

PHYSICIANS TARGETED IN TAX RETURN REFUND FRAUD

During the recently concluded 2014 tax filing season, it appears that an unusually large number of health care professionals in Indiana, as well as several other states, were victims of an increasingly common form of identity theft: tax return refund fraud. Even though the 2014 tax filing season has ended, all taxpayers, and especially health care professionals, should be aware of this fraud and understand how to combat it. Moreover, if you believe you have been a victim of refund fraud or any other type of identity theft, then you should report the matter to the appropriate agencies immediately.

HOW THE FRAUD WORKS

Under the typical scenario to perpetrate this fraud, an identity thief files a false tax return using a taxpayer's social security number. The identity thief completes and files the return electronically, often fabricating the income information in a manner that claims a large refund is due. The IRS unknowingly accepts the fraudulent return and issues a refund to a bank account opened by the identity thief, typically in the taxpayer's name. The fraud is usually discovered when the victimized taxpayer attempts to file his or her tax return and is informed by the IRS that a tax return with his or her social security number has already been filed. In other cases, where the IRS is able to identify an attempted refund fraud, the IRS will notify the taxpayer by mail with a 5071C letter and request that the taxpayer contact the IRS. In addition, some victims have been tipped off early by banks or credit agencies when accounts are opened in their names.

TARGETING OF PHYSICIANS

In March, the Indiana State Medical Association ("ISMA") began monitoring a trend where Indiana physicians have been targets of the refund fraud. ISMA has since confirmed and reported that the refund fraud has involved federal as well as Indiana income tax returns and a variety of health care professionals have been targeted, including physicians, nurses, dentists and oral surgeons. This targeted fraud appears to stretch beyond Indiana as organizations in several other states have reported similar circumstances for health care professionals. Compared to past years, the increased number of affected health care professionals this year has led some organizations to speculate that a data breach of a national or state level organization has occurred. To date, no such data breach has been identified.

More generally, identity theft and refund fraud against all taxpayers has been a growing problem in recent years. In January of 2014, the IRS issued a fact sheet detailing the issue and the steps the IRS is taking to address the threat. Notably, the IRS assigned more than 3,000 IRS employees to work on identity theft-related issues and provides training to 35,000 IRS employees who work with taxpayers to recognize identity theft indicators and help people victimized by identity theft.

TIPS FOR COMBATTING FRAUD/PRACTICAL TAKEAWAYS

If you are a victim of the tax return refund fraud (or think you may be), it is important that you take the appropriate steps to address the matter. As you start down this path, be prepared for this process to take some time to be resolved.

- Contact the IRS:
 - If you receive an IRS 5071C letter, follow the instructions directing you to report the identity theft online or by phone at the number listed in the letter.
 - If your electronic return is rejected or if you have been the victim of identity theft outside of the tax system, call the IRS Identity Protection Specialized Unit at 1-800-908-4490 to report the fraud.
 - In connection with the above, you will need to file IRS Form 14039, the Identity Theft Affidavit.
 - Once the IRS verifies that a refund fraud has occurred, the IRS will issue an Identity Protection PIN, which you will use in addition to your social security number to file the current year and future year tax returns. Note that if your attempt to file your tax return electronically was rejected, then you may have to file a paper return by mail.
 - If you would like to have your attorney or accountant communicate with the IRS on your behalf, complete IRS Form 2848, Power of Attorney.

- Report the matter to the Social Security Administration by calling their fraud hotline at 1-800-269-0271.
- Report the identity theft to the Federal Trade Commission at www.consumer.gov/idtheft, or the FTC Identity Theft hotline at 1-877-438-4338. This may help law enforcement detect patterns of fraud and abuse.
- Report the matter to state and local authorities:
 - Contact your State Attorney General. This may assist in identifying the perpetrators and the source of the data breach.
 - Contact your State Department of Revenue to determine if the refund fraud also involved your state income tax return.
 - Consider filing a police report with local authorities.
- Contact the three major credit bureaus (Equifax, Transunion and Experian) to determine whether any identity theft involving your credit has occurred. Also, consider purchasing credit monitoring services. This may help monitor and prevent future types of identity theft.

Going forward, taxpayers can take certain steps to minimize the chance of refund fraud. First, consider filing a tax return early in the filing season. Doing so puts the return on record with the IRS, which will prevent an identity thief from filing a fraudulent tax return in your name. Second, monitor your credit information for suspicious activity and close accounts that may have been compromised. Third, taxpayers who have been previous victims of refund fraud will be required by the IRS to file their tax returns using an Identity Protection PIN in addition to their social security number.

Should you need assistance in dealing with, or have questions about, actual or suspected refund fraud, please contact:

- Calvin R. Chambers at 317-977-1459 or cchambers@hallrender.com;
- Zachary G. Jacob at 317-977-1416 or zjacob@hallrender.com; or
- Your regular Hall Render attorney.

Please visit the Hall Render Blog at <http://blogs.hallrender.com/> for more information on topics related to health care law.