

TAX-RELATED SCAMS

More Taxpayers Are Falling Victim to Tax-Related Scams

WHY THIS IS A SERIOUS PROBLEM FOR TAXPAYERS

Taxpayers face a growing threat.¹ Every year, people from all walks of life fall victim to increasingly complex tax-related scams that are both sophisticated and financially devastating. Scammers use tactics like phishing, IRS impersonation, and promotion of incorrect tax credit claims. Victims often experience shattered financial security, indefinitely frozen IRS refunds, and confusion due to lack of understanding of the process and consequences. The growing sophistication and reach of tax-related scams demands an increasingly robust response from the IRS.

EXPLANATION OF THE PROBLEM

Scams not only hurt individuals and businesses but also tax administration and the fisc.² Types of scams continuously evolve, and perpetrators target a wide variety of taxpayers across different communication platforms, making it difficult for both the IRS and potential targets to identify emerging schemes. To address the problem, the IRS has taken a multi-pronged approach to combating scams, such as information sharing with external stakeholders to detect and prevent fraud, data analytics, and a public education and outreach strategy.

- 1 IRS News Release, IR-2024-302, National Tax Security Awareness Week, Day 2: IRS, Security Summit Partners Urge People to Watch Out for Bad Tax Advice on Social Media (Dec. 3, 2024), <https://www.irs.gov/newsroom/national-tax-security-awareness-week-day-2-irs-security-summit-partners-urge-people-to-watch-out-for-bad-tax-advice-on-social-media> (quoting Commissioner Danny Werfel as saying, “[t]he growth of bad tax advice on social media continues to grow, luring unsuspecting taxpayers into filing bad tax returns. [...] We urge people to do some research before falling for these scams. Finding a trusted tax professional or visiting IRS.gov is a better way to research a tax issue than relying on someone talking in their car or their kitchen about a non-existent tax hack.”).
- 2 See IRS, Recognize Tax Scams and Fraud, <https://www.irs.gov/newsroom/tax-scamsconsumer-alerts> (last updated Dec. 17, 2024).

Although preventing scams is one of the IRS Commissioner's top areas of focus, there are still problems facing taxpayers:³

- The evolving sophistication and proliferation of tax-related scams hinder IRS detection and prevention;
- Prolonged refund freezes cause economic hardship for scam victims who receive no clear guidance on what actions they must take to resolve their account;
- Older taxpayers are more susceptible to scams;
- The limited tax deductibility of scam-related losses exacerbates the financial impact;
- The IRS scam reporting process can be confusing;
- Insufficient tax preparer oversight increases scam vulnerability; and
- The IRS lacks a centralized office for scam prevention and victim assistance.

ANALYSIS

The variety, sophistication, and evolving nature of scams make it difficult for the IRS to timely identify improper activity, take preventative measures, and assist victims. In the face of escalating tax scams circulating on social media, IRS Commissioner Danny Werfel embarked on a campaign to warn taxpayers about the dangers of falling victim to these schemes. The Commissioner has included scam messaging in his speeches and press interviews and conducted numerous interviews with local press and television stations.⁴

Although the IRS has prioritized the issue and taken proactive steps to minimize the harm imposed on taxpayers, tax professionals, and tax administration, there is more work to do. Stopping and preventing scams will require tax professionals, industry, and stakeholders to join the anti-scam campaign and be the guardrails and conscience for tax administration.

This Most Serious Problem examines IRS tax-related scam activities, focusing on the challenges victims face and providing administrative and legislative recommendations to reduce taxpayer burden. Our discussion centers on the impact to taxpayers whom scammers victimize rather than those who intend to defraud the government. We cover two distinct categories of tax-related scams:

1. *Direct tax-related scams:* These involve taxpayers being misled into claiming tax credits for which they are not eligible. Such misinformation often originates from social media platforms and/or aggressive marketing campaigns, usually from non-credentialed tax return preparers. Due to the complexity of tax laws, many taxpayers fall victim to misleading claims from preparers, promoters, and social media influencers who falsely promise tax credits and benefits for which these taxpayers do not actually qualify. These claims often result in frozen refunds and potential penalties.

3 The Commissioner has prioritized communication about tax-related scams to make sure taxpayers are aware of them. For example, in a recent statement, he reported:

What they're doing is they're reaching out to vulnerable populations, like the elderly, and they're threatening them with a tax debt that doesn't exist. And they're convincing these individuals, these innocent individuals, to pull out their credit cards and or give their financial information over. It's a big headache for these individuals, and we want to get the word out so these individuals can protect themselves.

Christina Watkins, *IRS Commissioner Sends Warning About Impersonation Scams*, WESH 2 (ORLANDO) (July 24, 2024), <https://www.wesh.com/article/irs-impersonation-scams/61690576>.

4 See, e.g., Christina Watkins, *IRS Commissioner Sends Warning About Impersonation Scams*, WESH 2 (ORLANDO) (July 24, 2024), <https://www.wesh.com/article/irs-impersonation-scams/61690576>. See also Derick Fox, *Beware of Tax Scams: IRS Commissioner Warns Scams Can Hit In Offseason*, ABC4.COM (SALT LAKE CITY) (June 27, 2024), <https://www.abc4.com/news/local-news/beware-of-tax-scams-irs-commissioner-warns-scams-can-hit-in-offseason/>; Kristina Miller, *Tips to Avoid Tax Scams from IRS Commissioner Danny Werfel*, WGN 9 (CHICAGO) (July 10, 2024), <https://wgntv.com/midday-news/tips-to-avoid-tax-scams-from-irs-commissioner-danny-werfel/>.

2. *Indirect tax-related scams:* These situations arise when third parties defraud taxpayers. For example, taxpayers are tricked into withdrawing substantial sums from their tax-deferred retirement plans only to lose the funds, resulting in significant tax liabilities and potential early withdrawal penalties. These situations cause double hardships as the taxpayer not only loses their retirement investment but is now also dealing with the tax consequences on monies scammers stole.

Background

The economic toll of tax-related scams is more than just a number on a balance sheet. It is a devastating reality for taxpayers whose lives these increasingly sophisticated crimes upend.⁵ For many, the first sign that something is wrong comes in the form of a frozen tax refund – not just the portion of the refund attributable to the scam but the entire refund, which could include over-withholding, the Earned Income Tax Credit (EITC), or the Child Tax Credit. Many financially vulnerable taxpayers rely on their annual refunds to survive. When the IRS freezes their entire refund, they lose a lifeline with little or no explanation from the IRS. These taxpayers, already victimized once, now face the added burden of delays due to improper return positions and complexities with administrative challenges in processing their returns.

The Evolving Sophistication and Proliferation of Tax-Related Scams Hinders IRS Detection and Prevention

Tax-related scams have evolved from simple cons into sophisticated, multifaceted operations using advanced technology, particularly identity theft and IRS impersonation. Scammers employ artificial intelligence-generated documents, phishing emails, and social media to target taxpayers. Their methods include:

- Convincing IRS impersonation schemes, going so far as to use fake badges and documents;⁶
- Advanced phishing attacks targeting taxpayers and tax professionals;⁷
- Social media misinformation and false tax advice, especially targeting younger or unsophisticated taxpayers;⁸

5 IRS News Release, IR-2024-215, IRS, States, Tax Industry Announce New Joint Effort to Combat Growing Scams and Schemes; Ongoing Coordination to Follow In Footsteps of Security Summit's Identity Theft Efforts to Help Taxpayers and Protect Revenue (Aug. 16, 2024), <https://www.irs.gov/newsroom/irs-states-tax-industry-announce-new-joint-effort-to-combat-growing-scams-and-schemes-ongoing-coordination-to-follow-in-footsteps-of-security-summits-identity-theft-efforts-to-help-taxpayers-and-protect-revenue>.

6 See IRS, Tax Tip 2023-99, Knowing How Scammers Pose as the IRS Can Help Taxpayers Protect Themselves (Aug. 8, 2023), <https://www.irs.gov/newsroom/knowning-how-scammers-pose-as-the-irs-can-help-taxpayers-protect-themselves>. See also Kate Schubel, *IRS Back Taxes Scam Call Steals Millions*, KIPLINGER, (Sept. 3, 2024), <https://www.kiplinger.com/taxes/irs-back-taxes-phone-call-scam>. See also IRS News Release, IR-2024-183, New, Evolving Scams Threaten Tax Professionals; Security Summit Warns Extra Attention Needed on Trending Threats That Could Affect Businesses, Clients (July 9, 2024), <https://www.irs.gov/newsroom/new-evolving-scams-threaten-tax-professionals-security-summit-warns-extra-attention-needed-on-trending-threats-that-could-affect-businesses-clients>.

7 Treasury Inspector General for Tax Administration (TIGTA), Ref. No. 2025-IE-R001, *Actions Were Not Taken to Timely Strengthen Practitioner Priority Service Telephone Line Authentication Controls* (Oct. 22, 2024), <https://www.tigta.gov/sites/default/files/reports/2024-10/2025ier001fr.pdf>; IRS News Release, IR-2024-188, Security Summit Warns Tax Pros to Remain Vigilant Against Phishing Emails and Cloud-Based Attacks (July 16, 2024), <https://www.irs.gov/newsroom/security-summit-warns-tax-pros-to-remain-vigilant-against-phishing-emails-and-cloud-based-attacks>; IRS News Release, IR-2024-186, IRS Reminds Car Dealers and Sellers to be Aware of Phishing Scams (July 11, 2024), <https://www.irs.gov/newsroom/irs-reminds-car-dealers-and-sellers-to-be-aware-of-phishing-scams>; IRS News Release, IR-2024-183, New, Evolving Scams Threaten Tax Professionals; Security Summit Warns Extra Attention Needed on Trending Threats That Could Affect Businesses, Clients (July 9, 2024), <https://www.irs.gov/newsroom/new-evolving-scams-threaten-tax-professionals-security-summit-warns-extra-attention-needed-on-trending-threats-that-could-affect-businesses-clients>.

8 Jacob Bogage & Julie Zauzmer Weil, *Bad Tax Advice is Multiplying on TikTok*, WASH. POST (Apr. 8, 2024), <https://www.washingtonpost.com/business/2024/04/08/tiktok-tax-advice-misinformation>. For more information on the most egregious social media tax scams, see IRS Fact Sheet, FS-2024-24, *Misleading Social Media Advice Leads to False Claims for Fuel Tax Credit, Sick and Family Leave Credit, Household Employment Taxes; FAQs Help Address Common Questions, Next Steps for Those Receiving IRS Letters* (July 2024), <https://www.irs.gov/newsroom/misleading-social-media-advice-leads-to-false-claims-for-fuel-tax-credit-sick-and-family-leave-credit-household-employment-taxes-faqs-help-address-common-questions-next-steps-for-those-receiving-irs>.

- Ghost preparers who vanish after filing fraudulent returns;⁹ and
- Investment, romance, and scare tactic scams that use emotional manipulation, especially targeting older taxpayers.¹⁰

In each of these cases, the taxpayer is left financially injured. Worse, some also face significant tax liabilities for funds from which they never received a monetary benefit, compounding their losses with tax consequences that can last the rest of their lives.

These scams pose a significant threat to the taxpayer *rights to be informed* and *to finality*.¹¹ While the IRS prioritizes fighting these schemes, the agency struggles to keep pace with rapidly shifting tactics employed by scammers.¹² In fiscal year (FY) 2024, the IRS saw a marked increase in claims involving the Fuel Tax Credit, the Sick and Family Leave Credit, and household employment taxes.¹³ It identified hundreds of thousands of questionable returns where taxpayers appeared to claim credits for which they were not eligible, resulting in the IRS freezing their entire refunds and requiring them to provide additional documentation to substantiate their identity and their return positions.¹⁴ This process is difficult and time-consuming.

The IRS faces the dual challenge of protecting taxpayers exploited by scammers while also preventing erroneous payments, all without causing undue delays for taxpayers with legitimate, verifiable refund claims. Without significant technological improvements and the reallocation of agency resources to address this issue, the IRS risks falling short in its commitment to provide taxpayers quality service and maintain a fair and just tax system.¹⁵

Scammers and ghost preparers hurt everyone. Their actions disrupt tax administration, cause financial losses to the fisc, and harm honest taxpayers caught up in multiple time-consuming IRS review streams, with some who need to pay back the improper claim amounts facing penalties and interest. In the end, the greed of these scammers, promoters, and ghost preparers is a loss for everyone but themselves.

Prolonged Refund Freezes Cause Economic Hardship for Scam Victims Who Receive No Clear Guidance on What Actions They Must Take to Resolve Their Account

The IRS reports that bad tax advice is leading more people to file inaccurate returns.¹⁶ Yet, measuring this problem's scope remains challenging. The IRS cannot distinguish between taxpayers who intentionally deceive the government and those misled by unscrupulous preparers and social media influencers. While the IRS flags

9 IRS News Release, IR-2024-96, Dirty Dozen: IRS Urges Taxpayers to Not Fall Prey to Untrustworthy Tax Preparers; "Ghost Preparers" Can Disappear With Taxpayer Cash, Information (Apr. 5, 2024), <https://www.irs.gov/newsroom/dirty-dozen-irs-urges-taxpayers-to-not-fall-prey-to-untrustworthy-tax-preparers-ghost-preparers-can-disappear-with-taxpayer-cash-information>.

10 Better Business Bureau (BBB) Institute for Marketplace Trust, 2023 BBB Scam Tracker Risk Report 6, 12 (Apr. 2024), <https://bbbmarketplacetrust.org/wp-content/uploads/2024/04/2023-BBBScamTracker-RiskReport-US-040224.pdf>. The BBB combined investment and cryptocurrency scams into one category because most cryptocurrency scams involved investment opportunities. According to the report, investment/cryptocurrency scams became the riskiest type of scam during 2023, with about 80 percent of those targeted reporting a monetary loss averaging \$3,800.

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

12 For a list of scams identified by the IRS, see IRS, Recognize Tax Scams and Fraud, <https://www.irs.gov/help/tax-scams/recognize-tax-scams-and-fraud> (last updated Dec. 17, 2024). See also IRS News Release, IR-2024-89, Dirty Dozen: IRS Warns About False Fuel Tax Credit Claims; Taxpayers Should be Wary of Scammers, Heightened Review (Apr. 2, 2024), <https://www.irs.gov/newsroom/dirty-dozen-irs-warns-about-false-fuel-tax-credit-claims-taxpayers-should-be-wary-of-scammers-heightened-review>.

13 IRS News Release, IR-2024-215, IRS, States, Tax Industry Announce New Joint Effort to Combat Growing Scams and Schemes; Ongoing Coordination to Follow In Footsteps of Security Summit's Identity Theft Efforts to Help Taxpayers and Protect Revenue (Aug. 16, 2024), <https://www.irs.gov/newsroom/irs-states-tax-industry-announce-new-joint-effort-to-combat-growing-scams-and-schemes-ongoing-coordination-to-follow-in-footsteps-of-security-summits-identity-theft-efforts-to-help-taxpayers-and>.

14 *Id.*

15 Taxpayers have the *right to quality service*. See TBOR, <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited Nov. 18, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).

16 IRS News Release, IR-2024-302, National Tax Security Awareness Week, Day 2: IRS, Security Summit Partners Urge People to Watch Out for Bad Tax Advice on Social Media (Dec. 3, 2024), <https://www.irs.gov/newsroom/national-tax-security-awareness-week-day-2-irs-security-summit-partners-urge-people-to-watch-out-for-bad-tax-advice-on-social-media> (warning the public "about the growing threat of bad tax advice on social media that continues to dupe people into filing inaccurate tax returns.").

returns with suspected inaccurate credits, it cannot identify which of these taxpayers are scam victims. This means victims face the same excessive refund delays as non-victims, without clear guidance about why the IRS froze their refunds or how to resolve the issue. The National Taxpayer Advocate recognizes the complexities and far-reaching impacts of scams on tax administration, but no taxpayer should be left to find their way through the situation without IRS assistance.

If the IRS suspects a return contains a frivolous claim, agency controls prevent it from processing the return until the taxpayer verifies their identity. For many taxpayers, the first indication that they have been duped into a direct tax-related scam comes with the freeze of their anticipated tax refund.¹⁷ When the IRS freezes a taxpayer's refund, it freezes the entire amount, not just the portion related to the suspected scheme, often for lengthy periods with little or no adequate explanation or information on how taxpayers can resolve their problem. Delays can last for months and sometimes years, causing substantial harm to affected taxpayers. The IRS should communicate sooner and better so these taxpayers can amend mistakes on their original returns and receive the refunds to which they are legally entitled.

For example, a taxpayer who has a questionable credit on their return for \$5,000 but also has the EITC and an Additional Child Tax Credit for their two children who live with them for \$6,000 will not receive the \$6,000 refund until they have provided supporting documents for the questionable credit or filed an amended return. The National Taxpayer Advocate does not believe the IRS should pay erroneous refunds but recognizes that delays and lack of information in the process are causing financial difficulty for taxpayers caught up in a scam or victimized due to their misplaced trust in a ghost preparer, promoter, or tax advice received from social media.

While the IRS cannot differentiate between legitimate claims, intentional deceptions, or scam victims, the rise in tax scams reported by the IRS suggests a corresponding increase in scam-related refund freezes.¹⁸ Refunds frozen for potentially frivolous credits increased tenfold from 2020 to 2021. For tax year (TY) 2020, the IRS froze approximately 61,000 refunds related to potentially inaccurate tax positions. For TY 2021, that number grew to almost 620,000 before dropping to just over 520,000 for TY 2022.¹⁹ Although these returns contain questionable credits, many also include legitimate refundable credits, over-withholding, or estimated payments. The freezing of the entire refund results in substantial financial hardship for many taxpayers.²⁰

17 The IRS freezes the refund because it assumes identity theft. Most of these taxpayers must then authenticate their identity in person at a local Taxpayer Assistance Center (TAC). But even after authentication, the IRS will continue to freeze their refunds. See IRS Fact Sheet, FS-2024-24, Misleading Social Media Advice Leads to False Claims for Fuel Tax Credit, Sick and Family Leave Credit, Household Employment Taxes; FAQs Help Address Common Questions, Next Steps for Those Receiving IRS Letters, Q1 (Aug. 27, 2024), <https://www.irs.gov/newsroom/misleading-social-media-advice-leads-to-false-claims-for-fuel-tax-credit-sick-and-family-leave-credit-household-employment-taxes-faqs-help-address-common-questions-next-steps-for-those-receiving-irs> (“Some taxpayers may receive a letter 5747C and/or 4883C/5071C with instructions to verify their identity and tax return information so we can continue processing their tax return. Even after this verification, questionable refunds will continue to be held until credit eligibility is verified.”).

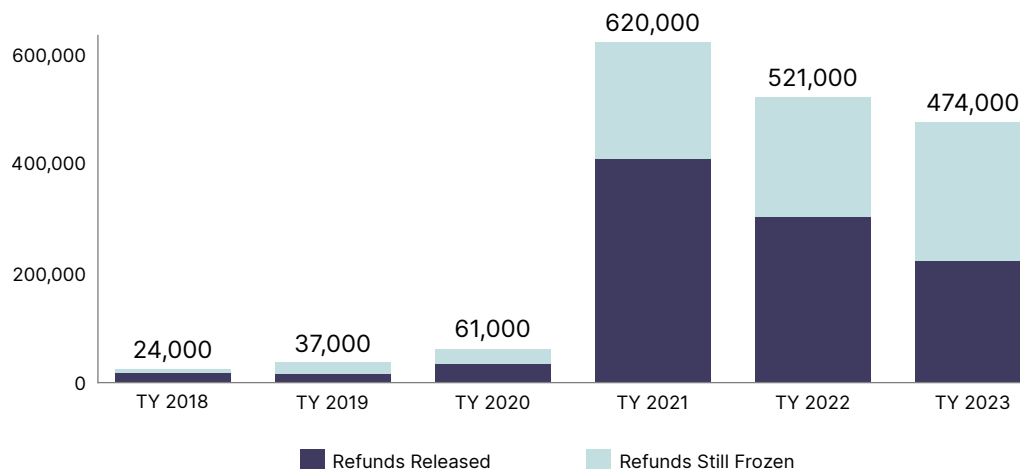
18 Transaction code (TC) 810-4 is only used if a return meets potentially frivolous return criteria. Internal Revenue Manual (IRM) 21.5.6.4.10, -E Freeze (July 24, 2024), https://www.irs.gov/irm/part21/irm_21-005-006r.

19 IRS, Compliance Data Warehouse (CDW), Individual Master File (IMF) Transaction History (Oct. 28, 2024). These numbers represent tax returns with an “-E freeze” with a reason code of 4 on the account. IRS Compliance or the Return Integrity and Compliance Services function places an Integrated Data Retrieval System code for an -E freeze on an IMF account. IRM 21.5.6.4.10(2), -E Freeze (July 24, 2024), https://www.irs.gov/irm/part21/irm_21-005-006r.

20 TAS's inventory has also increased considerably. Current open case volumes with TC 810-4 for TY 2020 were 210. This jumped to 1,288 for TY 2021; 2,314 for TY 2022; and 3,036 for TY 2023. Taxpayer Advocate Management Information System (Oct. 2024).

FIGURE 2.5.1²¹

Refunds Frozen Due to Potential Frivolous Credits, TYs 2018-2023



The taxpayer experience with the IRS's current process for resolving these cases is complex and lengthy.²² Many taxpayers with frozen refunds first get a letter requesting that they verify their identity before the IRS accepts their return as filed, what the IRS calls "posting" the return to the taxpayer's account. As of September 2024, taxpayers with such frozen refunds from TY 2021 who the IRS required to authenticate their identity waited an average of 126 days just for their return to post in the IRS system.²³

In cases where the taxpayer filed an amended return to self-correct a questionable claim, they waited an average of 200 days from filing the amended return to the removal of their refund freeze. Taxpayers who did not file an amended return to self-correct waited an average of 413 days for the IRS to open an audit. Therefore, on average, taxpayers with frozen refunds due to questionable credit claims waited a total of 539 days (almost 1.5 years) before they received a letter letting them know the IRS was auditing them.²⁴ For most taxpayers, this audit letter is their first explanation from the IRS as to why it froze the refund.

21 IRS, CDW, IMF Transaction History (Oct. 28, 2024).

22 Again, it is difficult to separate tax returns with frozen refunds due to scams and those from taxpayers intentionally attempting to defraud the government. The IRS freezes both types of refunds and marks them with TC 810-4. This means those who are victims are caught in the same protracted process as those who are not. The inability to distinguish between victims and wrongdoers underscores the need for greater IRS transparency and improved service procedures for all taxpayers.

23 IRS, CDW, IMF Transaction History and IMF Transaction Code 150 History (Oct. 28, 2024). This is because the IRS treats most taxpayers subject to this treatment as potential identity thieves and thus initially required taxpayers to authenticate their identity at a local TAC, which resulted in a flood of frustrated taxpayers at various TACs throughout the country this year. See Brittany Ford, *'I Want My Money': People Spend Hours in Line Outside Atlanta Tax Center for IRS Help*, ATLANTA NEWS FIRST (Apr. 13, 2024), <https://www.atlantaneWSfirst.com/2024/04/13/i-want-my-money-people-spend-hours-line-outside-atlanta-tax-center-irs-help/> ("A majority of the people in line had received an email or letter from the IRS stating they had to verify their identity in person. The notification went on to say their refund was being held until they did so."); Jacqueline Francis, *Hundreds Frustrated by Line at Tax Assistance Event Held by IRS in Detroit*, WDIV CLICK ON DETROIT (Apr. 14, 2024), <https://www.clickondetroit.com/news/local/2024/04/14/hundreds-frustrated-by-line-at-tax-assistance-event-held-by-irs-in-detroit/> ("Many waiting in line Saturday were frustrated [...]"). The IRS currently uses three methods to authenticate taxpayers: online (5071C), telephone (4883C), and in person (5747C). IRM 25.25.6.1.7, Taxpayer Protection Program Overview (June 24, 2024), https://www.irs.gov/irm/part25/irm_25-025-006r.

24 IRS, CDW, IMF Transaction History and IMF Transaction Code 150 History (Oct. 28, 2024).

As of the end of FY 2024, approximately 739,000 taxpayers were still waiting for resolution of their frozen refund, many with no clear communication from the IRS as to why it was suspended in the first place or how to cure any inaccuracies.²⁵ Also, for the first year the IRS began suspending these refunds with a unique code (TY 2021), taxpayers waited an average of 570 days (more than 1.5 years) for the IRS to release their refund.²⁶

Consider the case of a taxpayer who files a Form 1040 tax return with Schedule C as a self-employed hairdresser. A ghost preparer or social media influencer incorrectly advises the taxpayer they qualify for the Fuel Tax Credit, and the taxpayer subsequently claims a \$7,000 credit on their 2021 tax return. The IRS first labels the taxpayer's return as a potential identity theft case and sends a letter requesting the taxpayer make an in-person visit to an IRS office to verify their identity. The taxpayer schedules the appointment, verifies their identity, and reasonably expects to receive their refund within a month or two. However, this is not the case. The IRS keeps the entire refund frozen, concluding that the taxpayer does not qualify for the Fuel Tax Credit.

Eventually, the IRS sends the taxpayer Letter 3176C, Frivolous Returns Response, which explains that the IRS froze the refund due to a frivolous position. The letter warns that if the taxpayer does not amend their return, they will face a \$5,000 penalty.²⁷ This letter is the first clear communication the taxpayer receives explaining the delay. The IRS gives the taxpayer 60 days to amend their return. If they do not amend, the agency refers the return to Exam for audit. However, the IRS often fails to send this letter, let alone in a timely manner.²⁸ In fact, for Fuel Tax Credit returns selected by the IRS as potentially frivolous and held pre-refund, the agency only sent Letter 3176C in 29 percent of cases.²⁹

Imagine a struggling single parent misled into believing they qualified for a benefit on their return. Relying on their annual tax refund to cover essential expenses such as rent or a car payment, they receive a vague IRS notice indicating a freeze on their refund, only to wait over a year before discovering the specific reason.³⁰ For these taxpayers, the agency's silence is as painful as the scam itself, turning an already dire financial situation into an urgent crisis.³¹

Although the IRS faces significant challenges in combating scams, it should more effectively manage the aftermath, improve its internal processes, and keep taxpayers timely informed about their refund status and potential delays.

25 IRS, CDW, IMF Transaction History (Oct. 28, 2024). The IRS sends initial return verification letters to some taxpayers. IRS response to TAS fact check (Nov. 20, 2024). However, these do not explain that the IRS has frozen their tax refund due to suspicious credits claimed on their return. Only when taxpayers receive a subsequent notice, usually Letter 3176C, do they clearly understand the actual reason for their refund delay.

26 IRS, CDW, IMF Transaction History (Oct. 28, 2024).

27 IRS response to TAS information request (Oct. 16, 2024).

28 The IRS says it sends Letters 3176C to explain to taxpayers why the agency has frozen their refund, asks them to fix any mistakes on their return, and warns about the \$5,000 frivolous return penalty. Data for the number of Letters 3176C sent to taxpayers is not available for all identified scams or schemes causing a frozen refund. For this reason, it is difficult for TAS to determine why the IRS is not sending these letters. IRS response to TAS information request (Oct. 16, 2024). There are instances where the IRS does not send Letter 3176C as a matter of course. For example, if the IRS detects unusually high tax withholding amounts on a return, the agency typically follows a different notification process. High withholding situations are not the same as Fuel Tax Credit claims. IRS response to TAS fact check (Nov. 20, 2024).

29 From the approximately 283,000 Fuel Tax Credit returns selected by the IRS and held pre-refund, the agency sent only 81,886 Letters 3176C. The remaining 71 percent received no clear written communication explaining why the IRS froze their refund or what taxpayers should do to remedy the situation. IRS response to TAS fact check (Dec. 6, 2024). The IRS notes that in addition to Letter 3176C, telephone assistants sometimes inform taxpayers about their refund freeze and advise them to file an amended return. TAS has not received data confirming how often this happens.

30 The IRM instructs employees to tell taxpayers that the wait, at a minimum, is nine months. IRM 21.5.6.4.10(3), -E Freeze (July 24, 2024), https://www.irs.gov/irm/part21/irm_21-005-006r.

31 The same taxpayers may also owe penalties to the IRS, such as the \$5,000 frivolous return penalty under IRC § 6702, and an erroneous claim for refund or credit of 20 percent of excessive amount claimed under IRC § 6676.

Older Taxpayers Are More Susceptible to Scams

The rising tide of indirect tax-related scams has found a particularly vulnerable shore in America's older population.³² These are situations where a third party scams a taxpayer out of money, leaving the taxpayer with an IRS debt and other disastrous financial consequences. For example, a retiree who liquidated their 401(k) to invest in what they thought was a safe, guaranteed-return opportunity now finds themselves both defrauded of the money withdrawn and liable for the full tax on those distributions,³³ not to mention potential penalties.³⁴ For those in or near retirement, the ability to earn back these losses is severely limited, if not impossible.

The Limited Tax Deductibility of Scam-Related Losses Exacerbates the Financial Impact

The Tax Cuts and Jobs Act (TCJA) of 2017³⁵ dramatically altered tax relief for indirect tax-related scam victims for TYs 2018-2025, exacerbating their financial hardship. Prior to the TCJA, victims could offset some losses through casualty and theft loss deductions. Currently, the law restricts these deductions mainly to federally declared disasters, which leaves many scam victims without recourse.³⁶

While IRC § 165(c)(2) still allows deductions for losses in trade, business, or profit-seeking transactions, this provision is inadequate for most victims, as the requirement to demonstrate a profit motive excludes victims of most indirect tax-related scams.³⁷ Even for investment-related scams, timing issues and lack of clear guidance create significant obstacles.³⁸ The IRS's limited guidance, such as the safe harbor provision for Ponzi scheme victims, falls short of addressing the diverse array of modern schemes.³⁹

The National Taxpayer Advocate urges Congress to allow the casualty and theft loss provisions of the TCJA to lapse after TY 2025, giving a broader range of scam victims the ability to deduct their losses in the future.⁴⁰ Additionally, the National Taxpayer Advocate calls on the IRS to provide comprehensive guidance on loss treatment for all scam types. These actions are about financial relief as well as maintaining public trust in the IRS and supporting taxpayers when they are most vulnerable.⁴¹

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- 32 The reasons for this vulnerability are complex and heartbreaking. One is social isolation. See, e.g., Bryan D. James et al., *Correlates of Susceptibility to Scams in Older Adults Without Dementia*, 26 J. ELDER ABUSE & NEGL. 107-122 (2014), <https://pubmed.ncbi.nlm.nih.gov/24499279/>. A second is a more trusting nature in older taxpayers. See, e.g., Marilyn Horta et al., *Age-Group Differences in Trust-Related Decision-Making and Learning*, 14 SCI. REPS. 68 (2024), <https://pubmed.ncbi.nlm.nih.gov/38167997/>. A third is difficulties in reporting suspected fraud. See, e.g., B. Havers et al., *A Qualitative Study Exploring Factors Preventing Older Adults From Reporting Cybercrime and Seeking Help* (CrimRxiv, Working Paper, 2024), <https://www.crimrxiv.com/pub/g7u4rb9v/release/1>.
- 33 If the victim is under 59½ years old, they may also face an additional ten percent tax, commonly referred to as an early withdrawal penalty, for amounts taken out of a qualified plan. See IRC § 72(t)(1).
- 34 For indirect tax-related scams, penalties may include a failure-to-pay penalty of 0.5 percent per month up to 25 percent under IRC § 6651(a)(2) and an accuracy-related penalty of 20 percent of the underpayment under IRC § 6662.
- 35 An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (commonly referred to as the "Tax Cuts and Jobs Act"), Pub. L. No. 115-97, § 11044, 131 Stat. 2054, 2087 (2017).
- 36 See IRC § 165(h).
- 37 The IRS Office of Chief Counsel expects to release Chief Counsel Advice with specific guidance on when taxpayers may be able to take a deduction under IRC § 165 by the end of calendar year 2024. IRS response to TAS information request (Oct. 16, 2024).
- 38 IRC § 165(e) requires that the taxpayer take a deduction in the year they discover the loss (i.e., the scam), which may not align with the tax year in which they reported the related income. This misalignment can create additional complexities for taxpayers trying to move through an already confusing situation.
- 39 The IRS has provided some guidance in this area, but it has been limited in scope. In 2009, in response to the Bernie Madoff Ponzi scheme, the IRS issued guidance specifically for victims of that fraud. This guidance included a safe harbor provision that allowed victims to treat their losses as resulting from transactions entered into for profit. Rev. Rul. 2009-9, 2009-14 I.R.B. 735; Rev. Proc. 2009-20, 2009-14 I.R.B. 749, as modified by Rev. Proc. 2011-58, 2011-50 I.R.B. 849. No such safe harbor or clear guidance exists for victims of other types of scams.
- 40 See National Taxpayer Advocate 2025 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration (Allow the Limitation on Theft Loss Deductions in the Tax Cuts and Jobs Act to Expire So Scam Victims Are Not Taxed on Amounts Stolen from Them)*.
- 41 For further discussion on this recommendation, see *id.*

The IRS Scam Reporting Process Can Be Confusing

The IRS should encourage taxpayers to come forward and share what they have learned or observed about scams, including information on promoters or ghost preparers, to help the agency identify and stop scammers. However, finding relevant information on how to report different scams proves difficult. The IRS's scattered guidance complicates the process, especially for taxpayers unfamiliar with tax administration terminology.⁴²

For instance, a taxpayer victimized in a romance scam might mistakenly follow IRS guidance for reporting a retirement or employee benefit plan scam as an “abusive transaction,” even though they actively withdrew their entire retirement account and deposited it into a digital asset fund under the influence of a scammer. This situation is not classified as a tax shelter or an abusive transaction, yet the IRS's website offers guidance as if it were.⁴³ Many victims are not tax-savvy, which makes them especially vulnerable. Confusing, hard-to-find, and vague guidance leads many frustrated victims to inaccurately report the scam or abandon the process altogether.

The IRS lacks a centralized scam/scheme webpage or interactive tool to guide taxpayers through the scam reporting process. An interactive tool should include scam-specific reporting guidance to clarify options. In some scams, taxpayers can report the preparer or promoter, while in others, they can report the actual scam promoted on social media.

Although the IRS uses interactive tools in other areas of tax administration, it has not allocated resources toward creating a tool for assisting scam victims. Such a tool should offer clear, direct guidance. For example, if the tool determines that a taxpayer fell into a romance scam and withdrew their entire 401(k) and deposited the money with the scammer, it should provide instructions on reporting the distribution and possible collection alternatives. If social media misled a taxpayer into claiming the Fuel Tax Credit they did not qualify for, the tool should offer both steps for reporting the scheme and information on amending the tax return to remove the credit. The tool should also cover potential repercussions for failing to amend. The IRS should prioritize the creation of an interactive assistance tool for scam reporting, and all IRS outreach related to tax scams should link directly to this resource.

Insufficient Tax Preparer Oversight Increases Scam Vulnerability

The lack of oversight on tax return preparers represents a hole in the IRS's defense against direct tax-related scams.⁴⁴ Currently, there are no federal standards for non-credentialed tax preparers.⁴⁵ The lack of regulation allows unscrupulous and unqualified individuals to prepare tax returns for a fee with no minimum qualifications. This puts taxpayers at significant risk.

Non-credentialed preparers, often operating with little to no training or accountability, can easily fall into the role as scam facilitators. They promise big refunds, exploit non-existent loopholes, and misrepresent credits and deductions to lure clients and earn fees.⁴⁶ When the IRS selects these returns for further scrutiny due to error or fraud, it is the taxpayer, not the preparer, who faces audits, penalties, and legal consequences.

42 IRS, Dirty Dozen, <https://www.irs.gov/newsroom/dirty-dozen> (June 12, 2024).

43 IRS, Report a Tax Scam or Fraud, <https://www.irs.gov/help/tax-scams/report-a-tax-scam-or-fraud> (Dec. 12, 2024) (describing the scam reporting as “tax shelter scams involving retirement or employee benefit plans” or “Employee benefit plans abusive transactions,” which are not the same as romance or similar scams).

44 See National Taxpayer Advocate 2023 Annual Report to Congress 65, 66 (Most Serious Problem: *Return Preparer Oversight: The Lack of Return Preparer Oversight Endangers Taxpayers, Burdens the IRS, and Harms Tax Administration*), https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2024/01/ARC23_MSP_05_Return-Preparer.pdf (reporting IRS data suggesting a significant portion of EITC improper payments are attributable to returns prepared by non-credentialed return preparers).

45 Credentialed individuals are those who are not attorneys, certified public accountants, or enrolled agents. See 5 U.S.C. § 500 *et seq*; Treas. Dept. Circular No. 230, 31 C.F.R. Part 10 § 10.3.

46 See Michelle Singletary, *Five Signs Your Tax Preparer May Be a Fraud*, WASH. POST, Mar. 6, 2024, <https://www.washingtonpost.com/business/2024/03/06/irs-tax-preparer-fraud/>.

The exploitation of Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals, by unscrupulous non-credentialed preparers offers a stark example of how this problem affects both taxpayers and the tax system.⁴⁷ Congress provided relief in the form of a credit for sick leave to certain self-employed individuals affected by the COVID-19 pandemic.⁴⁸ Although Congress enacted the law with good intentions, scammers and promoters took advantage of the legislation and seized on naïve or unsophisticated taxpayers to make a profit for themselves and put taxpayers in the IRS's crosshairs for disallowance, potential tax, and interest and penalties.

IRS statistics show that while non-credentialed preparers were responsible for 83 percent of prepared tax returns claiming this credit, they accounted for 98 percent of the credits disallowed by IRS Examination.⁴⁹ These numbers represent real taxpayers who sought assistance only to be led into a crisis of improper claims, penalties, interest, and potentially legal jeopardy.

This is not a problem at the margins. About 61 percent of unique Preparer Tax Identification Numbers (PTINs) reported on TY 2023 returns belonged to non-credentialed preparers, who are currently not subject to minimum standards.⁵⁰ The oversight gap has made the tax preparation industry a fertile ground for abuse, perpetuating the same cycle of fraud the IRS struggles to contain.

To address this issue, the National Taxpayer Advocate recommends Congress grant the Treasury Department authority to regulate and establish minimum standards for all federal tax return preparers.⁵¹ Such authority would make it significantly more difficult for unscrupulous preparers to operate. It would also simplify a taxpayer's ability to verify preparers in the IRS's Directory of Federal Tax Return Preparers.⁵² Without a statutory change by Congress, the IRS cannot regulate these preparers or provide a higher level of protection for taxpayers.⁵³

The IRS Lacks a Centralized Office for Scam Prevention and Victim Assistance

After becoming victims of scammers, taxpayers often turn to the IRS for help only to find that there is no clear path to assistance.⁵⁴ The IRS is a vast institution with numerous departments and overlapping responsibilities. As a result, it lacks a centralized office dedicated to scam prevention and victim support.⁵⁵ Taxpayers must slog through phone numbers, forms, and automated responses that offer little in the way of real guidance,⁵⁶ which increases taxpayer burden and leads to additional confusions.

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- 47 IRS, Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals (2021), <https://www.irs.gov/pub/irs-prior/f7202--2021.pdf>. Congress created this tax credit, which allows qualified self-employed individuals to claim up to \$15,110 in 2020, under the Families First Coronavirus Response Act (FFCRA), Pub. L. No. 116-127, § 3, 134 Stat. 177, 178 (2020), <https://www.congress.gov/bill/116th-congress/house-bill/6201/text>.
- 48 IRS News Release, IR-2021-31, New IRS Form Available for Self-Employed Individuals to Claim COVID-19 Sick and Family Leave Tax Credits Under FFCRA (Feb. 8, 2021), <https://www.irs.gov/newsroom/new-irs-form-available-for-self-employed-individuals-to-claim-covid-19-sick-and-family-leave-tax-credits-under-ffcra>.
- 49 IRS, CDW, Sick and Family Leave Data from Form 7202 in IRTF, IMF (Oct. 29, 2024).
- 50 IRS, CDW, IRTF, IMF TYs 2018-2023 (Oct. 29, 2024).
- 51 National Taxpayer Advocate 2025 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration (Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers and Revoke the Identification Numbers of Sanctioned Preparers)*.
- 52 IRS, Directory of Federal Tax Return Preparers with Credentials and Select Qualifications, <https://irs.treasury.gov/rpo/rpo.jsf> (last visited Nov. 18, 2024).
- 53 Courts have held that the IRS can only regulate practitioners representing taxpayers before it. Simply acting as a return preparer does not, in the eyes of the courts, rise to the level of "practice before the IRS." See *Loving v. IRS*, 917 F.Supp. 2d 67 (D.D.C. 2013), *aff'd*, 742 F.3d 1013 (D.C. Cir. 2014); *Sexton v. Hawkins*, 119 A.F.T.R.2d 2017-1187, (D. Nev. 2017); *Ridgely v. Lew*, 55 F.Supp. 3d 89 (D.D.C. 2014).
- 54 The IRS has no scam victim assistance group. Although the agency has the Identity Theft Victim Assistance program, this group does not handle issues of frozen refunds for taxpayers who are victims of tax-related scams. IRS response to TAS information request (Oct. 16, 2024).
- 55 Although the IRS has the Frivolous Return Program, it is a compliance function rather than a scam victim assistance function. See generally IRM 25.25.10, Frivolous Return Program (Dec. 13, 2023), https://www.irs.gov/irm/part25/irm_25-025-010r.
- 56 Collection alternatives remain for victims who owe taxes because of scams. These include currently not collectible status, installment agreements, and offers in compromise. These only provide temporary relief in some instances, and often penalties and interest still accrue, but they are alternatives the IRS can and should be helping scam victims understand. For more information on all collection alternatives, see TAS, Collection Alternatives Station, <https://www.taxpayeradvocate.irs.gov/notices/collection-alternatives-station/> (last updated Sept. 4, 2024).

The current IRS response is fragmented and inconsistent. Scam victims often receive conflicting information, if any at all, about frozen refunds and other IRS actions. They must explain and reexplain their situation to different employees who lack the authority or expertise to provide real help. For example, if a taxpayer experiences a scheme-related frozen refund and calls the IRS's toll-free number, the Internal Revenue Manual (IRM) instructs the IRS employee to give the following advice to the taxpayer.

Note that the following is the National Taxpayer Advocate's plain language interpretation of the IRM instructions for the sake of this report. The actual IRM language is much more complicated, but even the following plain language version can confuse the average taxpayer:

If a taxpayer's return is frozen and they have received a Letter 3176C, they should respond quickly and correct their return within 30 days. If no letter has been issued, the IRS may still be reviewing the return. The taxpayer might need to provide more documentation, and they should wait up to 180 days for a letter or further instructions. If the letter has not arrived after 180 days, the taxpayer should contact the IRS, and the agent will prepare Form 4442 to escalate the issue. The taxpayer then must wait another 90 days for a response.⁵⁷

Moreover, the taxpayer only receives these instructions if they proactively call the IRS toll-free line, but they may face issues with long hold times, the potential to get disconnected,⁵⁸ and once connected to a live assistor, the ability of the assistor to find this IRM section. IRS procedures allow for the total time the taxpayer could wait to get a resolution to a frozen refund to be almost a year. This piecemeal approach to communicating with scammed taxpayers prolongs the emotional and financial suffering of victims.⁵⁹

To its credit, the IRS has amended its Strategic Operating Plan to allocate additional funds in FY 2025 toward two key objectives: improving victim assistance and prioritizing analytics to detect tax return scams before issuing refunds.⁶⁰ However, implementing more rigorous fraud detection measures will inevitably lead to increased delays in refund processing for some taxpayers. Therefore, the IRS should simultaneously bolster its capacity to assist potential scam victims and provide clear and timely communication regarding the status of their refunds. The establishment of a centralized office will help balance these dual priorities and ensure a coordinated approach.

Taxpayers have a *right to be informed* of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.⁶¹ A centralized office would streamline the victim experience, providing clear communication, faster resolution times, and tailored support. Such an office would serve as both a lifeline for victims and a signal by the agency that it is proactively addressing tax-related fraud.⁶² Until such a centralized office exists, victims will be left in a state of uncertainty, struggling against a system that treats them as an adversary. These victims need help coming into compliance and understanding why their actions were inappropriate based upon the law.

57 IRM 21.5.6.4.10(3), -E Freeze (July 24, 2024), https://www.irs.gov/irm/part21/irm_21-005-006r.

58 See Most Serious Problem: *IRS Service: Taxpayer Service Is Often Not Timely or Adequate*, *supra*.

59 The IRS disconnecting a taxpayer's telephone call is a significant problem. See *id.*

60 IRS, Pub. 3744-A, IRS IRA Strategic Operating Plan Annual Update Supplement (Apr. 2024), <https://www.irs.gov/pub/irs-pdf/p3744a.pdf>. See also Lauren Loricchio, *IRS Seeks Outside Help to Thwart Scams and Schemes*, 183 TAX NOTES 2025 (June 6, 2024), <https://www.taxnotes.com/tax-notes-today-federal/tax-system-administration/irs-seeks-outside-help-thwart-scams-and-schemes/2024/06/06/7k9c4>.

61 See TBOR, <https://www.taxpayeradvocate.irs.gov/taxpayer-rights> (last visited Nov. 19, 2024). The rights contained in TBOR are also codified in IRC § 7803(a)(3).

62 See also H.R. 6452, 118th Cong. § 2 (2024) (establishing a Veterans Scam and Fraud Evasion Officer in the Department of Veterans Affairs).

IRS Efforts to Combat Scams Need Improvement

Multi-Sector Approach to Scam Detection

The IRS has recognized that it cannot fight the growing surge of tax-related scams alone. In recent years, it has expanded its efforts by forming alliances that bring together subject matter experts from government, state tax agencies, private sector partners, and industry leaders. At the forefront of these efforts is the Security Summit, a coalition formed in 2015 that represents a groundbreaking public-private partnership aimed at combating stolen identity refund fraud.⁶³ The Security Summit has established data-sharing agreements that have enabled swift action against emerging threats. As a result, the IRS and its partners are identifying suspicious activity faster than ever before.⁶⁴

Building on the successes of the Security Summit, the IRS has also launched the Coalition Against Scam and Scheme Threats.⁶⁵ The coalition, which includes software providers, financial companies, and professional associations, plans to take a three-pronged approach to this problem: (1) expand outreach about emerging scams, (2) develop new methods to detect scams at the point of filing, and (3) enhance the infrastructure needed to protect taxpayers.⁶⁶

Though impactful, the IRS's collaborative efforts are not enough to keep pace with the rapidly evolving tactics of scammers. Every new task force, partnership, and coalition represents an important step forward, but these efforts still face significant challenges that prevent them from fully protecting taxpayers.

Data Analytics and Fraud Detection

The IRS has also turned to advanced data analytics and technology-driven fraud detection methods to combat tax-related scams. By leveraging vast amounts of data shared through the Security Summit and other partnerships, the IRS can identify patterns and anomalies that signal fraudulent behavior. Algorithms flag suspicious filings by cross-referencing data from multiple sources to spot inconsistencies that could indicate identity theft or other forms of tax fraud.⁶⁷ These efforts have disrupted some of the more common schemes, protecting both taxpayers and the integrity of the tax system.⁶⁸

But once the IRS identifies suspicious activity on the frontend, its outdated backend technology often causes unreasonable delays for taxpayers. The agency's case management systems rely on legacy infrastructure that struggles to integrate and communicate across platforms.⁶⁹ As a result, IRS staff must sometimes manually transfer taxpayer returns from one system in one unit to another in a different unit. This setup also prevents the IRS from effectively tracking returns and generating data that could further support scam detection, prevention, and the ability to separate legitimate returns from fraudulent ones in a shorter period for the benefit of taxpayers.

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

64 IRS, About the Security Summit, https://www.irs.gov/pub/newsroom/about_the_security_summit.pdf.

65 IRS News Release, IR-2024-215, IRS, States, Tax Industry Announce New Joint Effort to Combat Growing Scams and Schemes; Ongoing Coordination to Follow in Footsteps of Security Summit's Identity Theft Efforts to Help Taxpayers and Protect Revenue (Aug. 16, 2024), <https://www.irs.gov/newsroom/irs-states-tax-industry-announce-new-joint-effort-to-combat-growing-scams-and-schemes-ongoing-coordination-to-follow-in-footsteps-of-security-summits-identity-theft-efforts-to-help-taxpayers-and>.

66 *Id.*

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

68 IRS response to TAS information request (Oct. 16, 2024).

69 The IRS still uses its 30-year-old Electronic Fraud Detection System for case management and movement. TAS discussions with IRS Business Operating Divisions (Oct. 22, 2024).

Outreach and Public Education

Public education is a cornerstone of the IRS's strategy to combat scams. Each year, the IRS releases its "Dirty Dozen" list of the most common tax scams.⁷⁰ These warn taxpayers about the latest schemes and offer advice on how to protect themselves. The IRS disseminates the Dirty Dozen campaigns across multiple platforms, including its website, press releases, and traditional media. The IRS has also ventured into social media, using Instagram posts and YouTube videos to reach younger taxpayers who might be especially vulnerable to tax-related scams spread through similar platforms.⁷¹

Still, these outreach efforts face multiple hurdles. For direct tax-related scams, the current TikTok ban is hurting the IRS's detection and outreach efforts. An increasing demographic, particularly younger taxpayers, now primarily receives information through platforms like TikTok.⁷² But recent Office of Management and Budget (OMB) guidance prohibits the IRS from accessing, monitoring, or posting correct tax information on TikTok using federal devices.⁷³ This policy, which was intended to protect government systems, inadvertently blinds the IRS to a hotbed of tax misinformation and scam activity while also preventing it from flooding the same platform with correct tax information and public education.

This disconnect between where scams proliferate and where the IRS can monitor and respond is a mission-critical vulnerability in our tax system's defenses. Scammers exploit this gap, spreading false tax advice through viral posts that can reach millions before the IRS is even aware of their existence.

To bridge this divide, the IRS has explored ways to address the OMB prohibition by seeking a waiver for activities related to tax scam detection, public outreach, and enforcement, all with proper data security measures in place.⁷⁴ The agency needs the ability to identify tax scams in real time, respond to inaccurate tax advice swiftly, and provide counter messaging on the same platforms where misinformation thrives. The goal is to reach taxpayers where they are most likely to encounter these scams and fall under their influence.

For indirect tax-related scams, the IRS can do a better job of educating taxpayers on their filing obligations, such as the need to report the income and any additional tax on the withdrawal of money from a tax-deferred account such as a 401(k) plan. This could include partnering with agencies like the Consumer Financial Protection Bureau to warn taxpayers of these scams and their consequences. Also, the IRS can improve its communication of collection alternatives at the same time it presents the unexpected bill to taxpayers.

Another hurdle is the complexity of the information the IRS presents to the public. Not surprisingly, most taxpayers do not have IRS.gov on their list of favorites. The National Taxpayer Advocate suspects many taxpayers would not even know where or what to search. The IRS needs to continue increasing its outreach through social media, local newspapers, and local news and leveraging other creative outlets, its stakeholders, and industry.

70 IRS, Dirty Dozen, <https://www.irs.gov/newsroom/dirty-dozen> (June 12, 2024).

71 Leslie Gaydos, *IRS Commissioner on Scams, Social Media, and His Cat*, NBCBOSTON.COM (July 2, 2024), <https://www.nbcboston.com/investigations/consumer/irs-commissioner-on-scams-social-media-and-his-cat/3417051/>.

72 Josh Howarth, *TikTok Users by Age, Gender & Demographics*, EXPLODING TOPICS (June 12, 2024), <https://explodingtopics.com/blog/tiktok-demographics>.

73 OMB, M-23-13, "No TikTok on Government Computers" Implementation Guidance (Feb. 27, 2023), https://www.whitehouse.gov/wp-content/uploads/2023/02/M-23-13-No-TikTok-on-Government-Devices-Implementation-Guidance_final.pdf. The OMB implementation guidance provides that new contracts should not contain requirements that may include the use of TikTok in performance of the contract, so the IRS cannot contract out monitoring TikTok.

74 Erin Slowey, *IRS Seeks to Bypass TikTok Ban to Fight Tax Scams, Fallacies*, DAILY TAX RPT. (Sept. 11, 2024), <https://news.bloombergtax.com/daily-tax-report/irs-seeks-to-bypass-tiktok-ban-to-fight-tax-scams-fallacies>. See also TIGTA, Ref. No. 2024-IE-R003, *The Internal Revenue Service is Not Fully Complying With the No TikTok on Government Devices Implementation Guidance* 8-9 (2023), <https://www.tigta.gov/sites/default/files/reports/2023-12/2024ier003fr.pdf> (discussing IRS Criminal Investigation's need to access TikTok for monitoring purposes).

CONCLUSION AND RECOMMENDATIONS

Tax-related scams pose a significant and growing threat. The sophisticated and ever-evolving nature of these scams, coupled with their wide-reaching impact across various demographics, presents a formidable challenge for the IRS and taxpayers alike. While the IRS has made commendable efforts to combat these scams through multi-sector collaborations, enhanced detection methods, and public outreach, there remains room for improvement.

Administrative Recommendations to the IRS

The National Taxpayer Advocate recommends that the IRS:

1. Enhance transparency by creating an online dashboard that provides up-to-date information to taxpayers regarding their tax returns, amended returns, the estimated date on which a taxpayer can expect to receive a refund, and the reason why the IRS suspended its processing of a refund.⁷⁵
2. Implement a policy to promptly mail meaningful plain language written notices to taxpayers affected by refund freezes or delays that clearly explain the problem and the next steps taxpayers must take to resolve the issue.
3. Provide guidance to scam victims on how to treat losses, whether they had a profit motive or not, similar to guidance provided to Ponzi scheme victims.
4. Develop an interactive online tool to help victims correctly report tax-related scams to the IRS.
5. Evaluate whether the IRS can implement appropriate security measures to eliminate concerns regarding access to TikTok or similar websites on federal devices for activities related to scam detection, outreach, and enforcement.
6. Create a specialized Scam Prevention and Victim Assistance Office staffed with employees trained to address issues specific to scam victim assistance and provide administrative remedies within the IRS.

Legislative Recommendations to Congress

The National Taxpayer Advocate recommends that Congress:⁷⁶

1. Allow the theft loss deduction under IRC § 165(h) of the TCJA to expire after TY 2025 so that a taxpayer can claim a theft loss deduction regardless of whether the loss occurred in a federally declared disaster area.
2. Amend IRC §165(e) to enable taxpayers to deduct the loss in the same year as any associated income inclusion event and amend IRC § 6511 to extend the refund statute of limitations to allow for related refund claims.
3. Amend IRC § 72(t)(2) to create an exception to the ten percent additional tax (the “early withdrawal penalty”) on distributions from qualified tax deferred plans that taxpayers withdrew from because of a scam.
4. Amend Title 31, § 330 of the U.S. Code to authorize the Secretary to establish minimum standards for paid federal tax return preparers.

⁷⁵ Cf. Improving IRS Customer Service Act, S. 5280, 118th Cong. § 3 (2024).

⁷⁶ For the corresponding legislative recommendation for administrative recommendations one through three, see National Taxpayer Advocate 2025 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration (Allow the Limitation on Theft Loss Deductions in the Tax Cuts and Jobs Act to Expire So Scam Victims Are Not Taxed on Amounts Stolen from Them)*. For the corresponding legislative recommendations to administrative recommendation four, see National Taxpayer Advocate 2025 Purple Book, *Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration (Authorize the IRS to Establish Minimum Competency Standards for Federal Tax Return Preparers and Revoke the Identification Numbers of Sanctioned Preparers)*. The latter includes a recommendation to amend IRC § 6109 to authorize the Secretary to revoke PTINs concurrently with the assessment of actions for violations of established minimum standards for paid federal tax return preparers.

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