, number of contacts, taxpayer satisfaction, quality, etc.).
2. Track identity theft cycle time in a way that reflects the taxpayer's experience more accurately — from the time the taxpayer submits the appropriate documentation to the time the IRS issues a refund (if applicable) or otherwise resolves all related issues.
3. Review and adjust its global account review procedures to ensure all related issues are actually resolved (including issuance of a refund, if applicable) prior to case closure, and conduct appropriate training for its employees.³⁶
4. Expand its IP PIN pilot to allow taxpayers in every state the ability to receive an IP PIN, and convey this option to taxpayers using multiple modes of communication.

35 \$193 revenue protected / \$36 cost of IP PIN issuance = \$5.36 revenue protected per IP PIN issued.

36 See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 45-90 (*Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014*).