

The IRS and Identity Theft - New Executive Order Could Help Victims

February 24, 2017 - Over the years we have repeatedly covered tax identity theft and the IRS' failure to stop it. Although organized crime rings have made the IRS a target for this type of ID theft for years now, they aren't the only group of people actively engaged in the practice. Illegal Aliens who obtain employment or file tax returns using stolen documentation are another primary group involved in tax ID theft. The IRS knows this but has simply refused to do anything about it; often citing rules imposed by the Privacy Act of 1974. But a new executive order signed on January 25th may bring relief to some victims.

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This isn't a victimless crime. As an ID theft victim myself, I know of what I speak. In my case, it took my wife and I more than three years to clean up the mess and fortunately for us, the IRS wasn't involved. Tax ID the Victims often find that their information has been for other purposes as well as with the IRS, and they may suddenly have issues with one of the most feared agencies in the world.

When someone illegally uses your name and social security number to obtain employment, your problems are just beginning. Once they gain employment, their employer reports all income to the IRS. At the end of the year, when you file your taxes without showing the income that someone else earned in your name, the IRS is likely to tell you that you underreported your income. By default, that means that you underpaid your taxes. That just the first issue. If you were expecting a tax refund, you can be assured that it will be delayed at this point and if you are really unlucky, you may never see it.

The next step is that you could face tax penalties and interest on the underreported amount. And when you contact the agency to dispute their findings, you'll quickly discover that it is up to you to prove that you didn't receive the disputed income. This is when you are likely to run into Privacy Act issues. If you ask for the contact information of the employer, you're unlikely to get it. And if the person using your SSN has filed a separate tax return for the disputed income, they have been unwilling to turn the filer's contact information over. In both cases, they will cite Privacy Act restrictions.

The new executive order, which is titled "Enhancing Public Safety in the Interior of the United States", may change that. Although the order deals primarily with illegal immigration, Section 14 of the order deals specifically with the Privacy Act. It reads, "Privacy Act. Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information."

How the IRS will implement the order is unknown at this time. IRS Commissioner John Koskinen has openly stated that the agency's primary goal with dealing with the issue of illegal immigrants filing tax returns is to ensure that the government collects as much money as possible. Protecting American tax payers from identity theft doesn't appear to be on his radar.

Although Koskinen is widely unpopular with the new administration and members of congress have proposed his impeachment for other unrelated issues, he remains the top dog at the IRS. As long as he is there, it will be a challenge to implement the order in a way that is beneficial to ID theft victims. But there are some very loud cries to the new administration to replace him. If and when that happens, there is hope for tax ID theft victims that they will finally be able to track down the people who are illegally using their most personal financial information.

by Jim Malmberg

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