

**Area of
Focus #1**

The IRS Should Provide Victims of Identity Theft with a True Single Point of Contact to Help Them Resolve Their Account Problems and Obtain Their Refunds

TAXPAYER RIGHTS IMPACTED¹

- *The right to quality service*
- *The right to a fair and just tax system*

Stolen Identity Cases Continue to Top the List of TAS Case Receipts

In general, tax-related identity theft (IDT) occurs when an individual intentionally uses the personal identifying information of another person to file a false tax return with the intention of obtaining an unauthorized refund.² Through improved filters and screening, the IRS has been able to detect and stop more than 3.8 million suspicious tax returns in the 2015 filing season (through May 31).³ The largest component of these suspended returns is a result of the Taxpayer Protection Program (TPP), which we discussed in detail in the Filing Season Review section of this report, *supra*. With a false positive rate of 34 percent, approximately one out of three returns suspended by the TPP were legitimate returns.⁴

The frustration of taxpayers impacted by the TPP was exacerbated by the extreme difficulty of reaching a live assistor when taxpayers called the phone number they were instructed to dial. The chart below shows the level of service on the TPP phone line during the 2015 filing season; in some of the busiest weeks of the filing season, less than one in ten callers were able to reach an IRS assistor.⁵

1 See IRS, Taxpayer Bill of Rights, available at <http://www.irs.gov/Taxpayer-Bill-of-Rights>.

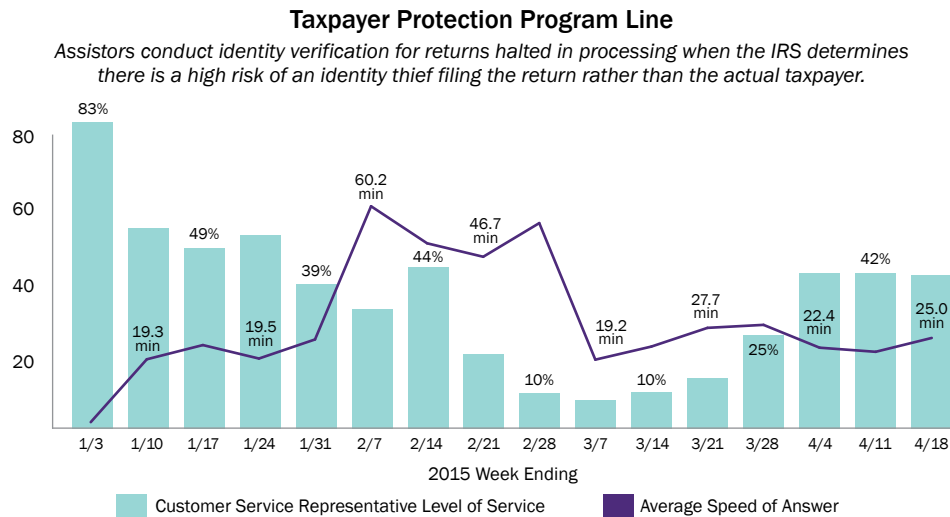
2 See IRM 10.5.3.1.2.1(4), *Identity Protection Program Servicewide Identity Theft Guidance* (Dec. 17, 2014).

3 IRS, *Global Identity Theft Report* (May 31, 2015).

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

5 The IRS attributes the low level of service (LOS) for the TPP line to a number of factors, including budget challenges that impacted all toll-free lines and multiple weather-related closures in TPP call sites. Additional staff for TPP were trained and added in late March to improve LOS.

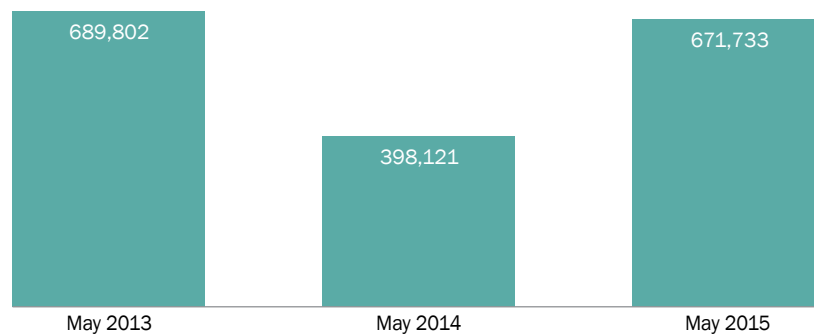
FIGURE 3.1.1⁶



Given the false positive rate, it is no wonder the IRS continues to see a significant number of IDT cases. As of the end of May 2015, the IRS had 671,773 IDT cases with taxpayer impact (excluding duplicates) in its open inventory, up 69 percent from 398,121 in May 2014.⁷ The rising IDT inventory, reaching 2013 levels, indicates the IRS is losing any gains made by recent process improvements, most likely due to the overreach of the TPP filters and understaffing of the TPP phone lines.⁸

FIGURE 3.1.2⁹

IRS Identity Theft Cases with Taxpayer Impact (Open Inventory Excluding Duplicates)



⁶ IRS, Joint Operations Center, *TPP Snapshot Reports* (Jan.–Apr. 2015).

⁷ IRS, *Global Identity Theft Report* (May 31, 2015); IRS, *Global Identity Theft Report* (May 31, 2014).

⁸ IRS, Joint Operations Center, FY 2015 Weekly TPP Snapshot, reports for weeks ending Jan. 3–Apr. 18, 2015; IRS, Return Integrity & Correspondence Services (RICS), *Update of the Taxpayer Protection Program (TPP)* 9 (Apr. 30, 2014); IRS, RICS, *Update of the Taxpayer Protection Program (TPP)* 11 (June 24, 2015).

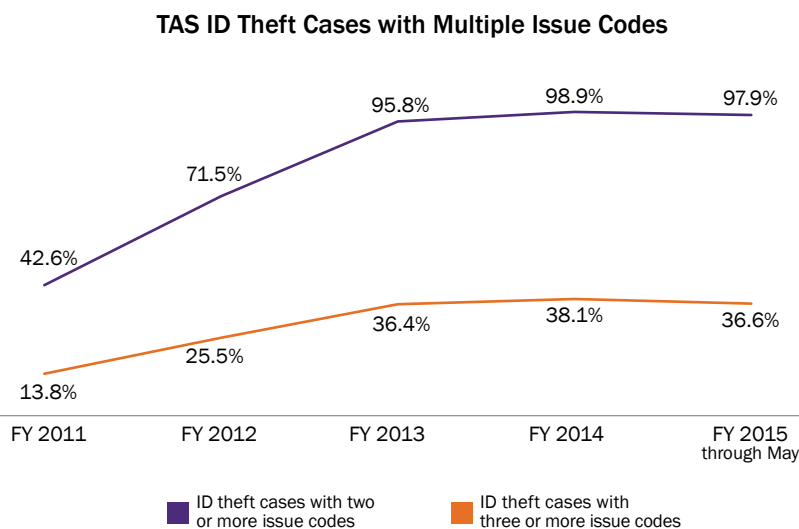
⁹ IRS, *Global Identity Theft Report* (May 31, 2015); IRS, *Global Identity Theft Report* (May 31, 2014); IRS, *Global Identity Theft Report* (May 31, 2013).

During the first two quarters of fiscal year (FY) 2015, TAS received 23,657 IDT cases (24 percent of all TAS receipts).¹⁰ This represents a 27 percent increase in IDT case receipts from the same period in FY 2014, when such cases accounted for 20 percent of all TAS cases.¹¹ Stolen identity cases are still by far the most common type of case within TAS, accounting for 91 percent more cases than the second most common issue through the second quarter of FY 2015.¹² As discussed in the Filing Season Review section of this report, nearly half of TAS's IDT cases received this filing season involved an unpostable or reject issue.¹³ *TAS has received more IDT cases during the months of February, March, and April 2015 than it received during the same time period in any of the past three years*, which suggests much of the fallout from the high TPP false positive rate and low level of service on the TPP phone lines was borne by TAS.¹⁴

Identity Theft Cases Are Complex, Often Involving Multiple Issues

Another reason why some IDT cases end up in TAS is their complexity, often requiring actions by employees from different IRS organizations and with different skills. In many instances, TAS Case Advocates must address more than two issues to fully resolve an IDT victim's case,¹⁵ as the chart below illustrates.

FIGURE 3.1.3¹⁶



However, as complex as these IDT cases have become, Case Advocates have learned to resolve these cases more efficiently. In FY 2015 through May, TAS has taken an average of 66 days to close IDT cases,

¹⁰ TAS Business Performance Review (2nd Quarter FY 2015).

¹¹ TAS Business Performance Review (2nd Quarter FY 2014).

¹² TAS Business Performance Review (2nd Quarter FY 2015).

¹³ See *Filing Season Review, supra*.

¹⁴ Data provided by TAS Technical Analysis and Guidance (on file with TAS).

¹⁵ When TAS opens a case, it assigns a primary issue code based on the most significant issue, policy or process within the IRS that needs to be resolved. When a TAS case has multiple issues to resolve, a secondary issue code will be assigned. See IRM 13.1.16.13.1.1, *Taxpayer Issue Code* (Feb. 1, 2011).

¹⁶ Data obtained from Taxpayer Advocate Management Information System (TAMIS) (Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; June 1, 2015).

compared to 126 days over the same period in FY 2010. TAS achieved a relief rate of 80 percent in IDT cases in FY 2015 (through May), compared to 78 percent for non-IDT TAS cases.¹⁷

IRC § 7811 authorizes the National Taxpayer Advocate (or her delegate)¹⁸ to issue a Taxpayer Assistance Order (TAO) to require the IRS to cease any action, take any action as permitted by law, or refrain from taking any action, when a taxpayer is suffering (or about to suffer) a significant hardship. In FY 2015 (through May), TAS issued four TAOs on identity theft-related issues. The IRS complied with three of the TAOs, and TAS rescinded one.¹⁹

IRS Needs a True Sole Point of Contact to Interact with the Taxpayer and Oversee Complex Identity Theft Cases

Identity theft is an invasive crime. Victims of such a traumatic event should not be bounced around from one IRS function to another, recounting their experience time and again to various employees. Thus, it is imperative the IRS offer victims a sole point of contact who will work with various IRS functions behind the scenes and remain the single contact with the victim throughout the case. This recommendation is consistent with our findings in our 2014 IDT case study (published in the National Taxpayer Advocate 2014 Annual Report to Congress volume 2), which showed requiring IDT victims to deal with multiple assistors significantly added to the time it took to fully resolve IDT cases.²⁰

In FY 2015, the IRS plans to reorganize its IDT victim assistance units under one “umbrella” within Wage and Investment (W&I). This reorganization provides the IRS a perfect opportunity to set up a sole point of contact system for IDT victims with complex cases. The W&I Commissioner has committed to the National Taxpayer Advocate once the “umbrella” organization is established, she will seriously consider TAS’s recommendations in this regard.²¹ In its official response to our recommendations in the 2014 Annual Report to Congress, reported in Volume 2 of this report, the IRS states that as part of its IDT victim assistance re-engineering efforts, it will assess the feasibility of the recommendation to assign a sole point of contact.²² The National Taxpayer Advocate will continue to advocate for this single-contact-employee approach, but she believes it may require congressional action for the IRS to adopt this common sense approach.

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The IRS Needs to Develop a Method to Track and Reduce Identity Theft Servicewide Cycle Time from the Taxpayer’s Perspective

While some IRS functions can track the time a case is in their inventory, the IRS still cannot provide a servicewide cycle time measure for resolving identity theft cases. The specialized IDT units generally measure cycle time solely from the date they receive the case; their cycle time measures do not reflect the time

17 Data obtained from TAMIS (June 1, 2010; June 1, 2015).

18 The National Taxpayer Advocate has delegated the authority to issue TAOs to Local Taxpayer Advocates. See IRM 1.2.50.2, *Delegation Order 13-1* (Rev. 1) (Mar. 17, 2009).

19 Data obtained from TAMIS (June 1, 2015).

20 National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 52-3.

21 See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 55, for a complete list of recommendations to improve IDT victim assistance.

22 See IRS Responses and National Taxpayer Advocate’s Comments Regarding Most Serious Problems Identified in 2014 Annual Report to Congress vol. 2, 84-7, *infra*.

elapsed since the taxpayer filed his or her tax return or all of the interactions the taxpayer had with the IRS before that function received the case. If Accounts Management, for example, claims its cycle time is down to 120 days, all that means is it took 120 days for that particular function to resolve that particular issue. It does not mean the IRS resolved all of the IDT victim's tax issues in 120 days.

To get a better sense of how long the IRS takes to resolve an IDT case, TAS conducted a study published in Volume 2 of the National Taxpayer Advocate's 2014 Annual Report to Congress. In our review of a representative sample of IRS IDT cases closed in June 2014, we found the average cycle time was 179 days.²³ The Treasury Inspector General for Tax Administration (TIGTA) recently released an audit report that corroborated our findings. TIGTA conducted a sample of 100 IDT cases and found that the average cycle time was 278 days, and those that were processed using new procedures were resolved in an average of 174 days.²⁴

The IRS maintains that current procedures require its employees to perform a global account review upon IDT case receipt to identify all taxpayer and account issues, and that employees assigned an IDT case are directed to resolve all account issues prior to case closure.²⁵ Yet in our 2014 case study, we found 22 percent of the IDT cases were closed while there were still one or more unresolved issues, which calls into question the effectiveness of the current global account review procedures. With more than one in five IDT cases closed prematurely, the 179-day IDT case cycle time we reported is most certainly understated.

When taxpayers must wait six months or more for the IRS to resolve their IDT-related tax issues, it can cause a significant hardship, especially for victims awaiting tax refunds. The burden is on the victims to call the IRS multiple times, who must explain the circumstances to a different assistor each time. Moreover, because the IRS waits until the account is fully resolved before issuing an IDT marker, an IDT victim will not receive the benefit of an Identity Protection PIN²⁶ during this 179-day average cycle time.

In its response to the recommendations from our 2014 IDT case study, the IRS states that TAS's suggestion to more accurately track IDT case cycle time will be assessed in re-engineering efforts slated to begin in October 2015, and that it is committed to exploring feasible options that might improve taxpayer perceptions of the time it takes to receive resolution and the overall taxpayer experience.²⁷ The National Taxpayer Advocate will continue to vigorously advocate on behalf of taxpayers, and will take the IRS up on its offer to work collaboratively with TAS to develop an IDT cycle time measure that is more transparent and accurately represents the time it takes for the IRS to fully resolve all of the related tax issues for IDT victims.

The IRS Is Exploring Ways to Bolster Cybersecurity and Improve Taxpayer Authentication

On the technology front, two significant challenges for the IRS are to authenticate taxpayer information and to safeguard that information. This challenge is not unique to the IRS, but is faced by organizations

23 National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 53.

24 TIGTA, Ref. No. 2015-40-024, *Victims of Identity Theft Continue to Experience Delays and Errors in Receiving Refunds* 6 (Mar. 20, 2015).

25 See IRS Responses and National Taxpayer Advocate's Comments Regarding Most Serious Problems Identified in 2014 Annual Report to Congress vol. 2, 84–7, *infra*.

26 An Identity Protection PIN is a six-digit code that must be entered on the tax return at time of filing by certain victims of IDT. This Identity Protection PIN protects accounts from being susceptible to further misuse by identity thieves. See *IRM* 10.5.3.2.15, *Identity Protection Personal Identification Number (IP PIN)* (Dec. 17, 2014).

27 See IRS Responses and National Taxpayer Advocate's Comments Regarding Most Serious Problems Identified in 2014 Annual Report to Congress vol. 2, 84–7, *infra*.

with responsibility for collecting and safekeeping sensitive personal information. For example, up to 18 million individuals were impacted when the Office of Personnel Management's database was breached in early June.²⁸ This data breach occurred on the heels of hackers accessing the IRS's "Get Transcript" web application to obtain sensitive tax information of approximately 104,000 taxpayers.²⁹

No organization can guarantee it will be 100 percent secure – especially if hackers obtained answers to knowledge-based questions from other sources, as they did in the "Get Transcript" incident – but the IRS can and should do more to bolster its cybersecurity and regain the trust of taxpayers. To that end, the IRS has partnered with various agencies and private sector companies to exchange ideas at a security summit organized by the IRS. As a result of these meetings, the IRS may learn of better ways to authenticate taxpayers, which should lead to fewer IDT victims. We applaud the IRS's efforts and look forward to reviewing any proposals that come out of the security summit.

When taxpayers must wait six months or more for the IRS to resolve their identity theft-related tax issues, it can cause a significant hardship, especially for victims awaiting tax refunds.

FOCUS FOR FISCAL YEAR 2016

- Continue to work with the IRS on IDT issues, recommending improvements and alternative approaches, with a particular focus on reducing the time it takes to achieve complete and accurate resolution of the case from the victim's perspective;
- Collaborate with W&I as it implements the reorganization of the IDT victim assistance units to ensure their efficacy, and advocate for establishing sole employee contacts for complex identity theft cases;
- Review the global account review process the IRS performs prior to closing IDT cases and make recommendations for improvement;
- Instruct Local Taxpayer Advocates to issue TAOs in appropriate cases to expedite relief to taxpayers when IRS processes are inadequate or too lengthy to assist taxpayers who are suffering from a significant hardship;
- Improve our own case processing procedures by timely alerting Case Advocates of any changes in IRS procedures to avoid delays in correcting the taxpayer's accounts; and
- Elevate emerging IDT schemes and processing issues identified in TAS casework for collaborative solutions with the IRS.

28 Devlin Barrett and Damian Paletta, *Officials Masked Severity of Hack*, WALL ST. J., June 24, 2015, available at <http://www.wsj.com/articles/hack-defined-as-two-distinct-breaches-1435158334>.

29 IRS, *IRS Statement on the "Get Transcript" Application*, available at <http://www.irs.gov/uac/Newsroom/IRS-Statement-on-the-Get-Transcript-Application> (last viewed June 25, 2015); Jared Serbu, *IRS Searches for New Authentication Measures in Wake of Huge Data Breach*, FEDERAL NEWS RADIO, June 3, 2015, available at <http://federalnewsradio.com/technology/2015/06/irs-searches-for-new-authentication-measures-in-wake-of-huge-data-breach/>.