

STOLEN IDENTITY REFUND FRAUD PREVENTION ACT OF
2016

MAY 13, 2016.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 3832]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3832) to amend the Internal Revenue Code of 1986 to prevent tax-related identity theft and tax fraud, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stolen Identity Refund Fraud Prevention Act of 2016”.

SEC. 2. CENTRALIZED POINT OF CONTACT FOR IDENTITY THEFT VICTIMS.

The Secretary of the Treasury, or the Secretary’s delegate, shall establish and maintain an office at the Internal Revenue Service and procedures to ensure that any taxpayer whose return has been delayed or otherwise adversely affected due to the theft of the taxpayer’s identity has a centralized point of contact throughout the processing of his or her case. The office shall coordinate with other offices within the Internal Revenue Service to resolve the taxpayer’s case as quickly as possible.

SEC. 3. TAXPAYER NOTIFICATION OF SUSPECTED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY THEFT.

“If the Secretary determines that there was an unauthorized use of the identity of any taxpayer, the Secretary shall—

“(1) as soon as practicable and without jeopardizing an investigation relating to tax administration, notify the taxpayer and include with that notice—

“(A) instructions to the taxpayer about filing a police report, and

“(B) the forms the taxpayer must submit to allow investigating law enforcement officials to access the taxpayer’s personal information, and

“(2) if any person is criminally charged by indictment or information relating to such unauthorized use, notify such taxpayer as soon as practicable of such charge.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

“Sec. 7529. Notification of suspected identity theft.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations made after the date of the enactment of this Act.

SEC. 4. REPORT ON ELECTRONIC FILING OPT OUT.

The Secretary of the Treasury (or the Secretary’s delegate) shall submit a feasibility study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing a program under which a person who has filed an identity theft affidavit with the Secretary may elect to prevent the processing of any Federal tax return submitted in an electronic format by that taxpayer or a person purporting to be that taxpayer. The study shall be submitted within 180 days after the date of the enactment of this Act and should also include a recommendation on whether to implement such a program.

SEC. 5. CRIMINAL PENALTY FOR USING A FALSE IDENTITY IN CONNECTION WITH TAX FRAUD.

(a) **AGGRAVATED IDENTITY THEFT.**—Section 1028A(c) of title 18, United States Code, is amended by striking “or” at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting “; or”, and by adding at the end the following new paragraph:

“(12) section 7206(b) of the Internal Revenue Code of 1986 (relating to use of false identity in connection with tax fraud).”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. 6. USE OF INFORMATION IN DO NOT PAY INITIATIVE IN PREVENTION OF IDENTITY THEFT REFUND FRAUD.

The Secretary of the Treasury, and the Secretary’s delegate, shall use the information available under the Do Not Pay Initiative established under section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (31 U.S.C. 3321 note) to help prevent identity theft refund fraud.

SEC. 7. REPORT ON IDENTITY THEFT REFUND FRAUD.

(a) **IN GENERAL.**—Not later than September 30, 2018, and biannually thereafter through September 30, 2023, the Secretary of the Treasury (or the Secretary’s delegate) shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the extent and nature of fraud involving the use of a misappropriated taxpayer identity with respect to claims for refund under the Internal Revenue Code of 1986 during the preceding completed income tax filing season, and the detection, prevention, and enforcement activities undertaken by the Internal Revenue Service with respect to such fraud, including—

(1) detailing efforts to combat identity theft fraud, including an update on the victims’ assistance unit;

(2) information on both the average and maximum amounts of time that elapsed before the cases of victims of such fraud were resolved; and

(3) discussing Internal Revenue Service efforts associated with other avenues for addressing identity theft refund fraud.

(b) **ADDITIONAL REQUIREMENTS.**—In addition, each report shall provide an update on the implementation of this Act and identify the need for any further legislation to protect taxpayer identities.

(c) **PROGRESS ON OUTREACH AND EDUCATION.**—In the first biannual report on identity theft refund fraud under subsection (a), the Secretary (or the Secretary’s delegate) shall include—

(1) an assessment of the agency’s progress on identity theft outreach and education to the private sector, State agencies, and external organizations; and

(2) the results of a feasibility study on the costs and benefits to enhancing its taxpayer authentication approach to the electronic tax return filing process.

SEC. 8. INFORMATION SHARING AND ANALYSIS CENTER.

(a) **IN GENERAL.**—The Secretary (or the Secretary’s delegate) shall establish an information sharing and analysis center to centralize, standardize, and enhance data compilation and analysis to facilitate sharing actionable data and information with respect to identity theft.

(b) **REPORT.**—Not later than 1 year after establishment of the information sharing and analysis center, the Secretary (or the Secretary’s delegate) shall submit a report to the Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate on the information sharing and analysis center described in subsection (a). The report shall include the data that was shared, the use of such data, and the results of the data sharing and analysis center in combating identity theft.

SEC. 9. LOCAL LAW ENFORCEMENT LIAISON.

(a) **ESTABLISHMENT.**—The Commissioner of Internal Revenue shall establish within the Criminal Investigation Division of the Internal Revenue Service the position of Local Law Enforcement Liaison.

(b) **DUTIES.**—The Local Law Enforcement Liaison shall serve as the primary source of contact for State and local law enforcement authorities with respect to tax-related identity theft, having duties that shall include—

(1) receiving information from State and local law enforcement authorities;

(2) responding to inquiries from State and local law enforcement authorities;

(3) administering authorized information-sharing initiatives with State or local law enforcement authorities and reviewing the performance of such initiatives;

(4) ensuring any information provided through authorized information-sharing initiatives with State or local law enforcement authorities is used only for

the prosecution of identity theft-related crimes and not re-disclosed to third parties; and

(5) such other duties relating to tax-related identity theft prevention as are delegated by the Commissioner of Internal Revenue.

SEC. 10. IRS PHONE SCAM REPORT.

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Inspector General for Tax Administration, in consultation with the Federal Communications Commission and the Federal Trade Commission, shall submit a report to Congress regarding identity theft phone scams under which individuals attempt to obtain personal information over the phone from taxpayers by falsely claiming to be calling from or on behalf the Internal Revenue Service.

(b) **CONTENTS OF REPORT.**—Such report shall include—

- (1) a description of the nature and form of such scams;
- (2) an estimate of the number of taxpayers contacted pursuant to, and the number of taxpayers who have been victims of, such scams;
- (3) an estimate of the amount of wrongful payments obtained from such scams; and
- (4) details of potential solutions to combat and prevent such scams, including best practices from the private sector and technological solutions.

SEC. 11. PROVIDING IDENTITY THEFT PREVENTION INFORMATION WHILE ON HOLD WITH INTERNAL REVENUE SERVICE.

The Secretary of the Treasury, or the Secretary's delegate, shall ensure that if a taxpayer is on hold with the Internal Revenue Service on a taxpayer service telephone call the following information is provided:

- (1) Basic information about common identity theft tax scams.
- (2) Directions on where to report such activity.
- (3) Tips on how to protect against identity theft tax scams.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 3832, reported by the Committee on Ways and Means, contains numerous provisions aimed at helping the Internal Revenue Service (“IRS”) prevent and detect identity theft tax fraud. It establishes a centralized point of contact at the IRS for victims of identity theft; requires the IRS to notify a taxpayer if the IRS determines that there was unauthorized use of the taxpayer’s identity; requires the IRS to submit a study on the feasibility of establishing a program for victims of identity theft tax fraud to opt out of electronic filing; requires the Treasury Department and the IRS to use information from the Do Not Pay Initiative to help prevent identity theft; establishes an Information Sharing and Analysis Center (ISAC) to collect, analyze, and share actionable data and information to detect and prevent identity theft; requires the IRS to issue biannual reports from 2018 through 2023 on the extent and nature of identity theft tax fraud; requires the IRS to establish a local law enforcement liaison within the IRS Criminal Investigative Division to administer information-sharing initiatives and respond to local law enforcement inquiries relating to identity theft; requires the Treasury Inspector General for Tax Administration (“TIGTA”) to report on solutions to IRS-impersonation phone scams; and requires the IRS to provide information over the phone on such scams if taxpayers are on hold with the IRS call center.

B. BACKGROUND AND NEED FOR LEGISLATION

Tax fraud related to identity theft is a serious and rapidly evolving problem. Stolen taxpayer identifying information is used to file fraudulent returns with the IRS (and state tax authorities as well) in order to obtain tax refunds. Identity theft tax fraud is an attrac-

tive crime because it is viewed as having a high payoff with little risk of the perpetrator being caught.

In 2012, TIGTA reported that billions of dollars in identity theft tax fraud were going undetected and being paid out by the IRS, and estimated that the IRS could pay out \$21 billion in fraudulent refunds over five years.¹ The IRS estimated that it paid out \$3.1 billion in fraudulent refunds in filing season 2014, a decrease from the IRS' estimate for filing season 2013 of \$5.8 billion. While the IRS believes that it prevented \$22.5 billion of potentially fraudulent refunds before they were paid out, the Government Accountability Office ("GAO") noted that the IRS' estimates do not take into account the full extent of identity theft tax fraud because the IRS does not know how much fraud is not yet discovered or detected.²

In addition to costing the government billions of dollars each year, identity theft tax fraud significantly harms individual victims, who typically spend months or years resolving their cases with the IRS. In March 2015, TIGTA estimated that it took the IRS an average of 278 days to resolve a case of identity theft, and about 17 percent of these cases were not resolved correctly.³ TIGTA also reported that the IRS was misrepresenting the amount of time it took to resolve cases, and was informing taxpayers it would take only 180 days.⁴

IRS information technology systems used to detect potential identity theft tax fraud rely on filters that compare return data to previous years' information. Unfortunately, these traditional filters do not allow the IRS to detect cases where the identity thief has all of the taxpayer's correct information. In the past, identity thieves have typically stolen names and Social Security numbers to create a fake return. Increasingly, however, identity thieves have obtained accurate taxpayer information through cybersecurity breaches. In those cases, the fraudulent returns may appear to be identical to the return filed by the legitimate taxpayer. However, it may be possible to flag such returns by using other detection methods, such as comparing the Internet Protocol ("IP") address to the address used on the return, identifying multiple refunds being deposited into the same bank account, or using data from tax preparation companies to find returns that were completed faster than a human preparer could.⁵

The IRS also has faced difficulty in protecting taxpayers who are known victims of identity theft. In the past few years, the IRS has issued Identity Protection Personal Identification Numbers ("IP PINs") to victims, and would reject returns filed with the victim's information if the IP PIN was not included on the return. However, the IRS has had difficulty ensuring that the people requesting IP PINs are actually the victims and not the identity thief. Additionally, the IRS suspended its online tool to retrieve an IP PIN after

¹ TIGTA, "Billions of Dollars in Identity-Theft-Related Tax Refund Fraud Go Undetected," August 2, 2012.

² GAO, "IRS Needs to Further Improve Controls over Taxpayer Data and Continue to Combat Identity Theft Refund Fraud," April 12, 2016.

³ TIGTA, "Victims of Identity Theft Continue to Experience Delays and Errors in Receiving Refunds," March 20, 2015.

⁴ *Id.*

⁵ W&M Committee Staff discussions with IRS.

it discovered that at least 800 returns were filed by fraudsters who had obtained stolen IP PINs.⁶

By requiring the IRS to pursue additional protections and relief for taxpayers, H.R. 3832 will help the IRS combat identity theft more effectively and help victims of identity theft resolve their cases and restore their tax identities more quickly.

C. LEGISLATIVE HISTORY

Background

H.R. 3832, the Stolen Identity Refund Fraud Prevention Act of 2016, was introduced on October 26, 2015, and was referred to the Committee on Ways and Means.

Committee Action

The Committee on Ways and Means marked up H.R. 3832, the Stolen Identity Refund Fraud Prevention Act of 2016, on April 28, 2016, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee Hearings

The need for improving the IRS' ability to combat identity theft and help taxpayers resolve their identity-theft cases was discussed at the Oversight Subcommittee hearing on the 2015 Tax Filing Season (April 22, 2015), and the Oversight Subcommittee hearing on the 2016 Tax Filing Season (April 19, 2016).

II. EXPLANATION OF THE BILL

A. CENTRALIZED POINT OF CONTACT FOR IDENTITY THEFT VICTIMS (SEC. 2 OF THE BILL)

Present Law

Disparate elements in the tax laws and administration are implicated in identity theft. Tax-related identity theft can generally occur in one of two ways. In refund fraud, a perpetrator may obtain a taxpayer's identifying information, submit an individual income tax return using a falsified Form W-2, Wage and Tax Statement, and fraudulently claim a refund. In other cases, the stolen identifying information is used in order to obtain employment; the returns then filed by the persons employed using the stolen identity may be based on the actual wages and withholding. Victims of the fraud include the individuals whose identifying information was stolen as well as the businesses whose systems may have been breached to obtain that personal information.

The IRS describes its procedures for addressing both types of fraud in the Internal Revenue Manual. The IRS initially established the Identity Protection Specialized Unit ("IPSU") to assist victims of identity theft, but taxpayers were also referred to other operating units of the IRS to deal with various aspects of their case.⁷ Subsequently reorganized and renamed the Identity Theft Victim Assistance ("IDTVA") organization, it is staffed with spe-

⁶ IRS, "IRS Statement on IP PIN," March 7, 2016.

⁷ TIGTA, Ref. No. 2012-40-050, *Most Taxpayers Whose Identities Have Been Stolen to Commit Refund Fraud Do Not Receive Quality Customer Service* (May 2012).

cially trained employees who are able to assess each case, identify issues, and assist the taxpayer in getting the correct return filed, refunds issued, etc.⁸ The IDTVA organization's work is coordinated by the IRS' Identity Protection Program through the auspices of an oversight office within the Wage and Investment Operating Division.⁹

If a victim thinks he or she is not being properly served by the IRS or the IDTVA organization, the taxpayer may be eligible for assistance from the Taxpayer Advocate Service ("TAS") as in the case of economic hardship caused by the theft. In such instances, the TAS will assign a case advocate to the taxpayer's account.

Reasons for Change

The Committee is concerned that taxpayers who are victimized by identity thieves experience delays in obtaining their tax refunds, and find it difficult to work with multiple offices within the IRS. Requiring a centralized point of contact at the IRS to provide the necessary level of personal assistance to these victims is a common sense measure that will simplify the resolution of cases for taxpayers. According to testimony provided by GAO recently, the IRS has improved its customer service to victims of identity theft, despite declines in customer service elsewhere.¹⁰ Although the IRS has shown flexibility in adapting new procedures for handling of identity theft cases, the Committee believes providing a centralized point of contact for a victim should not be left to the discretion of the IRS.

Explanation of Provision

The provision requires the Secretary of the Treasury (or the Secretary's delegate) ("Secretary") to establish procedures to implement a centralized point of contact for taxpayers adversely affected by identity theft of any type. The centralized point of contact may be a team or subset of specially trained employees who can work across functions to resolve problems for the victim and who is accountable for handling the case to completion. The makeup of the team may change as required to meet IRS needs, but the procedures must ensure continuity of records and case history and may require notice to the taxpayer in appropriate instances.

Effective Date

The provision is effective on the date of enactment.

B. TAXPAYER NOTIFICATION OF SUSPECTED IDENTITY THEFT (SEC. 3 OF THE BILL AND NEW SEC. 7529 OF THE CODE)

Present Law

Section 6103 provides that returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to

⁸A description of the services provided by the IDTVA organization is available at <https://www.irs.gov/uac/Newsroom/IRS-Identity-Theft-Victim-Assistance-How-It-Works>

⁹Internal Revenue Service, *Identity Protection and Victim Assistance*, Internal Revenue Manual Chapter 23, paragraph 25.23.1 et seq. (September 2, 2015).

¹⁰Government Accountability Office, Tax Filing: *IRS Needs a Comprehensive Customer Service Strategy and Needs to Better Combat Identity Theft Refund Fraud and Protect Taxpayer Data* (GAO-16-578T), April 19, 2016, available at <http://www.gao.gov/products/GAO-0916-09578T>.

the information except as provided in the Code.¹¹ The definition of “return information” is very broad and includes any information gathered by the IRS with respect to a person’s liability or possible liability under the Code for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.¹² Thus, information gathered by the IRS in connection with an investigation of a person for a Title 26 offense, such as fraud, is the return information of the person being investigated and is subject to the confidentiality restrictions of section 6103.

As an exception to section 6103’s general rule of confidentiality, the Code permits a taxpayer to receive his or her own tax return, and also can receive his or her return information if the Secretary determines that such disclosure would not seriously impair Federal tax administration.¹³ With respect to fraudulent tax returns, if the victim’s name and Social Security number are listed as either the primary or secondary taxpayer on a fraudulent return, a victim of identity theft, or a person authorized to obtain the identity theft victim’s tax information, may request a redacted copy (one with some information blacked-out) of a fraudulent return that was filed and accepted by the IRS using the identity theft victim’s name and Social Security number.¹⁴

In cases not involving violations of Title 26, under a Privacy Act Notice, the Treasury Inspector General for Tax Administration is allowed to disclose information to complainants, victims, or their representatives (defined to be a complainant’s or victim’s legal counsel or a Senator or Representative whose assistance the complainant or victim has solicited) concerning the status and/or results of an investigation or case arising from the matters of which they complained and/or of which they were a victim, including, once the investigative subject has exhausted all reasonable appeals, any action taken. Information concerning the status of the investigation or case is limited strictly to whether the investigation or case is open or closed. Information concerning the results of the investigation or case is limited strictly to whether the allegations

¹¹Except where otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended (herein “Code”). Sec. 6103(a).

¹²Sec. 6103(b)(2). Return information is:

- a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,
- any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) that is not open to public inspection under section 6110,
- any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and
- any closing agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement. Return information does not include data in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

¹³Sec. 6103(e)(1) and (7). The Code also permits the disclosure of returns and return information to such persons or persons the taxpayer may designate, if the request meets the requirements of the Treasury regulations and if it is determined that such disclosure would not seriously impair Federal tax administration. Sec. 6103(c).

¹⁴See Internal Revenue Service, Instructions for Requesting Copy of Fraudulent Returns (March 28, 2016). <https://www.irs.gov/Individuals/Instructions-for-Requesting-Copy-of-Fraudulent-Returns>.

made in the complaint were substantiated or were not substantiated and, if the subject has exhausted all reasonable appeals, any action was taken.¹⁵

Reasons for Change

The Committee is aware that victims of identity theft are often unaware that their identity has been stolen or compromised. As a result, they are unable to take timely measures to limit damage from the theft and to secure their identity against further compromise. The Committee is also aware that successful prosecution of identity thieves requires that the investigators exercise discretion in disclosing information to victims about an ongoing investigation. However, the Committee believes that victims must be provided an opportunity to safeguard their financial information and assets as soon as practicable.

Explanation of Provision

The provision requires the Secretary to notify a person whose identity was used without authorization that such use occurred, as soon as practicable after determining such use occurred and without jeopardizing an investigation relating to tax administration.

The provision also requires the Secretary to notify the person whose identity was used without authorization of any criminal charges that are brought against any person with respect to the unauthorized use, as soon as practicable.

Effective Date

The provision applies to determinations made after the date of enactment.

C. ELECTRONIC FILING OPT-OUT FEASIBILITY STUDY (SEC. 4 OF THE BILL)

Present Law

The Internal Revenue Service Restructuring and Reform Act of 1998 (“IRS Restructuring Act”)¹⁶ established a Congressional policy to promote the paperless filing of Federal tax returns and set a goal for the IRS to have at least 80 percent of all Federal tax and information returns filed electronically by 2007.¹⁷ Section 2001(b) of the IRS Restructuring Act requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing.

Present law requires the Secretary to issue regulations regarding electronic filing and specifies certain limitations on the rules that may be included in such regulations.¹⁸ The statute requires that Federal income tax returns prepared by specified tax return pre-

¹⁵ See 75 Fed. Reg. 20715 (April 20, 2010) (relating to TIGTA Office of Investigation files).

¹⁶ Sec. 2001(a), Pub. L. No. 105–206.

¹⁷ The Electronic Tax Administration Advisory Committee, the body charged with oversight of IRS progress in reaching that goal, reported that e-filing by most categories of taxpayers exceeded 80 percent in the 2014 filing season, but projected an overall rate of 77.5 percent based on all Federal returns. See Electronic Tax Administration Advisory Committee, *Annual Report to Congress*, June 2015 IRS Pub. 3415, page 9, available at <https://www.irs.gov/pub/irs-pdf/p3415.pdf>.

¹⁸ Sec. 6011(e).

parers be filed electronically,¹⁹ and that all partnerships with more than 100 partners be required to file electronically. For taxpayers other than partnerships, the statute prohibits any requirement that persons who file fewer than 250 returns during a calendar year file electronically. With respect to individuals, estates, and trusts, the Secretary may permit, but generally cannot require, electronic filing of income tax returns. In crafting any of these required regulations, the Secretary must take into account the ability of taxpayers to comply at a reasonable cost.

Individuals who either report to the IRS that they are victims of identity theft or who the IRS determines independently are victims of identity theft are eligible to receive a special, six-digit identity protection personal identification number (“IP PIN”) to use in lieu of their Social Security number as a taxpayer identifying number on returns the next filing season. If the taxpayer files electronically, an additional e-file PIN is also required.

Reasons for Change

The Committee is aware that numerous taxpayers who have experienced identity theft that was accomplished by electronically filing a false return may wish to elect to preclude any future electronic filing of a return on their behalf. It is not known how widely shared that sentiment is, nor is it clear whether such an election could be honored. The Committee requires more information about the feasibility of such an election and its effectiveness in preventing further violations.

Explanation of Provision

The provision requires that the Secretary submit a feasibility study of a program under which a taxpayer who is a victim of identity theft may elect to prevent future electronic submission of a return by or on behalf of that taxpayer.

Effective Date

The provision is effective on the date of enactment.

D. CRIMINAL PENALTY FOR USING A FALSE IDENTITY IN CONNECTION WITH TAX FRAUD (SEC. 5 OF THE BILL)

Present Law

The Code does not contain civil or criminal penalties specifically targeted at identity theft. Instead, most claims for tax refund-related identity theft are prosecuted as false claims under section 287 of title 18, and are classified as felonies, generally punishable by a penalty of up to \$250,000 and imprisonment for up to five years. In addition, section 1028A of title 18 provides for the statutory crime of “aggravated identity theft” in cases where the identity of another individual is used to commit enumerated crimes and generally adds an additional two-year prison term (herein the “Aggravated Identity Theft Statute”). However, that section does not include any tax offenses under the Code.

The Code includes two provisions, sections 7206 and 7207, which cover fraud and false statements and fraudulent returns. Sections

¹⁹Section 6011(e)(3)(B) defines a “specified tax return preparer” as any return preparer who reasonably expects to file more than 10 individual income tax returns during a calendar year.

7206(1) and (2) cover situations that could potentially involve identity theft. Those provisions make it a felony, punishable by a penalty of up to \$100,000 (\$500,000 for a corporation), imprisonment for up to three years, or both, plus prosecution costs, for a person who: (i) makes a false declaration under penalties of perjury; and (ii) aids or assists in the preparation or presentation of any return or other document that is false as to a material matter. Section 7207 treats as a misdemeanor the willful delivery or disclosure to any officer or employee of the IRS of fraudulent or false lists, returns, accounts, statements, or other documents, punishable by a penalty of up to \$10,000 (\$50,000 for corporations), imprisonment for up to a year, or both.

Reasons for Change

The Committee believes that the current penalties for criminal tax violations do not appropriately take into account as an aggravating factor the use of misappropriated identity.

Explanation of Provision

The provision adds an unspecified felony under section 7206 to the list of predicate offenses contained in the Aggravated Identity Theft Statute.²⁰

Effective Date

The provision applies to offenses committed after the date of enactment.

E. IMPROVEMENT IN ACCESS TO INFORMATION UNDER THE DO NOT PAY INITIATIVE (SEC. 6 OF THE BILL)

Present Law

Payments made by executive agencies including the Department of the Treasury and the IRS are subject to the requirements of the Do Not Pay (“DNP”) Initiative.²¹ The DNP Initiative requires that agencies review pre-payment procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs to prevent improper payments before the release of any Federal funds. Before issuing any payment, each agency is required to review as appropriate the following databases to verify eligibility of the payment: (i) the Death Master File of the Social Security Administration; (ii) the General Services Administration’s Excluded Parties List System; (iii) the Debt Check Database of the Department of the Treasury; (iv) the Credit Alert System or Credit Alert Interactive Voice Response System of the Department of Housing and Urban Development; and (v) the List of Excluded Individuals/Entities of the Office of Inspector General of the Department of Health and Human Services. The Office of Management and Budget may, after providing notice as specified, designate addi-

²⁰ An amendment by Mr. Lewis removed the criminal penalty for using a false identity in connection with tax fraud that would have been added to the Internal Revenue Code under section 5(a) of the amendment in the nature of a substitute. Corresponding changes to the provisions relating to Title 18 in section 5(b) of the amendment in the nature of a substitute were beyond the scope of the Committee’s jurisdiction.

²¹ Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112–248, sec. 5 (January 10, 2013).

tional databases for inclusion in consultation with the appropriate agencies.

Reasons for Change

The Committee wishes to clarify that the Secretary and the Secretary's delegate are subject to the requirements of the DNP Initiative to help prevent, reduce and stop improper payments from being made especially in the context of identity theft refund fraud. The Committee believes that the review of the multiple data sources before payment under the DNP Initiative will help prevent identity theft refund fraud and ensure that taxpayers receive payments to which they are entitled, in a timely manner.

Explanation of Provision

The provision requires that the Secretary and the Secretary's delegate, in order to help prevent identity theft, make use of databases enumerated in the Do Not Pay initiative, established by the Secretary under section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012.

Effective Date

The provision is effective on the date of enactment.

F. REQUIRE THE IRS TO PREPARE A REPORT ON IDENTITY THEFT
REFUND FRAUD (SEC. 7 OF THE BILL)

Present Law

The IRS is not currently required to prepare reports to Congress on identity theft refund fraud.

Reasons for Change

The Committee recognizes that tax-related identity theft is an evolving criminal activity that targets innocent taxpayers nationwide and robs the Treasury of billions of dollars each year. The Committee believes the report on identity theft refund fraud will help provide useful information on the scope of the problem and practical solutions necessary to reduce this growing threat.

Explanation of Provision

The provision requires the IRS to report to the House Committee on Ways and Means and the Senate Committee on Finance no later than September 30, 2018, on the extent and nature of fraud involving the use of a misappropriated taxpayer identity with respect to claims for refund under the Code during the preceding completed income tax filing season. Similar reports are required biannually thereafter until September 30, 2023.

The reports must detail IRS efforts to combat identity theft fraud, including an update on the victims' assistance unit; providing information on both the average and maximum amounts of time that elapsed before the cases of victims of such fraud were resolved; and discussing IRS efforts associated with other avenues for addressing identity theft refund fraud (e.g., the hash-based message authentication code).

The provision also requires that the reports provide updates on the implementation of the bill and identify the needs for any fur-

ther legislation to protect taxpayer identities. In addition the provision includes a requirement that the first report provide (1) an assessment of the agency's progress on identity theft outreach and education to the private sector, State agencies, and external organizations; and (2) the results of a feasibility study on the costs and benefits to enhancing its taxpayer authentication approach to the electronic tax return filing process.

Effective Date

The provision is effective upon the date of enactment.

G. REQUIRE THE IRS TO ESTABLISH AN INFORMATION-SHARING AND ANALYSIS CENTER (SEC. 8 OF THE BILL)

Present Law

In June 2015, the IRS joined with representatives of tax preparation and software firms, payroll and tax financial product processors, and State tax administrators to announce that they would look at establishing a formalized Refund Fraud Information Sharing and Assessment Center ("ISAC") to share information more aggressively and efficiently between the public and private sector to help stop the proliferation of fraud schemes and reduce the risk to taxpayers.²² For example, ISAC would provide better data to law enforcement to improve the investigations and prosecution of identity thieves. The IRS does not currently have a center within which the private and public sectors, including State government and subsidiaries thereof can share data and information analysis to protect against identity theft.

Reasons for Change

The Committee believes it is desirable to establish a system under which both governmental and private organizations can share and analyze data to detect patterns and warn against potential risks. The Committee is aware that such information-sharing centers have been successful in the fields of financial services and aviation, and believes formation of such a center in the field of tax administration will provide significant gains in detection and prevention of identity theft.

Explanation of Provision

The provision requires that the Secretary establish an information sharing and analysis center to facilitate sharing data and information with respect to identity theft, and submit a report on the data shared and results achieved by the ISAC no later than one year after the ISAC is established.

Effective Date

The provision is effective upon the date of enactment.

²² IR-2015-87, June 11, 2015, available at <http://www.irs.gov/uac/Newsroom/IRS-and-Industry-and-States-Take-New-Steps-Together-to-Fight-Identity-Theft-and-Protect-Taxpayers>.

H. LOCAL LAW ENFORCEMENT LIAISON (SEC. 9 OF THE BILL)

Present Law

The IRS Criminal Investigation Division (“CID”) is authorized to investigate potential criminal violations of the Code. The CID is involved in more than 70 multi-regional task forces or working groups including State/local and Federal law enforcement agencies solely focusing on identity theft.²³ A specialized unit within the CID called the Identity Theft Clearinghouse (“ITC”) develops and refers identity theft schemes to CID field offices for investigation. In addition, the ITC provides coordination and administrative and investigative support to ongoing criminal investigations involving identity theft.

The CID works with State and local law enforcement officials through a program called the Law Enforcement Assistance Program (“LEAP”), which provides for the disclosure of tax return information associated with the accounts of known and suspected victims of identity theft with the consent of those victims.

Reasons for Change

The Committee believes it will be useful to create a local law enforcement liaison within the IRS to coordinate identity theft cases with local police and law enforcement agents. This position will provide State and local law enforcement authorities a primary source of contact at the IRS when they need to share information about a case, and thereby more efficiently help protect taxpayers from identity theft fraud.

Explanation of Provision

The provision creates a local law enforcement liaison within the CID of the IRS to (i) receive information from State and local law enforcement authorities; (ii) respond to inquiries from State and local law enforcement authorities; (iii) administer information-sharing initiatives with State or local law enforcement authorities and review the performance of such initiatives; (iv) ensure any information provided through these information-sharing initiatives is used only for the prosecution of identity theft-related crimes and not re-disclosed to third parties; and (v) carry out such other duties relating to tax-related identity theft prevention as are delegated by the Commissioner.

Effective Date

The provision is effective on the date of enactment.

I. IRS PHONE SCAM REPORT (SEC. 10 OF THE BILL)

Present Law

The IRS Restructuring Act²⁴ established the Treasury Inspector General for Tax Administration (“TIGTA”) to provide independent oversight over of the IRS.²⁵ Its duties include conducting investiga-

²³ IRS, States and Tax Industry Combat Identity Theft and Refund Fraud on Many Fronts, FS-2016-1, January 2016, available at <https://www.irs.gov/uac/Newsroom/IRS,-States-and-Tax-Industry-Combat-Identity-Theft-and-Refund-Fraud-on-Many-Fronts>.

²⁴ Sec. 1103, Pub. L. No. 105-206.

²⁵ Sections 2 and 8D, Inspectors General Act of 1978 (Pub. Law 95-452), as amended; 5 U.S.C. App. Secs. 1 and 8D.

tions of problems affecting programs at the IRS, including potential criminal violations, and reporting to Congress, with recommendations about potential solutions to the problems. In its reports to Congress, TIGTA includes its assessment of external factors that pose a risk to the integrity of tax administration, such as the large volume of telephone scams in recent years in which individuals call potential victims and impersonate IRS agents or employees in an attempt to persuade the victim to pay taxes or fines supposedly due. Although TIGTA has reported on efforts to prevent such scams, the subject is not specifically included in the lists of various annual and semiannual reports that TIGTA must submit to Congress.²⁶

Reasons for Change

The Committee has observed the steep growth in the number of telephone scams involving impersonation of IRS agents or other Federal officials in recent years. The large volume of complaints about such telephone calls, the amount of money lost by the victims, and the ability of the perpetrators to shift their activities and thwart law enforcement efforts are of great concern to the Committee. Accordingly, the Committee believes that a thorough analysis of the problem is needed to develop more effective strategies to prevent such scams.

Explanation of Provision

TIGTA, in consultation with Federal Communications Commission and Federal Trade Commission, must report to Congress no later than one year after enactment on telephone scams involving impersonation of IRS agents or other Federal officials collecting tax. The report must include a description of the scams; an estimate of the number of persons contacted; an estimate of the number of persons who have been victims; an estimate of total wrongful payments made by victims; and details of potential solutions, including descriptions of private-sector best practices and technological solutions that may be relevant.

Effective Date

The provision is effective on the date of enactment.

J. PROVIDING IDENTITY THEFT PREVENTION INFORMATION WHILE ON HOLD WITH INTERNAL REVENUE SERVICE (SEC. 11 OF THE BILL)

Present Law

There are presently no statutory provisions that address whether or how the IRS should alert the public about possible telephone scams. The IRS publishes alerts on its website under a heading, “Phishing and Tax Scams,” and advises taxpayers to report IRS-related email scams to the IRS at phishing@irs.gov and IRS-impersonation telephone scams to www.tigta.gov. Both TIGTA and the IRS have posted public service announcements on www.youtube.com about ways that taxpayers can protect themselves against such scams.

²⁶ Sec. 7803(d).

Reasons for Change

The Committee is aware that TIGTA has received over one million complaints since October 2013 from taxpayers reporting threatening telephone calls from IRS impersonators demanding immediate payment in the form of wire transfers or prepaid debit cards. The Committee believes that any waiting time experienced by callers to the taxpayer assistance numbers at the IRS could be leveraged to educate those callers about the various scams. In doing so, the IRS may be reaching a segment of the population that is unlikely to visit the IRS website or find IRS messages on social media.

Explanation of Provision

The provision requires that the IRS play taped messages about current schemes or scams while taxpayers are on hold waiting for a customer service representative.

Effective Date

The provision is effective on the date of enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the votes of the Committee on Ways and Means in its consideration of H.R. 3832, a bill require that protects against theft of taxpayer identities and refund fraud.

The amendment by Mr. Lewis to the amendment in the nature of a substitute, which would strike the criminal penalty for using a false identity in connection with tax fraud in section 5(a) of the amendment in the nature of a substitute, was agreed to by voice vote (with a quorum being present).

The amendment by Mr. Pascrell to the amendment in the nature of a substitute, which would require the Commissioner of Internal Revenue to establish a local law enforcement liaison, was agreed to by voice vote (with a quorum being present).

The amendment by Mr. Pascrell to the amendment in the nature of a substitute, which would require the Treasury Inspector General for Tax Administration to submit a report to Congress on telephone scams relating to the Internal Revenue Service and which would require that taxpayers be provided identity theft prevention information while on hold with the Internal Revenue Service, was agreed to by voice vote (with a quorum being present).

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 3832, as amended, was ordered favorably reported to the House of Representatives by a voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL**A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 3832, as reported.

The bill, as reported, is estimated to have no effect on Federal fiscal year budget receipts for the period 2016–2026.

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: The gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not “major legislation” for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX
EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that there are no new or increased tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET
OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 9, 2016.

Hon. KEVIN BRADY,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3832, the Stolen Identity Refund Fraud Prevention Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3832—Stolen Identity Refund Fraud Prevention Act of 2016

H.R. 3832 would amend current law with an aim to reduce identity theft related to federal tax administration. Specifically, the bill would require the Internal Revenue Service (IRS) to maintain a central office for identity theft issues, to notify taxpayers of any instances of identity theft detected by the IRS, and to provide affected taxpayers with information on the circumstances of such theft. The bill also would require the IRS to report to the Congress on electronic tax filings and the problem of identity theft and to provide biannual reports on identity theft and fraudulent tax refunds. Finally, H.R. 3832 would establish specific civil and criminal penalties for tax fraud involving identity theft.

Based on information from the Government Accountability Office and the IRS, CBO estimates that implementing H.R. 3832 would

cost about \$2 million annually or \$10 million over the 2017–2021 period to notify taxpayers of instances of identity theft and to provide reports on this subject to the Congress; such spending would be subject to the availability of appropriated funds.

Enacting the legislation could increase federal revenues from individuals subject to criminal and civil penalties under H.R. 3832 as well as associated direct spending of those criminal penalties; therefore pay-as-you-go procedures apply. However, CBO estimates that such effects would not be significant in any year because of the small number of cases likely to be involved. The staff of the Joint Committee on Taxation (JCT) estimates that enacting the bill would not affect revenues collected under the Internal Revenue Code.

CBO and JCT estimate that enacting H.R. 3832 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

CBO has determined that the nontax provisions of the bill contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Similarly, JCT has determined that the tax provisions of the bill contain no intergovernmental or private-sector mandates as defined in UMRA.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee’s review of the provisions of H.R. 3832 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill contains no unfunded mandate on the private sector, nor does it impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or con-

ference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the bill and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (“IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code of 1986 and that have “widespread applicability” to individuals or small businesses, within the meaning of the rule.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

H. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * *

§ 1028A. Aggravated identity theft

(a) OFFENSES.—

(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person or a false identification document shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

(1) a court shall not place on probation any person convicted of a violation of this section;

(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to com-

pensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

(c) DEFINITION.—For purposes of this section, the term “felony violation enumerated in subsection (c)” means any offense that is a felony violation of—

(1) section 641 (relating to theft of public money, property, or rewards), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), or section 664 (relating to theft from employee benefit plans);

(2) section 911 (relating to false personation of citizenship);

(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

(6) any provision contained in chapter 69 (relating to nationality and citizenship);

(7) any provision contained in chapter 75 (relating to passports and visas);

(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

(11) section 208, 811, 1107(b), 1128B(a), or 1632 of the Social Security Act (42 U.S.C. 408, 1011, 1307(b), 1320a-7b(a), and 1383a) (relating to false statements relating to programs under the Act).

* * * * *

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * *

Subtitle F—Procedure and Administration

* * * * *

CHAPTER 77—MISCELLANEOUS PROVISIONS

* * * * *

Sec. 7529. *Notification of suspected identity theft.*

* * * * *

SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY THEFT.

If the Secretary determines that there was an unauthorized use of the identity of any taxpayer, the Secretary shall—

(1) as soon as practicable and without jeopardizing an investigation relating to tax administration, notify the taxpayer and include with that notice—

(A) instructions to the taxpayer about filing a police report, and

(B) the forms the taxpayer must submit to allow investigating law enforcement officials to access the taxpayer's personal information, and

(2) if any person is criminally charged by indictment or information relating to such unauthorized use, notify such taxpayer as soon as practicable of such charge.

* * * * *

TITLE 18, UNITED STATES CODE

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PART I—CRIMES

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * *

§ 1028A. Aggravated identity theft

(a) OFFENSES.—

(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly trans-

fers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

(2) **TERRORISM OFFENSE.**—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person or a false identification document shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

(b) **CONSECUTIVE SENTENCE.**—Notwithstanding any other provision of law—

(1) a court shall not place on probation any person convicted of a violation of this section;

(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

(c) **DEFINITION.**—For purposes of this section, the term “felony violation enumerated in subsection (c)” means any offense that is a felony violation of—

(1) section 641 (relating to theft of public money, property, or rewards), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), or section 664 (relating to theft from employee benefit plans);

(2) section 911 (relating to false personation of citizenship);

(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

(6) any provision contained in chapter 69 (relating to nationality and citizenship);

(7) any provision contained in chapter 75 (relating to passports and visas);

(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); **[or]**

(11) section 208, 811, 1107(b), 1128B(a), or 1632 of the Social Security Act (42 U.S.C. 408, 1011, 1307(b), 1320a-7b(a), and 1383a) (relating to false statements relating to programs under the Act)**[.]**; *or*

(12) *section 7206(b) of the Internal Revenue Code of 1986 (relating to use of false identity in connection with tax fraud).*

* * * * *

