



*The Number of Employment-Related  
Identity Theft Victims Is Significantly  
Greater Than Identified*

**June 20, 2017**

**Reference Number: 2017-40-031**

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

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## HIGHLIGHTS

### THE NUMBER OF EMPLOYMENT-RELATED IDENTITY THEFT VICTIMS IS SIGNIFICANTLY GREATER THAN IDENTIFIED

## Highlights

Final Report issued on June 20, 2017

Highlights of Reference Number: 2017-40-031 to the Internal Revenue Service Commissioner for the Wage and Investment Division.

### IMPACT ON TAXPAYERS

Employment-related identity theft (hereafter referred to as employment identity theft) occurs when an identity thief uses another person's identity to gain employment. Taxpayers may first realize they are a victim when they receive an IRS notice of a discrepancy in the income they reported on their tax return. Each year, the IRS receives about 2.4 million tax returns filed using an Individual Taxpayer Identification Number (ITIN) with reported wages, an indicator of potential identity theft.

### WHY TIGTA DID THE AUDIT

This audit was initiated to evaluate the IRS's processes to identify and assist victims of employment identity theft. This includes placing an identity theft marker on victims' tax accounts and notifying the Social Security Administration to ensure that individuals' Social Security benefits are not affected by the crime.

### WHAT TIGTA FOUND

TIGTA identified that IRS processes are not sufficient to identify all employment identity theft victims. For example, 497,248 victims, who did not have a tax account in Processing Year 2015, were not identified even though identity thieves electronically filed tax returns with evidence that they used the victims' Social Security Numbers (SSN) to gain employment. For another 60,823 victims, who have a tax account, the IRS did not update their account with an employment identity theft marker.

In addition, IRS processes do not identify employment identity theft when processing

paper tax returns. TIGTA reviewed a statistically valid sample of 292 paper tax returns filed in Processing Year 2015 by individuals with an ITIN. These tax return filers reported wages on 150 (51.4 percent) of the returns and attached a Form W-2, *Wage and Income Statement*, indicating they used someone's SSN to gain employment. As a result, TIGTA projects that the IRS did not identify 272,416 victims of employment identity theft for the 685,737 paper tax returns filed by ITIN holders reporting wages in Processing Year 2015.

TIGTA also identified that the IRS does not have processes to identify employment identity theft in the IRS's Form W-2 perfection processes or to notify the Social Security Administration of the crime when both the victim's name and SSN are used by an ITIN holder.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS 1) develop a process to notify the parents and legal guardians of dependents whose SSNs were misused; 2) correct programming to ensure that the identity theft marker is placed on all victims' accounts for ITIN/SSN mismatches on electronically filed tax returns; 3) place the identity theft marker on the accounts of the 60,823 victims; 4) require ITIN paper tax return filers to attach Forms W-2 to their tax return; 5) develop procedures to identify employment identity theft on paper ITIN returns and add the identity theft marker on valid SSN owners' tax accounts; 6) ensure that the identity theft marker is placed on taxpayers' accounts when the Taxpayer Identification Number Perfection unit determines an ITIN holder, rather than the taxpayer, earned the income on Forms W-2; and 7) develop a process to notify the Social Security Administration when ITIN/SSN mismatches involve an ITIN holder using a victim's SSN and full or partial name to commit employment identity theft.

IRS management did not agree with five of the recommendations. As a result, actions are not being taken to assist 548,968 victims of employment identity theft.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

June 20, 2017

**MEMORANDUM FOR COMMISSIONER, WAGE AND INVESTMENT DIVISION**

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – The Number of Employment-Related  
Identity Theft Victims Is Significantly Greater Than Identified  
(Audit #201640028)

This report presents the results of our review to assess the Internal Revenue Service's (IRS) processes to identify and assist victims of employment identity theft. This audit was part of our Fiscal Year 2016 discretionary audit coverage and addresses the major management challenge of Providing Quality Taxpayer Service Operations.

In response to our report, management did not agree to take action to assist 548,968 victims of employment identity theft. The explanations in the response to our recommendations are contrary to the actions that the IRS takes or has previously taken to alert victims of identity theft. We further discuss our concerns about this in the Office of Audit comments in the report.

Management's complete response to the draft report is included as Appendix V.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services).





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*Abbreviations*

E-File(d)	Electronically File(d)
IRS	Internal Revenue Service
ITIN	Individual Taxpayer Identification Number
PY	Processing Year
SSA	Social Security Administration
SSN	Social Security Number



## *The Number of Employment-Related Identity Theft Victims Is Significantly Greater Than Identified*

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### *Background*

Identity theft affects tax administration in two ways: 1) fraudulent claims for refund and 2) misreported income. The focus of this report is on identity theft that results in misreported income when a victim's identity is used by another person to gain employment. Taxpayers may first realize they are a victim of employment-related identity theft (hereafter referred to as employment identity theft) when they receive an IRS notice proposing a change to their tax liability due to a discrepancy in the income they reported on their tax return. The discrepancy (*i.e.*, underreported income) is identified as a result of the IRS's Automated Underreporter Program<sup>1</sup> match of taxpayer income reported on third-party information returns (*e.g.*, Forms W-2, *Wage and Income Statement*) to amounts reported by taxpayers on their individual income tax returns.

### *Individual Taxpayer Identification Numbers (ITIN)*

In general, the Social Security Administration (SSA) limits its assignment of Social Security Numbers (SSN) to individuals who are U.S. citizens and alien individuals legally admitted to the United States for permanent residence or under other immigration categories authorizing U.S. employment. Consequently, individuals who do not meet these criteria cannot obtain an SSN. The SSN is a unique nine-digit identification number used for taxpayer identification, income reporting, and recordkeeping purposes. Any person required to file a tax return is required to include an identifying number, referred to as a Taxpayer Identification Number. For the majority of filers, this is their SSN. In Calendar Year 1996, the IRS created the ITIN to provide Taxpayer Identification Numbers, when needed for tax purposes, to individuals who do not have and are not eligible to obtain an SSN. Generally, individuals who have tax return filing requirements or are filing tax returns to claim a refund of overwithheld tax are eligible to receive ITINs.

ITINs are issued regardless of an individual's immigration status because both resident and nonresident aliens may have a U.S. filing or reporting requirement under the Internal Revenue Code. An ITIN is to be used for Federal tax reporting only and does not authorize an individual to work in the United States or provide eligibility for Social Security benefits or the Earned Income Tax Credit. The distinction between a resident and nonresident alien is important

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<sup>1</sup> The Automated Underreporter Program matches taxpayer income and deductions submitted on information returns by third parties, *e.g.*, employers, banks, or brokerage firms, against amounts reported by taxpayers on their individual income tax returns to identify discrepancies. For Tax Years 2009 through 2013, the program identified an annual average of 24 million individual tax returns that contain such discrepancies. A tax year is a 12-month accounting period for keeping records on income and expenses used as the basis for calculating the annual taxes due. For most individual taxpayers, the tax year is synonymous with the calendar year.



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because each is taxed differently. Resident aliens must follow the same tax laws as U.S. citizens. Specifically, income from all sources (both within and outside the United States) is taxed, and the same tax forms used by U.S. citizens are required to be filed (*i.e.*, Forms 1040, *U.S. Individual Income Tax Return*). Nonresident aliens must file a tax return only if they are engaged in a trade or business in the United States or if they have other U.S. sources of income for which the tax was not fully paid. Nonresident aliens file using Form 1040NR, *U.S. Nonresident Alien Income Tax Return*. Figure 2 provides the number of tax returns filed with an ITIN in Processing Years (PY)<sup>2</sup>2013 through 2015.

**Figure 2: Forms 1040 Tax Return Filed by ITIN Holders for PYs 2013–2015**

Filing Method	PY 2013	PY 2014	PY 2015
<b>Paper</b>	1,207,780	1,092,048	1,045,433
Wages Reported	775,507	675,861	626,576
No Wages Reported	432,273	416,187	418,857
<b>Electronically</b>	1,860,135	1,902,366	1,952,289
Wages Reported	1,695,390	1,717,355	1,733,459
No Wages Reported	164,745	185,011	218,830
<b>Total ITIN Filed Returns</b>	<b>3,067,915</b>	<b>2,994,414</b>	<b>2,997,722</b>

Source: TIGTA analysis of IRS Individual Return Transaction File<sup>3</sup> as of October 19, 2016.

**Processing of tax returns with an ITIN/SSN mismatch**

Cases of employment identity theft identified by the IRS frequently involve an ITIN filer who uses the SSN of another individual to gain employment. This can cause significant burden to innocent taxpayers, including the incorrect computation of taxes based on income that does not belong to them.

ITINs do not authorize or entitle an individual to work in the United States. However, each year, the IRS receives an average of 2.4 million Form 1040 tax returns filed using an ITIN with reported wages. Employment identity theft can occur if an ITIN is used as either the primary or secondary Taxpayer Identification Number on the Form 1040 tax return and a Form W-2 included with the return has an SSN that does not match either the primary or secondary taxpayer on the front of the tax return. The IRS refers to these cases as ITIN/SSN mismatches.

<sup>2</sup> The calendar year in which the tax return or document is processed by the IRS.

<sup>3</sup> The IRS Individual Return Transaction File contains data transcribed from initial input of the original individual tax returns during return processing.



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**Electronic tax return processing**

Beginning with the 2007 Filing Season,<sup>4</sup> the IRS changed its programming to accept and process electronically filed (e-filed) tax returns with an ITIN/SSN mismatch. When the IRS receives these returns, systemic programming is in place to identify the ITIN/SSN mismatch. Once identified, the systemic program creates an e-file ITIN/SSN mismatch indicator, and an identity theft marker is systemically placed on the valid SSN owner's tax account (*i.e.*, identity theft victim whose SSN was identified on the mismatched Form W-2). This marker keeps victims from being identified as having income discrepancies via the IRS's Automated Underreporter Program match and alerts employees who may be assisting the SSN owner that the SSN owner may be a victim of employment identity theft.

**Paper tax return processing**

IRS tax forms inform taxpayers to attach Form(s) W-2 to their paper tax return to support wages reported. However, IRS tax return processing guidelines advise employees to take no action when a Form W-2 is not attached to the return. Specifically, guidelines state that a Form W-2 is not required for Line 7 (Wages, Salaries, Tips, *etc.*) of Form 1040. As such, the IRS has no way to identify ITIN/SSN mismatches associated with paper tax returns. In addition, if the ITIN filer voluntarily attaches a Form W-2 with an SSN, IRS internal guidelines do not require employees processing these returns to place an employment identity theft marker on the SSN owner's tax account.

This review was performed with information obtained from the Identity Theft Protection Strategy and Oversight office during the period December 2015 through November 2016. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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<sup>4</sup> The period from January through mid-April when most individual income tax returns are filed.



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*Results of Review*

**The Current Systemic Process Is Not Identifying All Employment Identity Theft Victims**

Our review of 1,330,998 PY 2015 e-filed tax returns with an ITIN/SSN mismatch identified 1,153,165 (86.6 percent) returns for which an ITIN filer used a valid SSN (*i.e.*, SSN issued by the SSA) to gain employment. For each of these returns, the IRS's internal guidelines require that an employment identity theft marker be placed on a victim's tax account. Further analysis of the 1,153,165 for which the ITIN filer included a Form W-2 with a valid SSN identified that the IRS systemically added the employment identity theft marker to 595,094 (51.6 percent) of these victims' tax accounts as required. However, the remaining 558,071 victims either did not have a tax account<sup>5</sup> to set the marker for or the systemic programming was not setting the marker as required. A total of 497,248 victims did not have a tax account. This includes:

- 267,493 victims who did not have a tax account and were not claimed as a dependent on a filed tax return.
- 229,755 victims who did not have a tax account but were claimed as a dependent on a filed tax return (*e.g.*, by a parent or legal guardian). The IRS has not developed a process to notify the parents or legal guardians that an identity thief used their dependent's SSN to gain employment.

Without a tax account, the IRS is unable to add an employment identity theft marker. Notifying these individuals will require the IRS to develop additional processes and procedures.

The remaining 60,823 victims had an active tax account, but the accounts were not updated with the employment identity theft marker as required. We provided the IRS with these 60,823 cases. As of the issuance of this report, the IRS has not identified the reason why the accounts were not updated for 48,745 of these victims. For the remaining 12,078 victims,<sup>6</sup> the IRS provided the following reasons why the marker was not set as required:

- 10,575 victims' SSNs were used by ITIN filers who filed their tax return with more than one Form W-2, each with a different SSN used for work. If an ITIN filer's tax return includes multiple Forms W-2, each with a different SSN, IRS programming places the

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<sup>5</sup> The IRS defines an active account as one for which the taxpayer's Master File account, which contains the taxpayer's name, current addresses, and filing requirements, *etc.*, exists on the IRS computer system capable of retrieving or updating stored information.

<sup>6</sup> A total of 299 of the 12,078 victims fell into more than one category as to why the marker was not placed on their tax account. As a result, the bullets add to more than the total 12,078 victims' accounts.



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marker on only one SSN owner's account. The tax accounts associated with the remaining SSN owners will not have an identity theft marker set.

- 1,492 victims are deceased. IRS programming does not set the identity theft marker on deceased taxpayers' tax accounts.
- 310 victims are minors<sup>7</sup> with a tax account. IRS programming does not set an indicator on tax accounts of minors.

IRS management further informed us that IRS programming does not place the marker on all victims' tax accounts. Management stated that the programming to identify ITIN/SSN mismatches on e-filed returns was originally designed so that the IRS could identify the potential scope of the issue by identifying ITIN/SSN mismatches and counting the number of employment identity theft occurrences. This was done to evaluate the potential for notifying taxpayers to allow them to protect their personal information. The original programming was not intended to identify or protect individual victims. In addition, management indicated that they have not reviewed the programming or expanded the purpose of the employment identity theft marker since the programming was implemented in January 2011.

If the required marker is not placed on victims' tax accounts, they can be subjected to additional burden when the IRS processes their tax returns. For example, victims without the marker can be selected by the Automated Underreporter Program because of an identified income discrepancy. In addition, these individuals will not receive a letter, that the IRS began issuing in January 2017, notifying victims that their SSN was used by another person to obtain employment and providing steps they should take to protect themselves from financial harm. The letter recommends victims contact the SSA to ensure that their earnings records are accurate, monitor their credit report, and contact credit bureaus. The IRS initiated efforts to begin notifying victims of employment identity theft during our previous employment identity theft audit.<sup>8</sup>

### ***Recommendations:***

The Commissioner, Wage and Investment Division, should:

**Recommendation 1:** Develop a process to notify the parents and legal guardians of dependents claimed on their tax returns when their dependents' SSNs are unlawfully used by an ITIN filer to gain employment.

**Management's Response:** The IRS disagreed with this recommendation. The IRS noted that it considered processes that could be implemented to provide notification to parents and legal guardians of dependents when there are indications that the dependent's

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<sup>7</sup> Minors were identified as under the age of 18 as of January 1, 2015.

<sup>8</sup> TIGTA, Ref. No. 2016-40-065, *Processes Are Not Sufficient to Assist Victims of Employment-Related Identity Theft* (Aug. 2016).





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SSN is being misused by other individuals to obtain employment. However, claiming an individual as a dependent on a tax return is not conclusive proof that the person claiming the dependent is the person who should receive the notice on the dependent's behalf. The IRS is concerned that a systemic process to provide notification, outside of an audit scenario in which entitlement to the dependency deduction can be ascertained, could not be sophisticated enough to account for the nuances of complex family situations. The IRS also believes that a systemic process would risk harming the dependents by exposing their Personally Identifiable Information to individuals not entitled to receive it. In addition, the IRS stated that when tax accounts are suspected of being compromised by unauthorized individuals, as was the case when the IRS determined that unknown individuals posing as legitimate taxpayers obtained access to tax information through the Get Transcript<sup>9</sup> system, the IRS has processes to provide precautionary warnings if dependent information has been revealed. In such cases, the compromised account is that of the parent or guardian claiming the dependent, and there is a direct connection to the dependent's SSN and the owner of the compromised account. That is not the case when an SSN is improperly used by another person to obtain employment.

**Office Audit Comment:** We requested information detailing the processes that the IRS considered to address this recommendation. The IRS did not provide any such information. Moreover, management's rationale for not taking action to notify parents of dependents whose SSN was used to commit employment identity theft appears to lack sufficient basis since it is contrary to notification processes that it has employed previously. The process that the IRS used to notify parents and guardians of dependents associated with the *Get Transcript* breach is the same process that could be used to notify parents and legal guardians of dependents who are victims of employment identity theft. For example, when the IRS identifies that a dependent's information was used by an ITIN filer to gain employment, the IRS could issue a precautionary letter to the parents or guardians who claim this dependent on their tax return. The IRS cites a concern about the risk of harming dependents by exposing their Personally Identifiable Information to individuals not entitled to receive this information. However, such a notice should not contain Personally Identifiable Information—the notices associated with the *Get Transcript* breach did not contain such information. The intent of the letter is to advise the parents or legal guardians that the dependent's information was used by another person for the purpose of employment and to advise them of actions they can take to protect the identity of the minor child/children.

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<sup>9</sup> The Get Transcript Application allows taxpayers to view and download their tax information, such as account transactions, line-by-line tax return information, and income reported to the IRS.





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**Recommendation 2:** Correct programming as needed to ensure that the employment identity theft marker is placed on all victims' tax accounts for ITIN/SSN mismatches on e-filed tax returns.

**Management's Response:** The IRS agreed with this recommendation. The IRS plans to monitor the notification process during the 2017 Filing Season and determine, by July 2018, the requisite programming changes needed to ensure that identity theft markers are properly applied when the potential misuse of an individual's SSN becomes evident.

**Recommendation 3:** Place the employment identity theft marker on the accounts of the 60,823 victims we identified in this review.

**Management's Response:** The IRS agreed with this recommendation and will place employment identity theft markers on eligible accounts that do not have one.

**A Process Has Not Been Established to Identify Mismatches and Set an Identity Theft Marker on Victims' Tax Accounts for Paper Tax Returns**

Our review of a statistically valid sample<sup>10</sup> of 292 of the 685,737 PY 2015 ITIN tax returns filed via paper with reported wages<sup>11</sup> identified 150 (51.4 percent) that involved an ITIN/SSN mismatch (the ITIN filer attached a Form W-2 with a valid SSN). Based on the results of our sample, we project that 272,416 victims<sup>12</sup> of employment identity theft were not identified by the IRS. Further analysis of the 150 SSNs found that, for 116 (77 percent), the SSN owners did not have the employment identity theft marker on their tax account. For the other 34 accounts, the marker was on the account because the ITIN holder previously e-filed a tax return using the stolen SSN, which resulted in e-file programming placing the marker on the account.

Without the employment identity theft marker on their tax accounts, victims can be subjected to additional burden when the IRS processes their tax returns. Furthermore, these individuals will not receive notices from the IRS informing them that their SSN was used by another person to obtain employment and the steps they should take to protect themselves from financial harm.

It should be noted that IRS employees responsible for processing paper tax returns could have identified the ITIN/SSN mismatch on the 150 tax returns that we identified. However, internal guidelines instruct them to disregard this mismatch and continue processing the tax returns. IRS

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<sup>10</sup> To select our statistically valid sample, we used an expected error rate of 5 percent, a precision rate of  $\pm 5$  percent, and a confidence interval of 95 percent.

<sup>11</sup> PY 2015 ITIN paper tax returns as of January 20, 2016.

<sup>12</sup> Our projection, based on a two-sided 95 percent confidence interval, is that the IRS did not identify employment identity theft for between 233,652 and 312,624 individuals whose SSNs were used on a return filed by an ITIN holder.



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management indicated that any changes to paper tax return processing guidelines to identify ITIN/SSN mismatches would require changes to the entire paper return processing procedures. This would also incur additional costs and resources, which are not available due to budget constraints.

***Recommendations:***

The Commissioner, Wage and Investment Division, should:

**Recommendation 4:** Place the employment identity theft marker on the accounts of the 116 victims we identified.

**Management's Response:** The IRS agreed with this recommendation. The IRS placed markers on 60 eligible accounts on March 31, 2017. The remaining 56 accounts do not exist on the Master File.

**Recommendation 5:** Require ITIN paper tax return filers reporting wages to attach Forms W-2 to their tax returns.

**Management's Response:** The IRS disagreed with this recommendation. The IRS responded that wages constitute taxable income under Internal Revenue Code Section 61 and are reportable even when a Form W-2 is not provided or is otherwise unavailable at the time of return filing.

**Office Audit Comment:** The IRS has the authority to require paper ITIN filers to attach Forms W-2 to their tax returns. We do not question the requirement for ITIN filers to file a tax return to report their income even when it is earned under another individual's SSN. Our recommendation is intended to assist the IRS in better identifying victims of employment identity theft.

**Recommendation 6:** Develop processes and procedures to identify ITIN/SSN mismatches on ITIN paper tax returns with a Form W-2 attached and add an employment identity theft marker to the valid SSN owners' tax accounts.

**Management's Response:** The IRS agreed with this recommendation and has requested programming changes that are expected to be in place for the 2018 Filing Season. The requested programming will systemically identify SSN mismatches on paper returns filed with an ITIN and will forward those returns for special handling that will add the SSN data to the return record and permit markers to be applied on eligible accounts.



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**A Process Is Needed to Identify Employment Identity Theft Victims During the Invalid Forms W-2 Perfection Process**

Our review identified 319,213 SSNs on Tax Year 2014 Forms W-2 that the IRS Taxpayer Identification Number Perfection Program determined were used by ITIN holders to gain employment. Employers are required to annually report Form W-2 wage and withholding information to the SSA for each employee. This process is called Annual Wage Reporting. The SSA and IRS have systemic processes to perfect the name and SSN on Forms W-2. For example, when the SSA receives Forms W-2 from employers, it attempts to match the employees' names and SSNs on the Forms W-2 to the SSA database. If the information does not match, the Form W-2 information posts to the SSA Earnings Suspense File. The SSA sends its Earnings Suspense File to the IRS's systemic Taxpayer Identification Number Perfection unit, which has the role of attempting to identify the correct individual who earned the wages on the Form W-2.

The Taxpayer Identification Number Perfection unit uses data such as prior year tax reporting information in an attempt to identify the correct taxpayer and Taxpayer Identification Number for the Form W-2. If the IRS successfully identifies the taxpayer who earned the wages on the Form W-2, the wages are recorded on the taxpayer's Information Returns Master File<sup>13</sup> record of earnings. Each of the 319,213 Forms W-2 we identified were forwarded by the SSA to the IRS's Taxpayer Identification Number Perfection Program because the name and SSN combination on the Form W-2 did not match SSA records. The Taxpayer Identification Number Perfection unit identified the correct name and Taxpayer Identification Number for the Form W-2 using address and name information in IRS databases. For each of the 319,213 Forms W-2, the program determined that an ITIN holder used the victim's SSN listed on the Form W-2 that was perfected. For each of the 319,213 individuals, an identity theft marker was not set on their tax account. IRS management informed us that because the Taxpayer Identification Number Perfection unit is a systemic process, they were not aware of the opportunity to identify employment identity theft during this process.

**Recommendations:**

The Commissioner, Wage and Investment Division, should:

**Recommendation 7:** Place the employment identity theft marker on the accounts of the 319,213 victims we identified.

**Management's Response:** The IRS disagreed with this recommendation. The IRS responded that the accounts included in the subject population do not provide conclusive evidence that an individual has obtained the Personally Identifiable Information of the

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<sup>13</sup> Part of the IRS taxpayer master file that contains all taxpayer data extracted from various sources.



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SSN account owner, as opposed to randomly creating an SSN that happened to match a number already assigned. With these accounts, the names provided to the employers do not match the names of the SSN owners. The primary purpose of the employment identity theft marker is to prevent taxpayers from being burdened by IRS compliance activities when income reported under their names and SSNs is not found on their tax returns and it appears an underreporting of income has occurred. In this population of 319,213 victims, for which there is not a good match on the name and SSN combination, the SSA has already identified the mismatch, and the IRS systems differentiate the earnings as being attributable to an invalid SSN, which prevents the income from being considered when the IRS matches information returns to filed tax returns.

**Office Audit Comment:** We are concerned with the IRS's premise that, because there is no conclusive evidence that the individuals misusing the SSNs have obtained the Personally Identifiable Information of the SSN account owners, no further action is needed to mark the accounts. The extent that the Personally Identifiable Information of these individuals has been compromised is not known by the IRS. Even if the IRS and the Social Security Administration can take actions to make certain that the actual tax and Social Security accounts of the SSN owner are not affected, there are a number of other problems that can be caused by the misuse of the person's SSN. Moreover, it is not clear why the ITIN/SSN mismatch issue would be treated differently for these particular accounts. The majority of employment identity theft cases that the IRS identifies and adds a marker to the victims' accounts involve ITIN/SSN mismatches.

**Recommendation 8:** Establish a process to ensure that an employment identity theft marker is placed on accounts of SSN owners for whom the Taxpayer Identification Number Perfection unit associates income with an ITIN holder.

**Management's Response:** The IRS disagreed with this recommendation. The IRS stated that it is unnecessary to mark the account to prevent the SSN owner from being contacted by the IRS compliance functions. When the IRS links SSA Earnings Suspense File referrals to ITIN accounts based on prior-year usage, the earnings are not attributed to the account of the legitimate SSN owner. The earnings record is marked as using an invalid SSN when it is recorded in the Information Returns Master File. This action prevents the wages associated with the invalid account from being attributed to the SSN owner when document matching activities are performed to determine if income has been reported correctly on filed returns. Not placing the marker on the account will prevent a Notice CP-01E, *Employment Related Identity Theft Notice*, from being issued. However, there is no action the SSN owner or the IRS can take to prevent the SSN from being misused by another individual to obtain employment.

**Office Audit Comment:** In its justification to not take actions to notify victims, the IRS stated that there is no action the SSN owner or the IRS can take to prevent the SSN from being misused. We disagree. In fact, the notice the IRS sends to victims of



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employment identity theft outlines actions these individuals can take to protect themselves. For example, the notice states that “the IRS became aware that your SSN was used by another person for obtaining employment, and we wanted to inform you so that you could take proactive actions to prevent further misuse of your SSN and other personal information.” These individuals will continue to be victimized without their knowledge or ability to take proactive actions to protect themselves.

***A Process Is Needed to Notify the Social Security Administration of Employment Identity Theft When Both a Victim’s Name and Social Security Number Are Used***

Our review of 1,330,998 PY 2015 e-filed tax returns with an ITIN/SSN mismatch identified 16,597 individuals whose SSN and full or partial name was used by the ITIN holder to work. For each of these individuals, the IRS’s processes do not automatically send the SSA a Form 9409, *IRS/SSA Wages Worksheet*, reporting that income is incorrectly reported under the victim’s SSN. Because the victim’s SSN and full or partial name was used by the identity thief and listed on the Form W-2, the income earned by the identity thief will be mistakenly posted to the victim’s SSA earnings account when the SSA processes the Form W-2. The erroneous posting of the income results from the SSA’s systemic matching process not being able to identify that the income earned was not associated with the victim.

IRS processes require employees to submit Form 9409 to the SSA when they identify that income is incorrectly reported under an SSN. These processes enable the SSA to remove the income from the SSN owner’s earnings record. However, employees only submit Form 9409 to the SSA if the employment identity theft victim’s tax return was reviewed by an IRS compliance function. A process has not been established to automatically send a Form 9409 to the SSA when the IRS identifies victims whose SSN and full or partial name is used by an ITIN holder to gain employment.

When we brought our concerns to management’s attention, they stated that the original purpose of the programming for the employment identity theft marker was not to protect or assist victims. The marker was developed to help the IRS count the number of employment identity thefts. The lack of a process to ensure that the SSA is notified of income not associated with an innocent taxpayer is problematic because this notification is essential to ensure that victims’ Social Security benefits are not affected. The Form 9409 notification is the basis for the SSA taking action to correct a victim’s wage record.



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*The Number of Employment-Related Identity Theft Victims Is Significantly Greater Than Identified*

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**Recommendations:**

The Commissioner, Wage and Investment Division, should:

**Recommendation 9:** Notify the SSA of the income not associated with the 16,597 victims we identified.

**Management's Response:** The IRS disagreed with this recommendation. The IRS responded that its review of the subject population found instances in which the income appeared to be attributable to misused SSNs; however, deeper analysis determined that income reported on Form W-2 using an SSN but filed on a Form 1040 under an ITIN did belong to the same person. For example, an ITIN holder obtained an SSN early in 2014. Wages were earned and reported on Form W-2 under the SSN; however, when that individual filed his or her Tax Year 2014 return, he or she filed using the ITIN. In its response, the IRS stated that without a detailed analysis of each individual case, sending earnings correction referrals to the SSA could lead to erroneous reductions being made on the correct persons' earnings records. Such errors could result in unnecessary burden to these individuals that might not be discovered for years, if not decades.

**Office Audit Comment:** We requested information supporting IRS review of these 16,597 cases to conclude that the income reported under these SSNs was associated with the correct individual. The IRS did not provide us with any information that such a review was conducted. Moreover, the IRS is unclear as to how notifying the SSA that an ITIN filer included a Form W-2 with his or her filed tax return that used both the name and SSN of a victim to obtain employment would result in unnecessary burden. In fact, not notifying them can result in burden for these victims. The Form 9409 notifies the SSA that a discrepancy was identified and enables the SSA to conduct research to confirm the information on the form.

**Recommendation 10:** Develop a process to send a Form 9409 to the SSA when ITIN/SSN mismatches are identified during tax return processing and the mismatch involves an ITIN holder using a victim's SSN and full or partial name to commit employment identity theft.

**Management's Response:** The IRS agreed with this recommendation and stated that it has processes in place now for notifying the SSA of wage corrections when it has been determined that earnings have been reported under the wrong SSN. The IRS also stated that it will review the procedures and modify them, as needed, to ensure that they address the provision of notifications when ITIN/SSN mismatches are identified during processing and the wages are confirmed as being reported under the SSN of another individual.





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## Appendix I

### Detailed Objective, Scope, and Methodology

Our overall objective was to assess the IRS's processes to identify and assist victims of employment-related identity theft (hereafter referred to as employment identity theft). To accomplish our objective, we:

- I. Evaluated the IRS's processes to identify employment identity theft during tax return processing.
  - A. Evaluated the processes to identify employment identity theft during paper return processing.
    1. Researched the returns processing procedures to identify victims of employment identity theft during paper returns processing.
    2. Reviewed paper tax returns filed in PY<sup>1</sup> 2015 that contain an ITIN as primary or secondary taxpayer claiming wages. We selected a statistically valid sample of 292 tax returns from the 685,737 paper tax returns filed by an ITIN holder with reported wages. This sample was based on an expected error rate of 5 percent, a precision rate of  $\pm 5$  percent, and a confidence interval of 95 percent. The contracted statistician assisted with developing sampling plans and projections.
    3. Identified the burden to taxpayers whose SSNs were used by an identity thief to file a paper tax return for which there is an ITIN/SSN mismatch.
  - B. Assessed the IRS's process to identify employment identity theft for e-filed tax returns.
    1. Researched the processes to identify employment identity theft for e-filed tax returns.
    2. Assessed the accuracy of the programming for the systemic input of employment identity theft markers on taxpayers' accounts. (These taxpayers are identified as victims of employment identity theft when the IRS detects ITIN/SSN mismatches on e-filed tax returns.)
      - a. Identified all PY2015 e-filed tax returns with an ITIN/SSN mismatch.

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<sup>1</sup> The calendar year in which the tax return or document is processed by the IRS.



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*The Number of Employment-Related Identity Theft Victims Is Significantly Greater Than Identified*

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- b. Reviewed the SSN owners' tax accounts to determine whether the programming placed the required employment identity theft marker on their accounts.
- c. Identified the impact to taxpayers who did not receive the employment identity theft marker and whose SSNs were used by an identity thief on an e-filed tax return for which there is an ITIN/SSN mismatch.
3. Interviewed IRS management to discuss any programming deficiencies identified and determine the cause for the missing identity theft markers.
- C. Determined the reason the IRS does not process paper and e-filed tax returns with ITINs the same.
  1. Researched differences between the processes to identify employment identity theft during paper returns processing and the processes to identify employment identity theft for e-filed tax returns.
  2. Interviewed Identity Theft Protection Strategy and Oversight Management to determine why the IRS does not follow the same processes to identify employment identity theft for both paper tax returns and e-filed tax returns.
- D. Determined whether the IRS could identify employment identity theft during Taxpayer Identification Number perfection.
  1. Identified the IRS's processes to validate Taxpayer Identification Numbers on the IRS's Form W-2 File.
  2. Identified instances in which the IRS did not identify employment identity theft and place the identity theft marker on the SSN holder's account after completing its Form W-2 Taxpayer Identification Number perfection process.
- II. Evaluated the IRS's efforts and processes to assist victims of employment identity theft identified during returns processing.
  - A. Identified processes for assisting the SSN owners affected by employment identity theft.
  - B. Coordinated with the SSA to determine if it is aware of the victims identified.





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### **Validity and reliability of data from computer-based systems**

We validated the data from the Modernized Tax Return Database,<sup>1</sup> the Individual Returns Transaction Files,<sup>2</sup> and the Form W-2 File obtained from the Treasury Inspector General for Tax Administration Data Center Warehouse by: 1) reviewing the data for obvious errors in accuracy and completeness and 2) selecting a random sample of cases from each extract to verify that the data elements extracted matched the taxpayer account information in the Integrated Data Retrieval System<sup>3</sup> and the Employee User Portal. We determined that the data were valid and reliable for the purposes of this report.

### **Internal controls methodology**

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the IRS systemic process of placing employment identity theft markers on taxpayer accounts, the IRS procedures for paper returns processing, the IRS Taxpayer Identification Number perfection process, and the IRS process of notifying the SSA regarding employment identity theft victim.

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<sup>1</sup> The legal repository for original e-filed returns received by the IRS through the Modernized e-File system.

<sup>2</sup> Contains data transcribed from initial input of the original individual tax returns during return processing.

<sup>3</sup> IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



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**Appendix II**

*Major Contributors to This Report*

Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services)  
W. Allen Gray, Director  
Linna Hung, Audit Manager  
Erica Law, Lead Auditor  
Alexis Gomez, Auditor



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**Appendix III**

*Report Distribution List*

Commissioner  
Office of the Commissioner – Attn: Chief of Staff  
Commissioner, Small Business/Self Employed Division  
Deputy Commissioner for Operations Support  
Deputy Commissioner for Services and Enforcement  
Deputy Commissioner, Wage and Investment Division  
Chief Information Officer  
Associate Chief Information Officer, Applications Development  
Director, Automated Underreporter Policy  
Director, Corporate Data  
Director, Examination  
Director, Submission Processing  
Director, Office of Audit Coordination



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## **Appendix IV**

### *Outcome Measures*

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to Congress.

#### **Type and Value of Outcome Measure**

- Taxpayer Rights and Entitlements – Potential; 229,755 taxpayers (see page 4).

#### **Methodology Used to Measure the Reported Benefit:**

The IRS has not developed a process to notify parents and legal guardians when an identity thief uses their dependents' SSNs to gain employment. Our review identified 229,755 victims of employment-related identity theft (hereafter referred to as employment identity theft) who did not have a tax account and were claimed as a dependent on a tax return filed in PY 2015. These dependents are identity theft victims because their SSNs are on Forms W-2, *Wage and Income Statement*, attached to ITIN filers' tax returns in PY 2015.

#### **Type and Value of Outcome Measure**

- Taxpayer Rights and Entitlements – Potential; 60,823 taxpayers (see page 4).

#### **Methodology Used to Measure the Reported Benefit:**

Our review of 1,330,998 PY 2015 e-filed tax returns with an ITIN/SSN mismatch identified 60,823 victims who had an active tax account in PY 2015 but their account was not updated with an employment identity theft marker. If the required marker is not placed on victims' tax accounts, they can be subjected to additional burden when the IRS processes their tax returns.

#### **Type and Value of Outcome Measure:**

- Taxpayer Burden– Potential; 272,416 taxpayers (see page 7).



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### **Methodology Used to Measure the Reported Benefit:**

The IRS does not have a process to identify and place a marker on employment identity theft victims' tax accounts during paper returns processing. We selected a statistically valid sample<sup>1</sup> of 292 of the 685,737 ITIN PY 2015 tax returns filed via paper with reported wages. Our review of the 292 paper tax returns identified 150 tax returns for which the ITIN filer attached a Form W-2 with a valid SSN (*i.e.*, an SSN issued by the SSA) that the ITIN filer used to gain employment. Based on the results of our sample, we estimate that 272,416 victims<sup>2</sup> of employment identity theft were not identified by the IRS. Further analysis of the 150 SSNs found that, for 116 (77 percent), the SSN owners did not have the employment identity theft marker on their account.

### **Type and Value of Outcome Measure**

Taxpayer Burden – Potential; 319,213 taxpayers (see page 9)

### **Methodology Used to Measure the Reported Benefit**

The IRS has not developed a process to identify employment identity theft in the Taxpayer Identification Number Perfection Program. Our review identified 319,213 valid SSNs on Tax Year 2014 Forms W-2 that the Taxpayer Identification Number Perfection Program determined were used by ITIN holders to gain employment. The IRS did not place an employment identity theft marker on these taxpayers' accounts. Without this marker, victims can be subjected to additional burden when the IRS processes their tax returns.

### **Type and Value of Outcome Measure:**

- Taxpayer Burden – Potential; 16,597 taxpayers (see page 11)

### **Methodology Used to Measure the Reported Benefit:**

The IRS has not established a process to notify the SSA of employment identity theft when both a victim's name and SSN are used by an identity thief. Our review of 1,330,998 PY 2015 e-filed tax returns with an ITIN/SSN mismatch identified 16,597 individuals whose SSN and full or partial name was used by the ITIN holder to work. For each of these individuals, IRS processes do not automatically send the SSA a Form 9409, *IRS/SSA Wages Worksheet*, reporting that income is incorrectly reported under the victim's SSN.

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<sup>1</sup> To select our statistically valid sample, we used an expected error rate of 5 percent, a precision rate of  $\pm 5$  percent, and a confidence interval of 95 percent.

<sup>2</sup> Our projection, based on a two-sided 95 percent confidence interval, is that the IRS did not identify employment identity theft for between 233,652 and 312,624 individuals whose SSN was used on a return filed by an ITIN holder.



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**Appendix V**

*Management's Response to the Draft Report*




COMMISSIONER  
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
ATLANTA, GA 30308

May 26, 2017

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kenneth C. Corbin   
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report – The Number of Employment-Related  
Identity Theft Victims Is Significantly Greater Than Identified  
(Audit #201640028)

Thank you for the opportunity to review and provide comments on the subject draft report and its recommendations. The IRS defines tax-related IDT as the filing of a false return using the name and Social Security Number (SSN) of another taxpayer to obtain a tax refund fraudulently. Employment-related IDT is considered the misuse of another person's SSN to obtain employment.

Regardless of the type, the IRS takes IDT fraud very seriously and has expended substantial resources to identify and stop tax fraud and the victimization of innocent taxpayers when their personally identifiable information (PII) is misused. Since February 2011, we have been identifying returns that reflect discrepancies between the wages self-reported by a taxpayer and wages attributed to the taxpayers as reported by an individual using that taxpayer SSN. In those cases, we have placed an indicator code on the associated accounts to prevent unnecessary compliance contacts as a result of these discrepancies. The code also alerts IRS employees who may be assisting the taxpayer that the taxpayer may be the victim of IDT. In 2014, we completed a pilot program to notify such victims that their SSNs were used by another person to obtain employment. This notification to taxpayers alerted them that we've taken actions to ensure there is no impact to their tax return or tax account, that they may wish to review the earnings posted to their account with the Social Security Administration (SSA) (because this incident could result in additional amounts being credited to their SSA account), and that they should consider credit monitoring options. Based on the results of the pilot, we began in January 2017 notifying the victims of such employment-related IDT that we identify.





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The report identifies that 86.6 percent of electronic returns filed during the 2015 Filing Season, using an Individual Taxpayer Identification Number (ITIN) were found to have attached one or more copies of Form W-2, *Wage and Tax Statement*, showing a SSN as the payee's Taxpayer Identification Number (TIN). An ITIN, unlike a SSN, is a TIN assigned by the IRS to those individuals with a U.S. tax filing obligation and who do not have a SSN because they are ineligible to receive one. This population includes both resident and non-resident aliens. Under the law, there is no difference between income earned by U.S. citizens, non-citizens whether authorized to work or not, or non-resident foreign individuals earning income within the U.S. Unless specifically exempted by law, all income must be reported and taxed accordingly. This is true even when the income is earned by individuals not authorized to work in the U.S., and whose employers do not comply with their obligations to confirm the eligibility status of their employees. The IRS is legally responsible for enforcement of the nation's Federal tax laws with respect to ITIN holders, including the responsibility to assess and impose tax on ITIN holders irrespective of the circumstances of their employment.

We will continue to refine and improve our process for notifying individuals when their SSNs are being misused by others for employment purposes; however, it is important to note that the TIGTA's analysis of the 1,153,165 returns that contained at least one Form W-2 attributing wages to a SSN, found that 497,248, more than 43 percent, did not have a tax account, including 94,908 SSNs belonging to deceased individuals. The process for marking an account to reflect potential employment-related IDT requires that an account exist on our system. We do not intend to create accounts for the purpose of posting the IDT marker because that action has the potential for providing unintended opportunities for actual tax fraud to occur. It should also be noted that the IRS does not have address information for individuals who do not have tax accounts. Although sending notices to the address shown on returns claiming dependents without tax accounts appears to be a simple solution, the reality is much more complex in that without examining the return and determining who is eligible to claim that individual as a dependent, the IRS cannot be certain the taxpayer claiming the dependent is entitled to do so. With complex family situations, we risk exposing the PII of the dependent to persons not entitled to receive it, even by mailing a notice to the dependent in care of the address on the return.

Your review also identified 319,213 SSNs reported on Forms W-2 where the name listed on the W-2 did not match the name associated with the SSN. The SSA was unable to match the Form W-2 payee information to their records because the name and SSN combination reported by the employers did not reconcile with SSA records. The 319,213 SSNs were placed in the SSA earnings suspense file and referred to the IRS for research. Our automated Taxpayer Identification Number Perfection Program, using prior-year filing information matched these records to ITIN holders who had previously used the SSNs and whose names matched the names reported to the SSA by the employers. We do not agree with your recommendations to place employment IDT markers on the 319,213 accounts and to establish a process for placing the



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employment IDT marker on such accounts linked in the future. Because these accounts do not use the names of the SSN owners, it cannot be determined if the number was obtained improperly or was randomly created to obtain employment and coincidentally matched an assigned number.

Conversely, when a SSN is used in concert with the name associated with that number on SSA records, questions arise as to whether the SSN is being used with the permission of the assigned owner, if it was obtained improperly, or if there is another plausible explanation that indicates a misuse has not, in fact, occurred. When the IRS investigates a claim of IDT victimization or determines through other activities that a SSN has been misused and earnings have been reported under an incorrect SSN, we share information with the SSA that permits it to correct the affected record. We are concerned that developing a process that sends earnings correction information to the SSA without the IRS having made an affirmative determination that the reported earnings are truly erroneous could have unintended detrimental effects to legitimate SSN owners by initiating erroneous corrections to their earnings records.

Our review of the 16,597 accounts where a correct SSN/name match was used on Form W-2 found instances where tax accounts do not exist for the presumed misused number. We also identified accounts where SSNs had been assigned during 2014 and appeared on Forms W-2, yet the 2014 tax return was filed under the previously-held ITIN. In these cases, the ITIN holder and the SSN owner are the same person. Sending a correction referral to the SSA in such cases would erroneously remove legitimate earnings from the records of those individuals, negatively impacting their ability to receive the benefits to which they may be entitled in the future. Checks and balances are already in place to assist all taxpayers in ensuring their earnings records are accurate. The SSA provides individuals with the opportunity to obtain transcripts of their earnings records either online through *my Social Security account*<sup>1</sup> or by submitting Form SSA-7004, *Request for Social Security Statement*, by mail. The Federal Trade Commission also directs individuals to resources for obtaining free annual credit reports from each of the three nationwide credit reporting companies.<sup>2</sup> Consequently, we disagree with your recommendations to notify the SSA of the 16,597 identified cases, absent their inclusion in processes that would otherwise result in notification.

As noted, the IRS is committed to providing all assistance possible to taxpayers whose SSNs are being misused. Working within the confines of our limited resources, we will continue to leverage existing systems to the greatest extent possible to improve the notification process to the taxpayer however, for those actions that fall beyond the scope of tax administration, we cannot commit to additional actions that would require significant resources to accomplish.

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<sup>1</sup> <https://www.ssa.gov/myaccount/>

<sup>2</sup> <https://www.ftc.gov/faq/consumer-protection/get-my-free-credit-report>





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Attached are our comments and proposed actions to your recommendations. If you have any questions, please contact me, or a member of your staff may contact James P. Clifford, Acting Director, Customer Account Services, Wage and Investment Division, at (470) 639-3504.

Attachment



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Attachment

**Recommendation:**

The Commissioner, Wage and Investment Division, should:

**RECOMMENDATION 1**

Develop a process to notify the parents and legal guardians of dependents claimed on their tax returns when their dependents' SSNs are unlawfully used by an ITIN filer to gain employment.

**CORRECTIVE ACTION**

We have considered processes that could be implemented to provide notification to parents and legal guardians of dependents when there are indications the dependent's Social Security Number (SSN) is being misused by other individuals to obtain employment. When tax accounts are suspected of being compromised by unauthorized individuals, as was the case when IRS determined unknown individuals posing as legitimate taxpayers obtained access to tax information through the Get Transcript system, we have processes in place to provide precautionary warnings when dependent information has been revealed. In such cases, the compromised account is that of the parent or guardian claiming the dependent and there is a direct connection to the dependent's SSN and the owner of the compromised account. That is not the case when a SSN is improperly used by another person to obtain employment.

As noted in our response, claiming an individual as a dependent on a tax return is not conclusive proof that the person claiming the dependent is the person who should receive the notice on the dependent's behalf. We are concerned that a systemic process to provide notification, outside of an audit scenario where entitlement to the dependency deduction can be ascertained, could not be sophisticated enough to account for the nuances of complex family situations. We also believe a systemic process would risk harming the dependents by exposing their personally identifiable information (PII) to individuals not entitled to receive it. Further, we question the effectiveness of such a process in that, unlike tax-related identity theft (IDT) fraud, actions cannot be taken to ensure misuse of the SSN ceases. Consequently, we disagree with this recommendation as it applies to dependents without established tax accounts. For those with tax accounts, the current notification process and planned improvements will provide notice directly to the dependent.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A



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*The Number of Employment-Related Identity Theft Victims Is Significantly Greater Than Identified*

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**RECOMMENDATION 2**

Correct programming as needed to ensure the employment identity theft marker is placed on all victims' tax accounts for ITIN/SSN mismatches on e-filed tax returns.

**CORRECTIVE ACTION**

We agree with this recommendation and will monitor the notification process to identify conditions that prevent eligible accounts from receiving the IDT marker when the potential misuse of an individual's SSN becomes evident. We will monitor the notification process during the 2017 filing season and will determine by July 2018 the requisite programming changes needed to ensure IDT markers are properly applied. Because Information Technology (IT) resources are subject to competing priorities and budget constraints, we cannot provide an implementation date for this action.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

Director, Accounts Management, Customer Account Services, Wage and Investment Division

**CORRECTIVE ACTION MONITORING PLAN**

We will monitor this corrective action as part of our internal management control system.

**RECOMMENDATION 3**

Place the employment identity theft marker on the accounts of the 60,823 victims we identified in this review.

**CORRECTIVE ACTION**

We agree with this recommendation and will place employment-related IDT markers on eligible accounts that do not have one.

**IMPLEMENTATION DATE**

November 15, 2017

**RESPONSIBLE OFFICIAL**

Director, Accounts Management, Customer Account Services, Wage and Investment Division

**CORRECTIVE ACTION MONITORING PLAN**

We will monitor this corrective action as part of our internal management control system.



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**Recommendations:**

The Commissioner, Wage and Investment Division, should:

**RECOMMENDATION 4**

Place the employment identity theft marker on the accounts of the 116 victims we identified.

**CORRECTIVE ACTION**

We agree with this recommendation and have placed markers on 60 eligible accounts. The remaining 56 accounts do not exist on the Master File. The eligible accounts were marked on March 31, 2017.

**IMPLEMENTATION DATE**

Implemented

**RESPONSIBLE OFFICIAL**

Director, Accounts Management, Customer Account Services, Wage and Investment Division

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 5**

Require ITIN paper tax return filers reporting wages to attach Forms W-2 to their tax returns.

**CORRECTIVE ACTION**

We disagree with this recommendation. Wages constitute taxable income under Internal Revenue Code section 61, and are reportable even when a Form W-2, *Wage and Tax Statement*, is not provided to the taxpayer or is otherwise unavailable at the time of return filing.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A



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**RECOMMENDATION 6**

Develop processes and procedures to identify ITIN/SSN mismatches on ITIN paper tax returns with a Form W-2 attached, and add an employment identity theft marker to the valid SSN owners' tax accounts.

**CORRECTIVE ACTION**

We agree with this recommendation and have requested programming changes that are expected to be in place for the 2018 filing season. The requested programming will systemically identify SSN mismatches on paper returns filed under Individual Taxpayer Identification Numbers (ITIN), and will forward those returns for special handling that will add the SSN data to the return record and permit markers to be applied to eligible accounts.

Because IT resources are subject to competing priorities and budgetary constraints, while we expect the changes to be completed by January 2018, we cannot provide an implementation date at this time.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

Director, Submission Processing, Customer Account Services, Wage and Investment Division

**CORRECTIVE ACTION MONITORING PLAN**

We will monitor this corrective action as part of our internal management control system.

**Recommendation:**

The Commissioner, Wage and Investment Division, should:

**RECOMMENDATION 7**

Place the employment identity theft marker on the accounts of the 319,213 victims we identified.

**CORRECTIVE ACTION**

We disagree with this recommendation. The accounts included in the subject population do not provide conclusive evidence that an individual has obtained the PII of the SSN account owner, as opposed to randomly creating a SSN that happened to match a number already assigned. With these accounts, the names provided to the employers do not match the names of the SSN owners. The primary purpose of the employment-related IDT marker is to prevent taxpayers from being burdened by Compliance activities when income reported under their names and SSNs is not found on their tax returns and it appears an underreporting of income has occurred. In this population,





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where there is not a good match on the name and SSN combination, the Social Security Administration (SSA) has already identified the mismatch, and our systems differentiate the earnings as being attributable to an invalid SSN, which prevents the income from being considered when we match information returns to filed tax returns.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 8**

Establish a process to ensure that an employment identity theft marker is placed on accounts of SSN owners for whom the Taxpayer Identification Number Perfection unit associates income with an ITIN holder.

**CORRECTIVE ACTION**

We disagree with this recommendation for the reasons stated under the previous recommendation. When the IRS links SSA earnings suspense file referrals to ITIN accounts, based on prior-year usage, the earnings are not attributed to the account of the legitimate SSN owner. The earnings record is marked as using an invalid SSN when it is recorded in the Information Returns Master File. This action prevents the wages associated with the invalid account from being attributed to the SSN owner when document matching activities are performed to determine if income has been reported correctly on filed returns. Our Compliance functions recognize that the earnings recorded under the invalid SSN are not those of the legitimate taxpayer and will not contact the taxpayer for a suspected unreported income issue. Not placing the marker on the account will prevent a Notice CP-01E, *Employment Related Identity Theft Notice*, from being issued; however, in this situation there is no action the SSN owner or the IRS can take to prevent the SSN from being misused by another individual to obtain employment. The IRS does not become aware of the first instance of misuse until after the fact, when the tax return is filed in the next year and, when a multi-year pattern of use is identified, we are statutorily prevented from divulging any information from the ITIN tax return or the Form W-2 that would assist the SSN owner in reporting the misuse to law enforcement authorities.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A



*The Number of Employment-Related Identity Theft Victims Is Significantly Greater Than Identified*

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**CORRECTIVE ACTION MONITORING PLAN**

N/A

**Recommendation:**

The Commissioner, Wage and Investment Division, should:

**RECOMMENDATION 9**

Notify SSA of the income not associated with the 16,597 victims we identified.

**CORRECTIVE ACTION**

We disagree with this recommendation. Our review of the subject population found instances where the income appeared, on the surface, to be attributable to misused SSNs; however, deeper analysis determined that the income reported on Form W-2, using a SSN and on Form 1040, filed under an ITIN, did belong to the same person. For example, an ITIN holder obtained a SSN early in 2014. Wages were earned and reported on Form W-2 under the SSN; however, when that individual filed their 2014 return, they filed using the ITIN. Although the taxpayer made an error by filing the 2014 return under the ITIN, the wages reported on that return were earned by that individual. This is not a case of a SSN being improperly used to obtain employment and does not cause the earnings record of that SSN to be overstated. Making this determination required researching several data sources through the Integrated Data Retrieval System to determine when the SSN was assigned and to review its filing history. It was found the SSN had filed as a secondary taxpayer on a joint return for Tax Year 2015. Reviewing the tax account of the primary taxpayer for Tax Year 2014 revealed the ITIN of the secondary taxpayer and provided the link to the SSN. This was further validated by reviewing the 2014 return and reconciling the Forms W-2 with those identified by the auditors. To make an accurate determination on when notification should be provided would require a detailed analysis of each individual case. Without taking those steps, which would require a significant investment of limited human resources, sending earnings correction referrals to the SSA could lead to erroneous reductions being made on the correct persons' earnings records. Such errors could result in unnecessary burden to these individuals that might not be discovered for years, if not decades.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

N/A

**CORRECTIVE ACTION MONITORING PLAN**

N/A



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*The Number of Employment-Related Identity Theft Victims Is Significantly Greater Than Identified*

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**RECOMMENDATION 10**

Develop a process to send a Form 9409 to the SSA when ITIN/SSN mismatches are identified during tax return processing and the mismatch involves an ITIN holder using a victim's SSN and full or partial name to commit employment identity theft.

**CORRECTIVE ACTION**

We agree with this recommendation. We have processes in place now for notifying the SSA of wage corrections when it has been determined earnings have been reported under the wrong SSN. We will review the procedures and will modify them, as needed, to ensure they address the provision of notifications when ITIN/SSN mismatches are identified during processing and the wages are confirmed as being reported under the SSN of another individual.

**IMPLEMENTATION DATE**

July 15, 2018

**RESPONSIBLE OFFICIAL**

Director, Accounts Management, Customer Account Services, Wage and Investment Division

**CORRECTIVE ACTION MONITORING PLAN**

We will monitor this corrective action as part of our internal management control system.