



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

November 15, 2012

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MEMORANDUM FOR DIRECTORS, COLLECTION AREA OPERATIONS
(CALIFORNIA, GULF STATES, AND SOUTH ATLANTIC)

DIRECTORS, CAMPUS COMPLIANCE OPERATIONS
(BROOKHAVEN AND MEMPHIS)

FROM: Scott D. Reisher /s/ **Scott D. Reisher**
Director, Collection Policy

SUBJECT: Identity Theft Transaction Codes and Processing

The purpose of this memorandum is to provide guidance to Offer in Compromise employees on required actions when a taxpayer alleges identity theft. A new section will be established in the Internal Revenue Manual (IRM) 5.8.4.23.8 titled, "Identity Theft."

The office of Privacy, Governmental Liaison and Disclosure (PGLD) issued guidance in IRM 10.5.3, *Identity Protection Program*, which contains servicewide guidance on the use of Transaction Code (TC) 971 Action Code (AC) 522 to identify and track identity theft inventory. The following is guidance specific to Offer in Compromise processing of cases identified as having an identity theft issue.

Instances of identity theft can either be alleged by the taxpayer or can be identified by a Service employee. Below are procedures for inputting the identity theft transaction codes and preparing a referral to report the identity theft case. Prior to inputting an identity theft TC 971 AC 522, review IDRS CC ENMOD to prevent inputting a duplicate TC 971 AC on the same tax period.

5.8.4.23.8 Identity Theft

- (1) IRM 10.5.3.2.6, *Initial Allegation or Suspicion of Tax-Related Identity Theft – Identity Theft Indicators*, is a servicewide guidance on the use of TC 971 AC 522 to identify and track identity theft inventory.
- (2) Identity theft (IDT) should not prohibit investigation of the offer. Each case will need to be considered on its own merit since there may be unique issues impacting the case decision.
- Note: If the offer is to be accepted, information on the IDT period(s) must be provided to Monitoring Offer in Compromise (MOIC) with the acceptance file and documented in the Automated Offer in Compromise (AOIC) remarks to avoid default of the offer. In addition, it will not be necessary to input or request input of the TC 470 Closing Code (CC) 90, since the case will be in Status 71.
- (3) Prior to input of the TC 971 AC 522, review IRP, Accurint, check signature, etc. to make IDT determination. If it is determined that IDT was not present, then TC 972 AC 522 NOIDT should be input.
- (4) When IDT is discovered during the offer investigation or disclosed by the taxpayer, follow the procedures in the table below. Prior to inputting an IDT TC 971 AC 522, review IDRS Command Code ENMOD to prevent inputting a duplicate TC 971 AC 522 on the same tax period.

Step	Action	If...	Then...	Notes
1	Request the taxpayer provide authentication and evidence of IDT to substantiate identity theft	Authentication and evidence is not received	<p>Centralized Offer in Compromise (COIC) Offer Examiner (OE) will:</p> <p>Input the following TC 972 AC 522 with the Source Code SBSE CSCO NORPLY.</p> <p>The Field Offer Specialist (OS) will:</p> <p>Use Form 4844, <i>Request for Terminal Action</i>, to request input of the TC 972 AC 522 SBSE</p>	See IRM 10.5.3.2.7, <i>Overview – Identify Theft Supporting Documentation</i> , for required documentation.

Step	Action	If...	Then...	Notes
			CFBALDUE OR SBSE CFDELRET NORPLY and forward to the DITA team.	
2	Review CC ENMOD and determine	<p>1. There is a posted or unreversed TC 971 AC 501/506 or TC 971 AC 522 with a Source Code defined below</p> <p>2. The posted transaction falls within the 3-year period as described in IRM 10.5.3.2.1, <i>Taxpayer Interaction</i>, and</p> <p>3. The allegation relates to a previously reported incident as described in IRM 10.5.3.2.1</p> <p><i>Source Codes:</i></p> <p>INCOME: Reported under TPs Social Security Number (SSN) without their consent or knowledge</p> <p>MULTFL: Two or more returns filed for the same tax period under the same SSN</p>	<p>COIC OE will:</p> <p>Input TC 971 AC 522 with Source Code PNDCLM prior to input of TC 971 AC 522 with Source Code NODCRQ.</p> <p>The Field OS will:</p> <p>Use Form 4844 to request input of the TC 971 AC 522 with Source Code PNDCLM prior to input of TC 971 AC 522 with Source Code NODCRQ and forward to the Designated Identity Theft Adjustment (DITA) team.</p>	<p>If the initial identification is made by the OE or OS, the input of TC 971 AC 522 will be required. However, if this is not the first identification, research IDRS to ensure a duplicate request of the TC 971 Action Code for the same tax period(s) is not input.</p> <p>In these instances, substantiation documentation is not required.</p> <p>The Secondary Date field will reflect the tax year of the identify theft incident.</p>

Step	Action	If...	Then...	Notes
		<p>INCMUL: Both income reporting and multiple filings apply</p> <p>NOFR: Victim is not required to file a tax return, or</p> <p>OTHER: Situation does not relate to any existing Tax Administration Source</p>		
		<p>The taxpayer claims the income was not earned by them or the tax return was not filed by them and there is no valid TC 971 AC 522 for the applicable tax periods on ENMOD</p>	<p>Input TC 971 AC 522 on ENMOD (not TXMOD) of the affected TIN.</p> <p>COIC OE will:</p> <p>Input the following Source Code in the MISC field</p> <p>SBSE CSCO PNDCLM if the taxpayer disclosed the identity theft issue or SBSE CSCO IRSID if the IRS discovered the identity theft.</p> <p>The Field OS will:</p> <p>Use Form 4844 to request input of TC 971 AC 522 with one of the following Source Codes in the MISC field and forward to the DITA team:</p>	<p>The Secondary Date field on ENMOD will reflect the tax year of the identity theft incident.</p>

Step	Action	If...	Then...	Notes
			<p>SBSE CFBALDUE OR SBSE CFDELRET PNDCLM if the taxpayer disclosed the identity theft issue or SBSE CFBALDUE OR SBSE CFDELRET IRSID if the IRS discovered the identity theft.</p>	
		Complete and legible authentication and evidence is received	Follow the procedures in Step 3 and Step 4	
3	TC 470 CC 90	The offer is not accepted	<p>COIC OE will:</p> <p>Input TC 470 CC 90.</p> <p>Field OS will:</p> <p>Use Form 4844 to request input of the TC 470 CC 90 and forward to DITA.</p>	<p>A TC 470 will go unpostable if input before the TC 480 is reversed.</p> <p>A TC 470 CC 90 is not necessary for accepted offers.</p>
4	Determine the source of the identity theft liability (ASFR, AUR, EXAM, etc.) and forward as appropriate with required documentation.	The liability was assessed in ASFR, AUR or EXAM	<p>Campus Compliance RO will:</p> <p>1) Complete and Forward a Form 4442, <i>Inquiry Referral</i>, and route based on SERP ID Theft Liaison Listing on the "Who Where" tab.</p> <p>Field OS will:</p>	If the initial identification is made by the OE or OS, the input of TC 971 AC 522 will be required. However, if this is not the first identification, research IDRS to ensure a duplicate request of the TC 971 Action Code for the same tax period(s) is not input.

Step	Action	If...	Then...	Notes
			<p>1) Complete the Form 3870, <i>Request for Adjustment</i>, and route based on Exhibits in IRM 4.13.7, as appropriate.</p> <ul style="list-style-type: none"> • Audit reconsideration – Prepare Form 3870 and route based on IRM Exhibits 4.13.7-3 and 4.13.7-4. This includes returns filed under the taxpayer’s social security number by an identity thief and a subsequent audit assessment made by Examination. • AUR reconsideration – Prepare Form 3870 and route based on IRM Exhibit 4.13.7-6. This includes a return filed under the taxpayer’s social security number by an identity thief and a subsequent AUR assessment. • SFR/ASFR (Brookhaven/Fresno) – Prepare 	<p>No TC 470 can be input until the offer is closed.</p>

Step	Action	If...	Then...	Notes
			Form 3870 and route based on IRM 5.1.15.4.3(4).	
		The liability was not assessed in ASFR, AUR or EXAM	<p>Field OS/Campus Compliance RO will:</p> <p>Prepare Form 3870 (“Other” template in ICS) and forward to DITA if there is not a subsequent Audit or AUR assessment. The Form 3870 must be mailed, rather than faxed or sent electronically to DITA, if an original return is attached.</p> <p>This applies to an Identity Theft Return – This is a return that was filed under the taxpayer’s social security number by an identity thief.</p>	

(5) Preparing Form 3870 and routing (Field and Campus Compliance RO)

- a) If it is determined that the taxpayer is a victim of IDT, Form 3870 is prepared to correct the victim’s account. The following guidelines should be followed when preparing Form 3870:
- Prepare Form 3870 and write “**Identity Theft**” in bold letters in item 11, *Reason for Adjustment*.
 - Include specific instructions on actions needed to correct the account. For example, state that “TC 150 in amount of \$XX is return filed by identity thief.” Indicate if there are any estimated tax payments that were made by the victim (taxpayer) that should remain on the account or if a refund generated by the identity theft return was offset to another tax liability.
 - Attach the following documentation to Form 3870:

- Copy of substantiation documentation (evidence of identity theft and authentication of identity). Maintain a copy in the case file.
 - **NUMIDENT** – Obtained by requesting MFTRA type “U”
 - Original return, if secured from victim (taxpayer)
- Request input of TC 971 AC 501 or AC 506 on Form 3870. TC 971 AC will be input when the account is corrected.

Note: The TC 971 AC 501 is a closing code requested on Form 3870 when the taxpayer reports IDT and provides supporting documentation. The TC 971 AC 506 is a closing code requested on Form 3870 when IRS identifies the IDT.

- Forward Form 3870 to the appropriate function for adjustment based on the type of assessment.
 - Incomplete referrals will be rejected.
- b) The completed Form 3870 is routed based on the type of assessment that needs to be adjusted.
- Audit reconsideration – Prepare Form 3870 and route based on IRM Exhibits 4.13.7-3, *Routing of Area Office Reconsideration Requests* (as of 01/01/2006) and 4.13.7-4, *Central Reconsideration Unit (CRU) Addresses*. This includes a return filed under the taxpayer’s social security number by an identity thief and a subsequent audit assessment made by Examination.
 - AUR reconsideration – Prepare Form 3870 and route based on IRM Exhibit 4.13.7-6, *Addresses for AUR Reconsideration Requests*. This includes a return filed under the taxpayer’s social security number by an identity thief and a subsequent AUR assessment.
 - SFR/ASFR (Brookhaven/Fresno) - Prepare Form 3870 and route based on IRM 5.1.15.4.3(4), *Substitute For Return (SFR) and Automated Substitute for Return (ASFR) Reconsiderations*.
 - Identity Theft Return – This is a return that was filed under the taxpayer’s social security number by an identity thief. Prepare a manual Form 3870 (Other template in ICS) and forward to Designated Identity Theft Adjustment (DITA) if there is not a subsequent Audit or AUR assessment. The Form 3870 must be mailed, rather than faxed or sent electronically to DITA, if an original return is attached.
- c) If the liability was not assessed in ASFR, AUR or Exam, forward the completed Form 3870 to DITA. The contact information for the new SB/SE DITA team is as follows:

Internal Revenue Service
 DITA Mail Stop 4-G20.500
 2970 Market St
 Philadelphia, PA 19104

Fax Number: 855-786-6575

Outlook mailbox for electronic submission is *SBSE CCS DITA

(6) COIC OE Reporting Procedures:

- Update the AOIC Case Category Code to 15, *Identity Theft*
- Report time under 810-66012
- Note: Time reported is for completion of the 4442 referral only
- Document the AOIC case history

(7) Field OS Reporting Procedures:

- Update the AOIC Case Category Code to 15, *Identity Theft*
- Beginning January 2013, time spent on ID theft cases will be captured via ICS time reporting. Until then, time cannot be captured.
- Note: The time spent working the ID theft issue, such as preparing 4844 to input TC 971 action codes, reviewing ID theft documentation, and preparing F 3870 are the actions to be captured.
- In the “program name” field within the Miscellaneous Field input **CFBALDUE** or **CFDELRET**.
- Document ICS/AOIC case history

If you have any questions, please contact me or members of your staff should contact Collection Policy Analyst Diane Morris or Compliance Services Analyst Darlene Kosch-Garone.

cc: Director, Field Collection
Director, Campus Compliance Services
Director, Filing & Payment Compliance
Chief Appeals
SBSE Assistant Division Counsel
National Taxpayer Advocate
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