
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



*Law Enforcement Assistance
Program Requests Are Not Always
Processed Timely and Accurately*

November 28, 2014

Reference Number: 2015-40-003

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.

Redaction Legend:

1 = Tax Return/Return Information

2 = Risk Circumvention of Agency Regulation or Statute

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HIGHLIGHTS

LAW ENFORCEMENT ASSISTANCE PROGRAM REQUESTS ARE NOT ALWAYS PROCESSED TIMELY AND ACCURATELY

Highlights

Final Report issued on
November 28, 2014

Highlights of Reference Number: 2015-40-003 to the Internal Revenue Service Commissioner for the Wage and Investment Division and the Chief, Criminal Investigation.

IMPACT ON TAXPAYERS

Federal law imposes restrictions on sharing taxpayer information, including information that can be shared with State and local law enforcement. The IRS Law Enforcement Assistance Program (LEAP) allows victims of identity theft to permit limited tax return information to be shared with State and local law enforcement. However, fulfilling invalid or incomplete requests for tax return information increases the risk of unauthorized disclosure.

WHY TIGTA DID THE AUDIT

The LEAP was created to help law enforcement officers obtain tax return data vital to their efforts in investigating and prosecuting cases of identity theft. Law enforcement officers use Form 8821-A, *IRS Disclosure Authorization for Victims of Identity Theft*, to obtain consent from the identity theft victim to request tax return information from the IRS. This audit was initiated to determine whether requests for tax return data under the LEAP are processed timely, accurately, and securely.

WHAT TIGTA FOUND

TIGTA reviewed a statistically valid sample of 194 of the 2,481 Forms 8821-A processed during the period January 3, 2013, through September 27, 2013. TIGTA found that ***1*** requests had been rejected and another ***1*** did not have the date that the information was mailed to the law enforcement officer. Of the remaining ***1** requests, 88 (**1** percent)

requests were not processed within the required 10 business days.

In addition, the IRS did not always maintain documentation of tax return information provided to the law enforcement officers. Specifically, it did not maintain copies of the information provided to law enforcement officers for 111 (72 percent) of the 155 sampled requests.

TIGTA also found that requests for tax return information were not always accurately worked. For the 39 requests that the IRS rejected, eight (21 percent) should not have been rejected. In addition, 11 (7 percent) of the 155 requests for which the IRS provided the law enforcement officer with tax return information were invalid or incomplete and should not have been processed due to the risk of unauthorized disclosure.

Lastly, actions are needed to better promote awareness of the LEAP to State and local law enforcement. The IRS has not established an outreach strategy to increase awareness of the LEAP and the benefits the program provides to both the victims of identity theft and law enforcement.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS develop processes and procedures to ensure that requests are timely and accurately processed, including reviewing the LEAP database to ensure accurate and complete information, and ensure that prescreening procedures are effective in rejecting requests that have missing, incomplete, or altered information. In addition, Criminal Investigation should develop a LEAP outreach strategy that details specific actions to be taken to promote and expand participation in the program.

The IRS agreed with all six recommendations and plans to date-stamp Forms 8821-A upon receipt; increase the time frame for completing requests for tax return information to 60 days; ensure that research tools are fully used; prescreen requests for missing, incomplete, or altered information; and ensure that requests are complete before sending them to be processed. Finally, the IRS plans to develop an outreach action plan to help promote and expand the program.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

November 28, 2014

MEMORANDUM FOR COMMISSIONER, WAGE AND INVESTMENT DIVISION
CHIEF, CRIMINAL INVESTIGATION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Law Enforcement Assistance Program Requests
Are Not Always Processed Timely and Accurately
(Audit # 201340037)

This report presents the results of our review to determine whether requests for tax return data under the Internal Revenue Service's Law Enforcement Assistance Program are processed timely, accurately, and securely. This audit was included in the Treasury Inspector General for Tax Administration's Fiscal Year 2014 Annual Audit Plan and addresses the major management challenges of Taxpayer Protection and Rights and Providing Quality Taxpayer Service Operations.

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

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



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Abbreviations

CI	Criminal Investigation
e-filed	Electronically filed
IRS	Internal Revenue Service
LEAP	Law Enforcement Assistance Program
RAIVS	Return and Income Verification Services



*Law Enforcement Assistance Program Requests
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Background

The Law Enforcement Assistance Program (LEAP) was created to help law enforcement officers obtain tax return information vital to their efforts in investigating and prosecuting cases of tax fraud identity theft.¹ Federal law imposes restrictions on the disclosure of tax return information. These restrictions affect the Internal Revenue Service's (IRS) ability to share tax information with State and local law enforcement. State and local law enforcement officials with evidence of identity theft involving fraudulently filed Federal tax returns must obtain permission from the identity theft victim so the IRS can provide law enforcement with limited tax return information.

The LEAP started as a pilot program in April 2012, when it was rolled out to law enforcement agencies and law enforcement officers in the State of Florida. In October 2012, the IRS added eight States, and then expanded nationwide to all 50 States and the District of Columbia in March 2013. The IRS's Criminal Investigation (CI) partners with the Wage and Investment Division Return and Income Verification Services (RAIVS) units to process requests and provide tax return information.

Law enforcement officers are required to obtain victims' consent for disclosure of tax return information

To obtain the required permission (consent for disclosure) from the victim, the law enforcement officer contacts the victim to complete a Form 8821-A, *IRS Disclosure Authorization for Victims of Identity Theft*.² By signing this form, the victim authorizes the IRS to disclose his or her confidential tax return information to the law enforcement officer. Once the victim signs the Form 8821-A, the law enforcement officer submits it to a CI office. A CI special agent scans the form to create an electronic copy and forwards the form via e-mail to one of the IRS's RAIVS units located in Cincinnati, Ohio, or Austin, Texas, for processing. Figure 1 shows the volume of Forms 8821-A received by CI and e-mailed to the RAIVS units for processing.

¹ Tax fraud identity theft occurs when an individual uses another person's name and Taxpayer Identification Number (generally a Social Security Number) to file a fraudulent tax return to obtain a fraudulent tax refund.

² See Appendix V for a copy of Form 8821-A.



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**Figure 1: Volume of Forms 8821-A – Calendar Year 2012
Through Calendar Year 2014 as of June 30, 2014**

Calendar Year	Forms 8821-A Received
2012	1,202
2013	2,725
2014	2,341

Source: RAIVS database.

Processing of Forms 8821-A by RAIVS units

Once the Form 8821-A is received, a RAIVS unit clerk adds the scanned Form 8821-A to the RAIVS unit fileserver, prints the form, and stamps the printed copy with the RAIVS unit received date. Key information from the form is then input into an Access³ database (referred to as the LEAP database) including the identity theft victim's name, RAIVS unit received date, requesting law enforcement officer, *etc.*

The Form 8821-A is then assigned to a RAIVS unit assistor who reviews the Form 8821-A to ensure that it contains all the required information. If the Form 8821-A is incomplete or illegible, the assistor does not locate a filed tax return, *etc.*, the assistor will reject the form. Rejected Forms 8821-A are returned to the requesting law enforcement officer with an explanation of why the request was rejected. If the Form 8821-A can be processed, the assistor will research IRS tax account files to locate the tax return and any associated refund payment information. The tax return and refund payment information are then printed and mailed to the law enforcement officer. IRS guidelines required RAIVS unit assistors to process requests for electronically filed (e-filed) tax return information within 10 business days of the RAIVS unit received date and paper-filed tax returns within 30 business days of the RAIVS unit received date.

This review was performed at the Wage and Investment Division's RAIVS units in Cincinnati, Ohio, and Austin, Texas, during the period September 2013 through July 2014. We also obtained and reviewed information from CI and the Privacy, Governmental Liaison, and Disclosure function during the same period. 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 objective. 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.

³ Access is a database management system sold by the Microsoft Corporation that combines the relational Microsoft Jet Database Engine with a graphical user interface and software development tools.



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Results of Review

Requests for Tax Return Information Are Not Always Processed Timely

Our review of a statistically valid sample of 194 of the 2,481 Forms 8821-A processed during the period January 3, 2013, through September 27, 2013, identified ****1**** requests that we were unable to evaluate for timeliness. These included ****1**** requests that were rejected and ****1**** requests for which the date that the information was mailed to the law enforcement officer was not available. For the remaining ****1**** requests, we found that 88 (****1**** percent)⁴ requests were not processed within the required time frame. Each of the 88 requests was for e-filed tax return information and, as such, the request was required to be processed by the RAIVS unit within 10 business days of the received date. The time frames to provide the requested tax return information for the 88 requests ranged from 11 to 71 business days. Based on the results of our sample, we estimate that 1,125⁵ of the 2,481 requests received were potentially not timely processed during this period. Figure 2 shows the number of business days the RAIVS units took to fulfill these requests.

Figure 2: Number of Business Days for the RAIVS Units to Process Requests for Return Information

Number of Business Days to Process the Request	Number of Requests	Percentage
Timely Processed	63	42%
11 to 20 days	73	48%
21 to 30 days	10	7%
31 to 40 days	**1**	**1**
41 to 71 days	**1**	**1**

Source: Treasury Inspector General for Tax Administration analysis of Form 8821-A requests.

⁴ The point estimate error rate for the percentage of requests that were untimely processed by the IRS is 58.28 percent (88/151). We are 95 percent confident that the population exception rate is between 50.39 percent and 66.17 percent.

⁵ The point estimate number of exception cases is 1,125 ((88/194)*2,481). We are 95 percent confident that the true population number of exception cases is between 958 and 1,293.



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RAIVS unit management officials stated that the untimely processing of requests was the result of an inadequate Form 8821-A request tracking report⁶ that CI and RAIVS unit management used to monitor the LEAP during our review. For example, this report did not delineate the types of tax returns, *e.g.*, e-filed or paper-filed tax returns, being processed by the RAIVS units or the volume of over-age requests, *e.g.*, total e-filed tax return requests over-age for 11–20 business days, 21–30 business days, *etc.* RAIVS unit officials also stated that the untimely processing of requests was due to the fact that the LEAP is a new program and, as such, processes and standards are still evolving.

In addition to the inadequate request tracking report, we found deficiencies in the LEAP database that can hinder monitoring and oversight of the program. Examples include:

- City and State fields associated with requesting law enforcement officers were not always complete. For example, 682 (27 percent) of the 2,481 requests received in Calendar Year 2013 had a blank city and State field. This information can be useful to gauge law enforcement officer participation in the LEAP.
- Missing request records and gaps in the sequentially numbered requests included in the database for Calendar Years 2012 and 2013.

RAIVS unit officials indicated that the missing and incomplete data resulted from the Austin and Cincinnati RAIVS unit processing sites maintaining separate inventory tracking databases. The databases did not have the same fields and, as a result, when the information was combined, information was lost or did not coincide. After we raised concerns regarding the inadequacy of the request tracking report and LEAP database, IRS management acquired in-house expertise to enhance and administer the database and implemented a new monitoring report that provides management the ability to better monitor the timeliness of request processing. In January 2014, CI and RAIVS unit management began using the new report in monthly calls.

Request processing timeliness goals did not begin from the CI receipt date

We alerted management to our concern that timeliness goals focused solely on the time from the receipt and processing of the request in the RAIVS unit to the mailing of the information to the law enforcement officer. Measuring the processing timeliness goal did not include the time from CI receipt of the request until RAIVS unit receipt. Based on the concerns we raised in July 2014, the IRS revised internal guidance, changing the time frame to process all Forms 8821-A to 60 business days with the starting point being the date the request was received by a CI function.

With the revised guidance, it is essential that CI date-stamps the requests when received. We found that for 76 (39 percent) of the 194 requests we sampled, the CI special agent did not date-stamp the Form 8821-A when received from a law enforcement officer. IRS management indicated that IRS guidelines did not require CI special agents to stamp the Form 8821-A

⁶ The information in the request tracking report is generated from the LEAP database.



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received date when the form was received. Without the received date, the IRS cannot determine the overall time frame to process the requests and provide tax return information to law enforcement officers.

Recommendations

Recommendation 1: The Chief, CI, and the Commissioner, Wage and Investment Division, should develop processes and procedures to ensure that Forms 8821-A are timely processed. The procedures should include requiring CI employees to date-stamp the requests when received.

Management's Response: The IRS agreed with this recommendation. On March 12, 2014, guidance was sent to all CI identity theft coordinators to ensure that all requests are date-stamped upon receipt. This guidance is also being incorporated into the CI standard operating procedures. Additionally, on July 16, 2014, Internal Revenue Manual 3.5.20.5.4, *Accounts Services – Processing Requests for Tax Return/Return Information*, was updated to advise the RAIVS units that the time frame for completing requests for return information, paper or electronic, made on Forms 8821-A is 60 days from the stamped CI receipt date.

Office of Audit Comment: In follow-up discussions, the IRS indicated that the change in timeframe was to account for the variance in the types of requests, such as multi-year requests for paper and e-filed returns which take time to research and obtain, and to create an overall timeframe to include the initial receipt of requests by the Criminal Investigation Division through fulfillment of the request.

Recommendation 2: The Commissioner, Wage and Investment Division, should review the LEAP database to ensure that information is accurate and complete and develop processes and procedures to ensure that the new request information recorded is accurate and complete.

Management's Response: The IRS agreed with this recommendation and will evaluate its existing quality review process and identify where improvements can be made to ensure that requests for information are recorded accurately and that the data record is complete.

The Internal Revenue Service Did Not Always Maintain Documentation of Tax Return Information Provided to Law Enforcement Officers

Our statistically valid sample of 194 requests included 155 Forms 8821-A for which the RAIVS units provided tax return information to a requesting law enforcement officer. However, the RAIVS units did not maintain copies of the tax return information provided to law enforcement officers for 111 (72 percent) of the requests. IRS guidelines required the RAIVS units to retain



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the Forms 8821-A for 45 days⁷ after processing is completed. The guidelines did not require the RAIVS units to retain copies of the tax return information sent to the law enforcement officers.

IRS management is responsible for creating and maintaining records and documentation that provide evidence of the proper execution of activities such as providing tax returns to outside parties. Without sufficient record retention procedures for the LEAP, the IRS cannot mitigate the risk of unauthorized disclosure of taxpayer information or have reasonable assurance that Federal disclosure laws are being followed.

Subsequent to our raising concerns that retaining Forms 8821-A for only 45 days was not sufficient, CI and Submission Processing function officials indicated that they would coordinate with the IRS Office of Chief Counsel to revise the retention guidelines. Guidance for the RAIVS units was updated on April 29, 2014, requiring the retention of original printed Forms 8821-A and all information mailed to the law enforcement officers for three years, including a copy of the tax return.

Requests for Tax Return Information Are Not Always Accurately Worked

Our review of the 39 Forms 8821-A requests the IRS rejected identified eight (21 percent)⁸ that were erroneously rejected. Based on the results of our sample of 194 Forms 8821-A processed during the period January 3, 2013, through September 27, 2013, we estimate that 102 requests⁹ may have been incorrectly rejected. The eight requests that were incorrectly rejected included:

- ****1**** requests that were erroneously rejected because the assistors incorrectly concluded that a tax return associated with the victim of the identity theft was not filed. This occurred because the assistors did not use the *******2******* command code¹⁰ in the Integrated Data Retrieval System¹¹ to research for the original tax return information. RAIVS unit management officials did not establish the requirement or procedure for assistors to use this command code when researching tax accounts to identify requested tax return information.

⁷ We used calendar days because the IRS guidance does not denote business or calendar days.

⁸ The point estimate error rate for the percent of improperly rejected requests is 20.51 percent (8/39). We are 95 percent confident the true population (although its size is unknown) exception rate is between 7.67 percent and 33.35 percent.

⁹ The point estimate number of exception cases is 102 ((8/194)*2,481). We are 95 percent confident that the true population number of exception cases is between 35 and 169.

¹⁰*****2*****
*****2*****
*****2*****

¹¹ IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



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- *****1*****
*****1*****
*****1*****12*****
*****1*****.

The IRS’s quality reviews usually check to ensure that all actions and required research are performed. However, because RAIVS unit management had not established requirements for assistors to use the Tax Return Data Base View command code, the quality reviews did not check to ensure that this research was completed.

Invalid and/or incomplete requests were not always rejected

Our review of the 155 requests for which the IRS provided the law enforcement officer with tax return information identified 11 (7 percent)¹³ requests that should not have been processed. Based on the results of our analysis, we estimate that 141¹⁴ of the 2,481 requests received during the period January 3, 2013, through September 27, 2013, may not have been rejected as required. These 11 requests included invalid and incomplete information and, as such, should have been rejected from processing. For example:

- ***1***requests were missing law enforcement officer information, *e.g.*, name, address, and telephone number.
- ***1*** requests had incomplete taxpayer address and contact information.
- *****1*****.
- *****1*****
*****15*****
*****1*****.

The errors associated with each of these 11 requests increase the risk for an unauthorized disclosure of tax return information by providing information to the wrong law enforcement officer or providing the wrong taxpayer’s information.

IRS guidelines require requests with missing, illegible, or altered information, as well as those that have an Individual Taxpayer Identification Number, to be rejected from processing. However, the CI special agents who forwarded these requests to the RAIVS units did not ensure

¹²*****1*****.

¹³ The point estimate error rate for the percent of requests provided by the IRS that should have not been forwarded to the RAIVS units is 7.1 percent (11/155). We are 95 percent confident the true population (although its size is unknown) exception rate is between 3.04 percent and 11.15 percent.

¹⁴ The point estimate number of exception cases is 141 ((11/194)*2,481). We are 95 percent confident that the true population number of exception cases is between 63 and 218.

¹⁵ A tax processing number issued by the IRS. It is a nine-digit number that always begins with the number nine (9XX-XX-XXXX).



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that the taxpayers' and law enforcement officers' information on the Forms 8821-A was complete and unaltered. In addition, IRS management indicated that these requests should have been rejected by the RAIVS unit clerks while prescreening the requests; however, the prescreening procedures were not always effective. We also noted that RAIVS unit quality reviews do not check to ensure that clerks reject erroneous requests with missing, incomplete, or altered information.

The request rejection form is confusing and did not provide adequate information

When requests are rejected, the IRS sends Form 13873-I¹⁶ to alert the law enforcement officer that the request was rejected. However, our review of this form found that it was confusing and did not provide information necessary for the law enforcement officer to understand why the request was rejected. For example:

- The rejection form sent to the law enforcement officer is also used by the RAIVS units to reject other types of requests for tax return information made by outside parties, such as requests from mortgage companies. As such, the form included nine sections spread across three pages, with no section that pertained solely to LEAP request rejects.
- The rejection form did not explain the reasons why the IRS rejected the request, such as a missing law enforcement officer address or an altered taxpayer signature.

Subsequent to our raising concerns to management regarding the rejection form, the IRS created Form 13783-ID, *RAIVS Requests for Tax Return Photocopy of Taxpayer Accounts Submitted by Law Enforcement Agencies*, with specific information that will be provided to the law enforcement officer when a request is rejected. The form was available for use on July 18, 2014.

Recommendations

Recommendation 3: The Commissioner, Wage and Investment Division, should develop processes and procedures to ensure that requests are accurately worked. These processes should include ensuring that thorough research is performed to locate the requested tax return information.

Management's Response: The IRS agreed with this recommendation and will review its current procedures to ensure that available research tools are being used to perform thorough and accurate searches when responding to information requests. Any identified procedural changes will be documented in Internal Revenue Manual 3.5.20, and employee training will be provided as needed.

Recommendation 4: The Commissioner, Wage and Investment Division, should ensure that prescreening procedures in the RAIVS units are effective in rejecting requests that have missing,

¹⁶ The rejection form used during our review had no title.



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incomplete, or altered information or that have an Individual Taxpayer Identification Number rather than a Social Security Number.

Management's Response: The IRS agreed with this recommendation. On October 3, 2014, *Servicewide Electronic Research Program Alert 14A0409, Pre-Screening of Form 8821-A*, was issued to remind managers and employees of the importance of following the procedures for prescreening Forms 8821-A.

Recommendation 5: The Chief, CI, should ensure that special agents review Forms 8821-A for complete information before submitting them to the RAIVS units.

Management's Response: The IRS agreed with this recommendation. On August 18, 2014, guidance was given to all identity theft coordinators to ensure that Forms 8821-A are complete before sending them to the RAIVS unit. The CI standard operating procedures will be updated to ensure that special agents review Forms 8821-A for complete information before submitting them to the RAIVS units.

Actions Are Needed to Better Promote Awareness of the Program to State and Local Law Enforcement

The IRS has not established an outreach strategy in an effort to increase State and local law enforcement awareness of the LEAP and the benefits the program provides to both the victims of identity theft and law enforcement. Without a strategy with established goals, measures, and documentation procedures, the IRS cannot assess the effectiveness of its outreach efforts. Our discussions with nine financial crime detectives¹⁷ in eight cities with high rates of identity theft, per the Federal Trade Commission,¹⁸ found that none of these individuals were familiar with the LEAP. The detectives worked in four States from which the law enforcement officers submitted no or only a few requests for tax return information.

CI has taken some steps to increase awareness of the LEAP. For example, CI has 54 identity theft coordinators whose duties include engaging in discussions with CI special agents, and State and local law enforcement to expand awareness of the program. However, it does not track which law enforcement organizations have received information related to the LEAP from the IRS identity theft coordinators. This information would allow the IRS to measure the effectiveness of its outreach efforts to increase program awareness among nonparticipating law enforcement agencies. During the period of January to September 2013, the IRS received Forms 8821-A from law enforcement agencies in 35 States. Of the 2,481 requests received during this period, 1,296 (52 percent) were from three States (Florida, Georgia, and Texas).

¹⁷ The detectives we contacted work in Fairfield, Fresno, and Stockton, California; Chicago and Cook County, Illinois; Evansville and Fort Wayne, Indiana; and Gulfport, Mississippi.

¹⁸ Federal Trade Commission, *Consumer Sentinel Network Data Book for January – December 2013* (Feb. 2014).



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Recommendation

Recommendation 6: The Chief, CI, should develop a LEAP outreach strategy that details specific actions to be taken to promote awareness and expand participation in the program.

Management's Response: The IRS agreed with this recommendation. In an effort to increase State and local law enforcement awareness, it will develop an outreach action plan for identity theft coordinators to help promote and expand the LEAP.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether requests for tax return data under the LEAP are processed timely, accurately, and securely. To accomplish our objective, we:

- I. Assessed IRS outreach to law enforcement agencies and evaluated the oversight and accountability for the LEAP.
 - A. Determined whether the IRS established an effective outreach strategy to apprise law enforcement agencies of the existence of the LEAP and to provide guidance and assistance.
 - B. Determined if specific goals and measurements have been established and documented for the LEAP. Also, we determined which IRS function is responsible for setting and monitoring goals and measures. We determined why the IRS has not established an overall IRS timeliness goal for Form 8821-A, *IRS Disclosure Authorization for Victims of Identity Theft*, processing.
 - C. Determined whether program responsibilities are clearly assigned to IRS functions such as CI and the RAIVS units.
 - D. Assessed the current controls and procedures for ensuring that sufficient data are accurately transcribed into the RAIVS Access database.
 - E. Interviewed RAIVS unit management officials to determine why the law enforcement officers' information was missing from 27 percent of the Calendar Year 2013 records in the RAIVS Access database.
 - F. Interviewed RAIVS unit management to determine why key information needed to assess processing timeliness is not included in the RAIVS Access database. For example, we determined why the database does not contain the date the package was mailed to the law enforcement officer.
 - G. Interviewed CI, IRS Office of Chief Counsel, and Treasury Inspector General for Tax Administration Chief Counsel officials to determine spouse signature requirements for Form 8821-A and whether the original form or a scanned copy should be retained to enable the IRS to respond to any taxpayer allegations or lawsuits.
 - H. Evaluated Internal Revenue Manual procedures for record retention, Form 8821-A acceptance, and timeliness standards for case processing.
- II. Determined whether Form 8821-A requests are processed timely, accurately, and securely.



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- A. From the RAIVS Access database, selected a statistical sample of 194 Form 8821-A cases from the population of 2,481 requests processed by the RAIVS units in Cincinnati (56) and Austin (138) using a 95 percent confidence level, a ± 5 percent precision rate, and a 13 percent error rate for Calendar Year 2013. (The sample included cases that were processed and cases that were rejected. Some cases may have been erroneously rejected, *i.e.*, the assistor rejected the Form 8821-A request without fully researching for a tax return.) Our statistician was consulted and reviewed our sample selection and estimates.
- B. Using the sample selected in Step II.A., assessed the reliability of the RAIVS Access database by tracing those records to source documents. We determined the data were sufficiently reliable for the purposes of this report.
- C. From the sample selected in Step II.A., assessed whether the Forms 8821-A were timely and accurately processed by CI.
 1. Determined the volume of Forms 8821-A that were provided to the RAIVS units without a CI received date stamp.
 2. Determined if the IRS accepted the Forms 8821-A within 120 days¹ of the taxpayer's signature. If the signature date was more than 120 days from IRS receipt, we determined if the IRS properly and timely rejected the form with a clear explanation to the law enforcement officer.
 3. Assessed the time between the CI receipt date and the date of CI's e-mail to the RAIVS units to determine if CI is transmitting the forms timely. If forms were not transmitted timely, we determined the reason and effect.
 4. Determined if CI transmitted the forms to the RAIVS unit with empty fields and whether CI field agents provided their contact information or the law enforcement officer's contact information in the upper right hand corner of the form.
- D. From the sample selected in Step II.A., assessed whether Form 8821-A requests are timely and accurately processed by RAIVS units.
 1. Determined the length of time between CI's e-mail transmission of the Form 8821-A to the RAIVS unit and the date the RAIVS unit added the request to the database.
 2. Determined if cases were processed in accordance with the 10-business-day (e-filed tax return) and 30-business-day (paper-filed tax return) requirements and, if not, determined why.

¹ For analysis purposes, we used calendar days because the IRS guidance does not denote business or calendar days.



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3. Determined if tax return information is timely mailed to requesting law enforcement agencies by comparing the date the final quality review was completed to the date the information was mailed.
4. Determined if the IRS includes information on law enforcement officer responsibilities to safeguard the taxpayer data and restrictions on sharing the data.
5. Determined if the following information is verified and accurately released:
 - a. Taxpayer name.
 - b. Type of tax return.
 - c. Tax period.
 - d. Refund amount.
 - e. Legal consent given for all parties on the return, *e.g.*, jointly filed returns.
 - f. Appropriateness of rejected request.
 - g. For rejected requests, determined if the employee appropriately searched for tax returns.
 - h. If the request was rejected due to missing data on the Form 8821-A, determined whether CI followed its procedures to obtain missing data such as the case number, prosecutor name, and other information needed to process the request.
- E. Determined whether the cases were subjected to different levels of managerial review, from the lead assistant to the operations manager.
- F. Determined whether the tax return information was mailed to the law enforcement officer address on the Form 8821-A. (Unauthorized disclosure.)
- G. Determined whether the RAIVS unit mailed additional taxpayer data that were not requested or needed by the law enforcement officer. If the law enforcement officer requested the potential identity thief's tax return, we determined if the RAIVS unit sent the identity theft victim's tax return or other tax information. (Unauthorized disclosure)
- H. For requests in which the IRS mailed tax return information to a law enforcement officer, determined if the Form 8821-A was properly retained. This test was completed by requesting the original form from a CI field office or by requesting the scanned copy in the RAIVS database. This test was dependent on the retention requirement identified in Step I.G.



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- I. Interviewed CI officials to determine if RAIVS units have sent the wrong tax return information to a law enforcement agency. If necessary, we determined the penalties for unauthorized disclosures and whether the IRS notified the innocent taxpayer(s).

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: 1) the processing controls to ensure that the IRS has an effective outreach strategy for promoting awareness of the LEAP and 2) the controls that enable management to monitor and evaluate the timeliness, accuracy, and security regarding the processing of Forms 8821-A. We evaluated these controls by assessing the IRS's outreach efforts to promote LEAP awareness and assessing the timeliness, accuracy, and security with respect to the processing of Forms 8821-A.



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Appendix II

Major Contributors to This Report

Russell P. Martin, Acting Assistant Inspector General for Audit (Returns Processing and Account Services)
W. Allen Gray, Audit Director
Paula W. Johnson, Audit Manager
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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Operations Support OS
Deputy Commissioner for Services and Enforcement SE
Chief Technology Officer OS:CTO
Deputy Commissioner, Wage and Investment Division SE:W
Director, Privacy, Governmental Liaison, and Disclosure OS:P
Director, Customer Account Services, Wage and Investment Division SE:W:CAS
Director, Strategy and Finance, Wage and Investment Division SE:W:S
Senior Operations Advisor, Wage and Investment Division SE:W:S
Chief, Performance Evaluation and Improvement, Wage and Investment Division SE:W:S:PEI
Director, Accounts Management, Wage and Investment Division SE:W:CAS:AM
Director, Submission Processing, Wage and Investment Division SE:W:CAS:SP
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: Chief, Program Evaluation and Improvement, Wage and Investment Division
SE:W:S:PEI



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Appendix IV

Outcome Measure

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

Type and Value of Outcome Measure:

- Taxpayer Privacy and Security – Potential; 141 taxpayers affected (see page 6).

Methodology Used to Measure the Reported Benefit:

Our review of the 155 requests for which the IRS provided the law enforcement officer with tax return information identified 11 (7 percent)¹ requests that should not have been forwarded to the RAIVS units due to the risk of unauthorized disclosure. We estimate that 141 requests may have been improperly processed during the period January 3, 2013, through September 27, 2013. The tax return information for these taxpayers may have been disclosed to unauthorized individuals. We calculated the estimate by determining the number (2,481) of requests processed during the period and multiplying this number by the 5.67 percent error rate (11/194).²

¹ The point estimate error rate for the percent of requests provided by the IRS that should not have been forwarded to the RAIVS units is 7.10 percent (11/155). We are 95 percent confident the true population (although its size is unknown) exception rate is between 3.04 percent and 11.15 percent.

² The point estimate number of exception cases is 141 ((11/194)*2,481). We are 95 percent confident that the true population number of exception cases is between 63 and 218.



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Appendix VI

Management's Response to the Draft Report



COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

NOV 04 2014

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Debra Holland *Debra S. Holland*
Commissioner, Wage and Investment Division

SUBJECT: IRS Response to TIGTA Draft Audit Report – Law Enforcement
Assistance Program Requests Are Not Always Processed Timely
and Accurately (# 201340037)

Thank you for the opportunity to review and respond to the subject draft report. We appreciate your insight and are always seeking ways to improve upon our programs and practices. The Law Enforcement Assistance Program (LEAP) was created for the purpose of assisting State and local law enforcement officials investigating and prosecuting suspected criminal activity associated with Identity Theft (IDT). With the stolen personal information of IDT victims primarily being used to file fraudulent claims for federal tax refunds, communication with the IRS is often the first indication individuals receive that their personal information has been compromised. Naturally, law enforcement officials have an interest in obtaining the fraudulent tax return information as part of their evidence gathering activities. The LEAP permits law enforcement officials, with the consent of the affected taxpayers, to receive confidential tax information from the IRS that would otherwise be barred from release by Internal Revenue Code section 6103.

The LEAP was initiated in April 2012 as a pilot program in one state. It has since expanded to provide service to taxpayers and law enforcement agencies in all fifty states and the District of Columbia. The program supports a diverse group of law enforcement agencies, working in partnership with the IRS' Criminal Investigation (CI) Division and the Wage and Investment Division's Return and Income Verification System (RAIVS) unit. As the threat of identity theft and its impact on victims has continued to grow, we recognize the importance of ensuring the LEAP services requests by law enforcement officials are processed in a timely, accurate, and secure manner. We are also addressing report findings that some requests were not processed within established timeframes and accuracy guidelines by evaluating our quality review



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procedures, enhancing procedural guidance, and improving instructions to employees and managers that reinforce the importance of timely and accurate service delivery.

As noted in the report, the IRS has already taken several actions, including consolidating the separate request tracking report databases into one system, revising guidance on the processing of Form 8821-A, *IRS Disclosure Authorization for Victims of Identity Theft*, and creating Form 13783-ID, *RAIVS Requests for Tax Return Photocopy of Taxpayer Accounts Submitted by Law Enforcement Agencies*, to provide more detailed information to law enforcement officials when their requests for information are rejected. We have also initiated actions to specifically address the recommendations made in the report.

Attached are our comments on your recommendations. If you have any questions, please contact me, or a member of your staff may contact Ivy McChesney, Director, Customer Account Services, Wage and Investment Division, at (404) 338-8910.

Attachment



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Attachment

Recommendations

RECOMMENDATION 1

The Chief, CI, and the Commissioner, Wage and Investment Division, should develop processes and procedures to ensure that Forms 8821-A are timely processed. The procedures should include requiring CI employees to date stamp the requests when received.

CORRECTIVE ACTION

We agree with this recommendation. On March 12, 2014, guidance was sent to all Criminal Investigation (CI) Division Identity Theft (IDT) Coordinators to ensure all requests are date-stamped upon receipt. This guidance is also being incorporated into the CI standard operating procedures. On July 16, 2014, IRM 3.5.20.5.4, *Accounts Services - Processing Requests for Tax Return/Return Information*, was updated to advise the Return and Income Verification System (RAIVS) unit that the timeframe for completing requests for return information, paper or electronic, made on Form 8821-A, *IRS Disclosure Authorization for Victims of Identity Theft*, is 60 days from the stamped CI receipt date.

IMPLEMENTATION DATE

December 15, 2014 – Criminal Investigation Division update of Standard Operating Procedures
Implemented – RAIVS unit procedural guidance update

RESPONSIBLE OFFICIAL

Director, Refund Crimes, Criminal Investigation Division – Standard Operating Procedures update
Director, Submission Processing, Customer Account Services, Wage and Investment Division – RAIVS unit procedural update

CORRECTIVE ACTION MONITORING PLAN

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 2

The Commissioner, Wage and Investment Division, should review the LEAP database to ensure that information is accurate and complete and develop processes and procedures to ensure that the new request information recorded is accurate and complete.

CORRECTIVE ACTION

We will evaluate our existing quality review process and identify where improvements can be made to ensure requests for information are recorded accurately and that the data record is complete.



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IMPLEMENTATION DATE

June 15, 2015

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.

Recommendations

RECOMMENDATION 3

The Commissioner, Wage and Investment Division, should develop processes and procedures to ensure that requests are accurately worked. These processes should include ensuring thorough research is performed to locate the requested tax return information.

CORRECTIVE ACTION

We will review our current procedures and ensure available research tools are being used to perform thorough and accurate searches when responding to information requests. Any identified procedural changes will be documented in IRM 3.5.20 and employee training will be provided as needed.

IMPLEMENTATION DATE

June 15, 2015

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 4

The Commissioner, Wage and Investment Division, should ensure that prescreening procedures in the RAIVS units are effective in rejecting requests that have missing, incomplete, or altered information, and those that have an Individual Taxpayer Identification Number rather than a Social Security Number.



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CORRECTIVE ACTION

On October 3, 2014, Servicewide Electronic Research Program Alert 14A0409, *Pre-Screening of Form 8821-A*, was issued to remind managers and employees of the importance of following the procedures for prescreening Form 8821-A.

IMPLEMENTATION DATE

Implemented

RESPONSIBLE OFFICIAL

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

CORRECTIVE ACTION MONITORING PLAN

N/A

RECOMMENDATION 5

The Chief, CI, should ensure that special agents review Forms 8821-A for complete information before submitting them to the RAIVS units.

CORRECTIVE ACTION

We agree with this recommendation and on August 18, 2014, guidance was given to all IDT Coordinators to ensure Forms 8821-A are complete before sending them to the RAIVS unit. The CI Standard Operating Procedures will be updated to ensure special agents review Forms 8821-A for complete information before submitting them to the RAIVS units.

IMPLEMENTATION DATE

December 15, 2014

RESPONSIBLE OFFICIAL

Director, Refund Crimes, Criminal Investigation Division

CORRECTIVE ACTION MONITORING PLAN

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

Recommendation

RECOMMENDATION 6

The Chief, CI, should develop a LEAP outreach strategy that details specific actions to be taken to promote and expand participation in the program.



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CORRECTIVE ACTION

We agree with this recommendation, and in an effort to increase State and local law enforcement awareness, we will develop an outreach action plan for ID Theft Coordinators to help promote and expand the LEAP program.

IMPLEMENTATION DATE

March 15, 2015

RESPONSIBLE OFFICIAL

Director, Refund Crimes, Criminal Investigation Division

CORRECTIVE ACTION MONITORING PLAN

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