

## IRM PROCEDURAL UPDATE

DATE: 06/02/2014

NUMBER: SBSE-05-0614-0942

SUBJECT: ID Theft Update

AFFECTED IRM(s)/SUBSECTION(s): 5.19.1

CHANGE(s):

**IRM 5.19.1.9.1 Identity Theft - General Information, updated table under paragraph (2). Added new paragraphs (4)-(7).**

2. When handling cases with ID Theft issues, refer to the following Issue/Response Chart:

| Issue   | Response   |
|---|--|
| <p>The taxpayer's identity is stolen; however, they have no indication their stolen identity was used inappropriately for tax purposes,</p> <p><b>EXAMPLE:</b> They haven't received an IRS notice.</p> | <ol style="list-style-type: none"><li>1. Advise the taxpayer to file a complete Form 14039, <i>Identity Theft Affidavit</i>, if the taxpayer has not already done so.</li><li>2. Advise the taxpayer to also make a report to their local police and the three major credit bureaus:<br/><br/>Experian: 1-888-397-3742<br/><br/>Equifax: 1-800-525-6285<br/><br/>TransUnion: 1-800-680-7289</li><li>3. Refer the taxpayer to the Identity Protection Specialized Unit, 1-800-908-4490. See IRM 10.5.3, <i>Identity Protection Program</i>.</li></ol> <p><b>CAUTION:</b> Taxpayers should not be referred to IPSU unless they have additional questions that ACS cannot answer. IPSU will contact the taxpayer upon Form 14039, <i>Identity Theft Affidavit</i>, receipt. (See additional information in IRM 21.9.2.3.1(1)(b) Note, <i>Self Identified - Non-Tax-Related Identity Theft</i>.)</p> |

|   |   |
|---|---|
|   | <ol style="list-style-type: none"> <li>4. For additional information, visit <a href="http://www.irs.gov">http://www.irs.gov</a> and type the words "identity theft" into the search engine.</li> </ol> <p><b>NOTE:</b> Credit bureau information can be found at <a href="http://www.ftc.gov/">http://www.ftc.gov/</a></p>  |
| The taxpayer states an e-mail was received from the IRS requesting their personal identifying information,<br><br><b>EXAMPLE:</b> SSN, EIN, financial information, etc. | <ol style="list-style-type: none"> <li>1. Advise the taxpayer the IRS does not request sensitive information by e-mail; as a result, the taxpayer should not respond to this e-mail.</li> <li>2. Request the taxpayer forward a copy of this e-mail to IRS at <a href="mailto:phishing@irs.gov">phishing@irs.gov</a>.</li> <li>3. For additional guidance,:<br/>See IRM 21.1.3.23, <i>Scams (Phishing) and Fraudulent Schemes</i>.</li> </ol> |
| Taxpayer has knowledge of another person filing a federal tax return with a stolen SSN or EIN,  | Ask the taxpayer for additional information, such as the individual's name and stolen SSN or EIN. Refer this information to Criminal Investigation Fraud Detection Center. See Exhibit 21.3.4-20, <i>CRIMINAL INVESTIGATION FRAUD DETECTION CENTERS</i> .   |
| Taxpayer requests a new SSN because their identity has been stolen,   | Advise the taxpayer to contact SSA at 1-800-772-1213 or <a href="http://www.ssa.gov/">http://www.ssa.gov/</a> .   |

**NOTE:** IRM 5.19.1.9.2, *Identity Theft Documentation*, and IRM 5.19.1.9.2.1, *Identity Theft Documentation Processing*, contain additional information on ID Theft documentation and ID Theft documentation processing. More information on ID Theft may be found in IRM 10.5, *Privacy, Information Protection and Data Security (PIPDS)*.

3. If the taxpayer calls in and indicates that a credit on his/her account does not belong to them, research to determine where the credit should be applied. If you perform thorough research but cannot determine where the credit should be applied, follow the below procedures:

| If ...  | Then ...   |
|---|--|
| You receive authorization from the SSN owner through oral statement or correspondence that the credit does not belong to them; refer to IRM | If the credit is less than one year old, prepare Form 2424, <i>Account Adjustment Voucher</i> , to transfer the credit to Unidentified Remittance File (URF). If the credit is more than one |

|  |   |
|--|---|
| 21.5.8.1(5), <i>Credit Transfers Overview,</i> | year old, prepare Form 8758, <i>Excess Collections File Addition</i> , to transfer credit to Excess Collection. |
|--|---|

**NOTE:** Payments cannot be transferred to Unidentified Remittance or Excess Collection unless a credit is available.

4. W&I Balance Due CSCO ID Theft Accounts are not worked by W&I CSCO. These cases are forwarded to Fresno ACSS for processing.
5. SB/SE CSCO accounts are worked by the CSCO ID Theft Liaison. Prior to forwarding cases to the CSCO ID Theft Liaison:
  - o In order to prevent any enforcement actions, input a TC 470 only.
  - o Prepare the Form 4442, *Inquiry Referral*, and submit to the CSCO ID Theft Liaison.

**NOTE:** If the case is to be referred to Exam, AUR, etc., note that on the Form 4442, *Inquiry Referral*, prior to submitting to the CSCO ID Theft Liaison.

6. The CSCO ID Theft Liaison will follow IRM 5.1.12.2.2, *Identity Theft Case Resolution*, for processing ID Theft accounts.
7. ACSS will follow IRM 5.19.6.25, *Identity Theft*, for handling ID Theft case work.

#### **IRM 5.19.1.9.2.1 Identity Theft Documentation Processing, revised throughout section.**

1. Beginning January 1, 2012, TC 971 AC 522 will also require the input of an appropriate source code and secondary date. This will enable the IRS to flag accounts at different stages of processing, from initial ID Theft claim to closure, dependent upon case specifics.
2. Once the function is made aware that the taxpayer is a possible victim of ID Theft, they will be responsible for checking to see if there is an open control. If there is, the tax examiner will contact that employee to verify they are working the ID Theft issue. If the case is being worked by the controlling area and it has no impact on your compliance case – work the case as you would normally.

**NOTE:** Always check the Alerts section of AMS to see if there is a CIS image and open the CIS link to see if the document is for ID Theft. If so, do not ask the taxpayer to submit documentation per the instructions below. Instead, follow IRM 5.19.1.9.2, *Identity Theft Documentation*.

3. For areas other than ACS, use the following directions when processing ID Theft issues:

| If ... | And ... | Then ... |
|--------|---------|----------|
|--------|---------|----------|

|   |  |  |
|---|--|--|
| <p>The taxpayer makes an claim of ID Theft,</p> | <p>Has <b>not</b> provided:</p> <ul style="list-style-type: none"> <li>○ A copy of the U.S. Federal or State issued form of identification (i.e. driver's license, state identification card, social security card and passport).</li> <li>○ A copy of a police report or IRS Affidavit Form 14039, <i>Identity Theft Affidavit</i>.</li> </ul> <p><b>NOTE:</b> For more information on required documentation see IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i>.</p> | <ol style="list-style-type: none"> <li>1. Input TC 971 AC 522 containing the miscellaneous field "<b>PNDCLM</b>" and input the tax year of the IDT incident into the secondary date field.</li> <li>2. Phone or TAC operations should verbally advise the taxpayer to submit the required documentation and provide the appropriate address. See IRM 5.19.1.9, <i>Identity Theft - Overview</i>.</li> <li>3. Paper operations should send a letter to the taxpayer and request they provide the required documentation.</li> <li>4. Suspend collection, allowing the taxpayer time to respond. Input TC 470.</li> <li>5. Document AMS.</li> </ol>                            |
| <p>The taxpayer makes an claim of ID Theft,</p> | <p>Has provided required ID Theft documentation as described in IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i>.</p>  | <ol style="list-style-type: none"> <li>1. Input TC 971 AC 522 with miscellaneous field "<b>NOFR</b>", "<b>INCOME</b>", "<b>MULTFL</b>" or "<b>INCMUL</b>".</li> <li>2. Document AMS.</li> <li>3. Follow procedures in IRM 5.19.1.9.2, <i>Identity Theft Documentation</i>, for processing the account.</li> </ol> <p><b>W&amp;I Balance Due Accounts:</b><br/>W&amp;I CSCO does not work Balance Due ID Theft accounts. They are forwarded to ACSS for processing. Forward/Fax documents to Fresno ACSS IDT Coordinator.</p> <p><b>SB/SE CSCO Accounts:</b></p> <ol style="list-style-type: none"> <li>a. In order to prevent any enforcement actions, input a TC</li> </ol> |

|  |  |   |
|--|--|---|
|  |  | <p>470 only.</p> <p>b. Prepare the Form 4442, <i>Inquiry Referral</i>, and submit to the CSCO ID Theft Coordinator.</p> <p><b>NOTE:</b> If the case needs to be worked in Exam, AUR, ASFR or SFR, prepare the Form 4442, <i>Inquiry Referral</i>, and refer the case to the appropriate area. <b>Do not</b> send to the CSCO ID Theft Coordinator.</p> <p><b>SB/SE CSCO ID Theft Liaison:</b> Follow IRM 5.1.12.2.2, <i>Identity Theft Case Resolution</i>, and IRM 10.5.3.3, <i>BMF IDT</i>, for tracking, researching and processing ID Theft accounts.</p> |
| The taxpayer makes an claim of ID Theft, | Has provided required documentation as described in IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i> , and all <b>corrective</b> action to resolve the ID Theft issue has been taken <b>and</b> you are closing the case in your function. | <ol style="list-style-type: none"> <li>1. Input TC 971 AC 501 with miscellaneous field "NOFR", "INCOME", "MULTFL" or "INCMUL".</li> <li>2. Update taxpayer's module(s) with the appropriate closing code.</li> <li>3. Advise taxpayer in writing the issue has been resolved. Use Letter 5064C, <i>Compliance Letter - ID Theft</i>. If necessary, use an open paragraph to inform the taxpayer their ID Theft issue has been resolved. Include information for any other unresolved balances.</li> </ol>   |

|                            |   |  |
|----------------------------|---|--|
|                            |   | <ol style="list-style-type: none"> <li>4. Complete Form 9409, <i>IRS/SSA Wages Worksheet</i>, as appropriate for wage income only and send to SSA.</li> <li>5. Update AMS to show invalid income sources and Form 9409, <i>IRS/SSA Wages Worksheet</i>, sent to SSA.</li> </ol>  |
| Taxpayer alleges ID Theft, | There is a posted unreversed TC 971 AC 501 or AC 506. | <ol style="list-style-type: none"> <li>1. Taxpayer is not required to provide substantiation documentation.</li> <li>2. Input TC 971 AC 522 with miscellaneous field "<b>NODCRQ</b>".</li> <li>3. Input TC 971 AC 522 with miscellaneous field "<b>PNDCLM</b>" and input the tax year of the new IDT incident into the secondary date field.</li> </ol> <p><b>NOTE:</b> Two TC 971 AC 522 must be input, one for each miscellaneous code described above, if the taxpayer is coming back in due to a new issue that has occurred since the TC 971 AC 501 or AC 506 has been input.</p> |

4. ACS employees will follow IRM 5.19.1.9.2.2, *Identity Theft Guidance for ACS Call-Site Employees*, when handling ID Theft calls.
5. **Incomplete or illegible** documents will be returned to the taxpayer with a request to resubmit clear complete information. Advise the taxpayer to respond within 30 days to avoid processing delays. Upon receipt of clear and legible documentation, the IRS will input TC 971 AC 522 on the taxpayer's account. This action marks the account to reflect the Service received the documents. **Additional research is required to substantiate an ID Theft incident actually occurred.** The assigned function will perform in-depth account research to rule out a mixed entity or scrambled situation as detailed in IRM 21.6.2.4.2.3, *Preliminary Research*.

6. If an active levy:

For ACS/ACSS Employees:

- a. When the taxpayer contact claims to be a victim of ID Theft and documentation **has not been received**, a levy release is not warranted unless there is a hardship situation. On ACS, ensure account is in the "O" function.
- b. When the taxpayer contact claims to be a victim of ID Theft and documentation **has been received**, the levy should be released only for the tax modules affected by the ID Theft.
- c. Follow IRM 5.19.4.4.10, *Levy Release: General Information*, for full and partial levy release procedures.

For Employees without access to ACS:

- a. When the taxpayer contact claims to be a victim of ID Theft and documentation **has not been received**, a levy release is not warranted unless there is a hardship situation.
- b. When the taxpayer contact claims to be a victim of ID Theft and documentation **has been received**, the levy should be released only for the tax modules affected by the ID Theft.
- c. If a levy release is warranted, fax Form 14394, *Identity Theft/Return Preparer Misconduct Case Collection Alert*, to the appropriate ACSS ID Theft/ITAR Coordinator. Be sure to provide supporting documentation, including documenting the tax module(s) affected by the ID Theft. See SERP, Who/Where, ID Theft/ITAR Coordinator.

**NOTE:** Consider a release of a levy based on prior indication of ID Theft TC 971 AC 501 or AC 506 on IDRS.

7. Input appropriate TC 971 AC 5XX on CC ENMOD as described below. Use CC REQ77 /CC FRM77 for this input.
8. TC 971 AC 522 input contains a miscellaneous field that must be completed consisting of the following:
  - a. BOD/Function, for example, "WI" or "SBSE".
  - b. Program Name, for example, "ACS" or "CSCO".
  - c. Tax Administration Source, select the appropriate source of the ID Theft from the following list:

| Term/Acronym | Description   |
|--------------|---|
| "INCOME"     | Used when income has been reported under the taxpayer's SSN without their consent or knowledge. |
| "MULTFL"     | Used when two or more returns are filed for the same tax period under the same SSN.             |
| "INCMUL"     | Used when both INCOME and MULTFL apply.   |
| "NOFR"       | Used when the taxpayer is not required to file a return.  |

|         |  |
|---------|--|
| "OTHER" | Used when the situation does not fit any Tax Administration Source Type. |
|---------|--|

**EXAMPLE:** "MISC>WI ACS INCOME"

9. When inputting the required information, the TRANS-DT> - field on the CC FRM77 input screen will automatically populate with the date of input.
10. The 971 AC 522 input also contains a secondary date field used to identify the tax year at issue. Complete this field by inputting the year associated with the ID Theft. Use "MMDDYYYY" format.

**EXAMPLE:** "SECONDARY -DT>12312006"

**NOTE:** If more than one year is involved, input a separate TC 971 AC 522 for each tax year related with the ID Theft incident.

11. Use TC 972 in the event the TC 971 needs to be reversed. The TC 972 contains a miscellaneous field that must be completed including the reason for the reversal. Select the appropriate reason for the reversal from the following list:

| Abbreviation for Entry | Description                                 |
|------------------------|---|
| "TPRQ"                 | Taxpayer request                            |
| "IRSERR"               | Keying or other internal mistake            |
| "IRSADM"               | Internally identified negative impact       |
| "FALSE"                | Fraudulent ID Theft claim                   |
| "OTHER"                | Does not meet any of the descriptions above |

**EXAMPLE:** "MISC>WI ACS TPRQ".

## 12. Term/Acronym

| Term/Acronym   | Description  | Secondary Date Field                            |
|--|--|---|
| "PNDCLM" (Pending Claim of ID Theft)                   | The taxpayer makes an claim of ID Theft. The taxpayer has not yet provided supporting documentation as required by IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i> .        | Reflects the tax year of the ID Theft incident. |
| "NODCRQ" (No Documentation Required from the Taxpayer) | The taxpayer alleges ID Theft and the following conditions exist:<br><br>1. There is a posted/unreversed TC 971 AC 501/AC 506 or TC 971 AC 522 Source Code "INCOME", "MULTFL", "INCMUL", "NOFR" or | Reflects the tax year of the ID Theft incident. |

|   |   |  |
|---|---|--|
|   | <p>"OTHER" and</p> <p>2. The posted transaction falls within the three year period as described in IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i>.</p> <p>3. The claim relates to a previously reported incident as described in IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i>.</p>  |  |
| <p>Acceptable Documentation Received from the Taxpayer:</p> <ul style="list-style-type: none"> <li>○ <b>"INCOME"</b> (Reported under taxpayer's SSN without their consent or knowledge)</li> <li>○ <b>"MULTFL"</b> (Two or more returns filed for the same tax period under the same SSN)</li> <li>○ <b>"INCMUL"</b> (Both income reporting and multiple filings apply)</li> <li>○ <b>"NOFR"</b> (Victim is not required to file a tax return)</li> <li>○ <b>"OTHER"</b> (Situation does not relate to any existing Tax Administration Source types)</li> </ul> | <p>Available for use by all employees upon receipt of complete/legible documentation per IRM 10.5.3.2.1, <i>Identity Theft and Substantiation Documentation</i>.</p> <p><b>NOTE:</b> The following elements as applicable to document type must be clear and easily read:</p> <ul style="list-style-type: none"> <li>• Taxpayer's name,</li> <li>• Date of birth,</li> <li>• Place of birth,</li> <li>• Address,</li> <li>• Date of issue,</li> <li>• Expiration date, and</li> <li>• Any identifying numbers (passport number, driver's license number etc.).</li> </ul> | <p>Reflects the tax year of the ID Theft incident.</p>                     |
| <p><b>IRS Identified ID Theft – TC 971 AC 506</b></p>   | <p>In situations where the IRS suspects ID Theft may have occurred, employees will mark accounts, using CC</p>  | <p>The Secondary Date field will reflect the tax year of the incident.</p> |

|  |   |  |
|--|---|--|
| <p>Beginning January 1, 2012, the following functions will be granted the authority to close accounts as IRS identified ID Theft using TC 971 AC 506:</p> <ul style="list-style-type: none"> <li>• CSCO, and</li> <li>• ACS/ACSS.</li> </ul> | <p>REQ77 /CC FRM77 initiated from CC ENMOD. Service employees will input a TC 971 AC 522 containing the Miscellaneous Field <b>"IRSID"</b>.</p> | <p><b>NOTE:</b> FY 2012 programming for "IRSID" was not completed for all functions. Functions needing "IRSID" that are not profiled for that Tax Administration Source Code will mark accounts using BOD: PPDS, Program OPIP and Tax Administration Source Code "IRSID" until programming is completed.</p> |
|--|---|--|

### 13. TC 972 AC 522 Source Codes

| Term / Acronym  | Description  | Secondary Date Field   |
|---|--|--|
| <p><b>"NOIDT"</b> — ID Theft has <b>NOT</b> occurred,</p>                   | <p>In the course of resolving an ID Theft issue, the employee assigned determines no ID Theft occurred.</p>  | <p>Will match the year of the TC 971 AC 522 "PNDCLM" or TC 971 AC 522 "IRSID" as applicable.</p> |
| <p><b>"NORPLY"</b> — The taxpayer did not provide supporting documents,</p> | <p>This code is used to close a suspended case when the taxpayer fails to provide the requested supporting documentation within the time specified by the employee assigned.</p> | <p>Will match the tax year of the TC 971 AC 522 "PNDCLM".</p>                                    |

#### IRM 5.19.1.9.2.2 Identity Theft Guidance for ACS Call Site Employees, insert new section.

1. The following procedures apply for ACS Call Site employees when handling calls in which the taxpayer is claiming or has claimed ID Theft. Also, follow IRM 5.19.1.9.1, *Identity Theft - General Information*, through IRM 5.19.1.9.2.1, *Identity Theft Documentation Processing*, for additional guidance on ID Theft.
2. When the taxpayer is disputing the balance owed (original or additional assessment) on the basis of ID Theft and CC ENMOD does not indicate a TC 971 AC 506 or TC 971 AC 501 posted after a TC 971 AC 522:

| If ...   | Then ...  |
|--|---|
| A CIS Image indicator is present in the ALERTS section on AMS <b>and</b> it is an ID Theft document,           | <ol style="list-style-type: none"> <li>1. Prepare Form 4442, <i>Inquiry Referral</i>, noting that the ID Theft documentation is on CIS.</li> <li>2. Forward the Form 4442, <i>Inquiry Referral</i>, to the appropriate ACSS ID Theft Coordinator.</li> <li>3. Reassign the SB/SE or W&amp;I case on ACS: "TOO1,60,IDXADJ"</li> <li>4. Input TC 971 AC 522 "PNDCLM" on CC ENMOD, if one is not already present for the tax year in question.</li> <li>5. If a levy is active, follow IRM 5.19.1.9.2.1(6), <i>Identity Theft Documentation Processing</i>.</li> <li>6. Document AMS with all actions taken.</li> <li>7. Advise the taxpayer the documentation is being forwarded for processing and should receive a letter within 30 days of receipt confirming receipt of the documentation.</li> </ol> |
| No documentation available (CIS Image) <b>and</b> the taxpayer can immediately FAX the required documentation, | <ol style="list-style-type: none"> <li>1. Once the documentation is received, forward/fax it with a Form 4442, <i>Inquiry Referral</i>, to the appropriate ACSS ID Theft Coordinator.</li> <li>2. Reassign the SB/SE or W&amp;I case on ACS: "TOO1,60,IDXADJ".</li> <li>3. Input TC 971 AC 522 "PNDCLM" on CC ENMOD, if one is not already present for the tax year in question.</li> <li>4. If a levy is active, follow IRM 5.19.1.9.2.1(6), <i>Identity Theft Documentation Processing</i>.</li> <li>5. Document AMS with all actions taken.</li> <li>6. Advise the taxpayer the documentation is being forwarded for processing and should receive a letter within 30 days of receipt from ACSS confirming receipt of the</li> </ol>   |

|   |  |
|---|--|
|   | documentation.   |
| No documentation available (CIS Image), <b>and</b> : <ul style="list-style-type: none"> <li>○ The taxpayer <b>CAN NOT</b> immediately FAX the required documentation,</li> <li>or</li> <li>○ The taxpayer wants to mail the documentation,</li> </ul> | <ol style="list-style-type: none"> <li>1. Advise the taxpayer to mail the required documentation to the appropriate ACSS address to the attention – Identity Theft. Provide a firm deadline date. The appropriate addresses can be located at: <ul style="list-style-type: none"> <li>▪ W&amp;I ACSS State Mapping</li> <li>,</li> <li>or</li> <li>▪ SB/SE ACSS State Mapping.</li> </ul> </li> <li>2. Warn of enforcement action. See IRM 5.19.1.8, <i>Warning of Enforcement Action and Enforced Collection</i>.</li> <li>3. Reassign the SB/SE or W&amp;I case on ACS: "TOO1,60,IDXADJ".</li> <li>4. Input TC 971 AC 522 "PNDCLM" on CC ENMOD if one is not already present for the tax year in question.</li> <li>5. Document AMS with all actions taken including deadline date.</li> </ol> |
| If there is an open Compliance IDRS ID Theft control base (If needed, use the SERP, WhoWhere tab, IDRS - Unit and USR Database to locate the owner/function of the IDRS number),  | <ol style="list-style-type: none"> <li>1. Refer the caller to the applicable function/employee either by providing the taxpayer with the direct contact information (see Note below) or by forwarding a Form 4442, <i>Inquiry Referral</i>, to the controlling employee.</li> </ol> <p><b>NOTE:</b> Some W&amp;I functions currently use the toll-free ID Theft telephone number and have assigned aspect extension numbers. This can be determined by the IDRS control base activity code. If the activity codes shows "IDTXXXXXX", provide the toll-free and Aspect extension numbers to the taxpayer. "XXXXXX" indicates the Aspect number</p>  |

|  |  |
|--|--|
|  | <p><b>NOTE:</b> Do not forward a Form 4442, <i>Inquiry Referral</i>, to the CPAT or DITA functions. (AUSC CPAT – 08647xxxx, FSC CPAT – 10698xxxx, or PSC DITA – 05601xxxx). In these instances, forward the Form 4442, <i>Inquiry Referral</i>, to the ACSS IDT Coordinator indicating a CPAT or DITA control exists.</p> <ol style="list-style-type: none"> <li>2. If not already in ACS Function "O", reassign SB/SE or W&amp;I the case on ACS: "TOO1,60,IDTADJ".</li> <li>3. If a levy is active, follow IRM 5.19.1.9.2.1(6), <i>Identity Theft Documentation Processing</i>.</li> <li>4. Document AMS with all actions taken. Be sure to include specific information as to where the Form 4442, <i>Inquiry Referral</i>, was referred.</li> </ol>  |
| <p>If there is an open IDRS ID Theft control base to a non-Compliance function (If needed, use the SERP, Who/Where tab, IDRS - Unit and USR Database to locate the owner/function of the IDRS number),</p> | <ol style="list-style-type: none"> <li>1. Prepare a Form 4442, <i>Inquiry Referral</i>, indicating open ID Theft base (provide the control base information) and forward to the ACS Support ID Theft Coordinator.</li> <li>2. If not already in ACS Function "O", reassign SB/SE or W&amp;I the case on ACS: "TOO1,60,IDTADJ".</li> <li>3. If a levy is active, follow IRM 5.19.1.9.2.1(6), <i>Identity Theft Documentation Processing</i>.</li> <li>4. Document AMS with all actions taken. Be sure to include specific information as to where the Form 4442, <i>Inquiry Referral</i>, was referred.</li> <li>5. Advise the taxpayer the case is being referred to our Specialized team. The taxpayer should expect a letter within 30 days</li> </ol> |

|  |  |
|--|--|
|  | from the day the referral is received from ACSS. |
|--|--|

3. When the taxpayer is disputing the balance owed (original or additional assessment) on the basis of ID Theft and CC ENMOD indicates a TC 971 AC 501 posted after a TC 971 AC 522 or a TC 971 AC 506 is present, **DO NOT** request the taxpayer to submit/resubmit the documentation. This must be within three (3) years of the TC 971 AC 501/506/522. This also applies to when a taxpayer continues to dispute a resolved ID Theft.
  - a. Prepare Form 4442, *Inquiry Referral*, notating that a TC 971 AC 501/506 is present on CC ENMOD.
  - b. Forward the Form 4442, *Inquiry Referral*, to the appropriate ACSS ID Theft Coordinator.
  - c. Reassign the SB/SE or W&I case on ACS:
 

"TOO1,60,IDXADJ"
  - d. Non-ACS Accounts: Input CC STAUP 2209.
  - e. Input TC 971 AC 522 "NODCRQ" on CC ENMOD.
  - f. If a levy is active, follow IRM 5.19.1.9.2.1(6), *Identity Theft Documentation Processing*.
  - g. Document AMS with all actions taken.
  - h. Advise the taxpayer a referral is being sent to another area for resolution of their case and should receive written or telephone contact within 30 days of receipt.
4. If the taxpayer wants an IA or states they are CNC, document AMS with the required information (financial statement, IA amount, etc.). Advise the taxpayer to make voluntary payments notating the tax period the payment should be applied. **Do not set up the IA or CNC the account.** When the ID Theft issue is resolved, ACSS will either establish the agreement (or CNC the account) or contact the taxpayer for any necessary information. Be sure to document thoroughly AMS history with all information provided by the taxpayer regarding the IA or CNC request.
5. If the taxpayer indicates the address of record or name is incorrect, document AMS with the information provided by the taxpayer. **Do not make any changes to the entity information.** The ACSS Specialized team will make the necessary changes, as determined.
6. When the taxpayer is **NOT** disputing the balance owed (original or additional assessment) on the basis of ID Theft and a TC 971 AC 501/506 are present subsequent to a TC 971 AC 522 for the same tax year or tax years:
  - a. Advise the taxpayer that the ID Theft situation has been resolved.
  - b. A notice or letter will be issued (or may have been already issued).
    - If TC 971 AC 501 was input, then CP 01, *Identity Theft Claim Acknowledgement*, is issued.

- If TC 971 AC 506 was input, then Letter 4674C, *Identity Theft Post-Adjustment Victim Notification Letter (For use by AM When TC 971 AC 506 is input)*, is issued.
  - c. Do not refer the case to the ACSS ID Theft Coordinator or reassign the case to the "O" function.
  - d. Continue with normal balance due resolution (IA, CNC, etc.).
7. If a taxpayer calls back to check on the status of the account and the follow-up date has expired in the "O" function inventory and an open control **DOES NOT** exist:
- a. Check AMS history to see if actions were taken to resolve the issue. If case has been resolved, explain to the taxpayer and continue with normal balance due resolution (IA, CNC, etc.), or
  - b. If there is no information that the issue has been resolved, follow the first three procedures in the If and Then table in paragraph (2) above.
8. If a taxpayer calls back to check on the status of the account and the follow-up date has expired in the "O" function and an open control **DOES** exist:
- a. Follow the last two procedures in the If and Then table in paragraph (2) above.
  - b. Input "OADT,05, IDTRFRL".
9. International accounts are handled by the Philadelphia ACSS/CSCO International Team. These accounts can be identified by File Location Codes (FLC) 20, 21, 60, 66, 78 and 98. FLC 21, 66, and 78 contain all returns with a U.S. possession or territory address with a 5-digit ZIP Code (Form 1040-PR, *Planilla para la Declaración de la Contribución Federal sobre el Trabajo por Cuenta Propia*, or Form 1040-SS, *U.S. Self-Employment Tax Return*) which include Puerto Rico, American Samoa, Guam, U.S. Virgin Islands and the Commonwealth of the Northern Marianna Islands.

**NOTE:** FLC 20, 60, and 98 are used for returns with:

- A foreign address.
- Form 2555, *Foreign Earned Income*, or Form 2555-EZ, *Foreign Earned Income Exclusion*.
- Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, Form SSA-1042S, *Social Security Benefit Statement*, Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax*, or Form 8288-A, *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests*.
- Dual Status Notification.
- Form 1040-NR, *U.S. Nonresident Alien Income Tax Return*, or Form 1040-NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*.

**CAUTION:** Do not assume that an account is International just because you have received Spanish correspondence. Ensure that the above criteria is met.

**IRM 5.19.1.9.7 Identification Theft, Non-Owner of the SSN and Individual Taxpayer Identification Number (ITIN), changed title to Identification Theft, Wrongful Levy Situations. Revised throughout section.**

1. The following procedures have been developed to provide guidance for cases that involve ID Theft issues and wrongful levy.
2. Per IRC 6343 (b), IRS has the authority to return wrongful levy payments. To claim wrongful levy, a person other than the taxpayer claims the Service wrongfully levied upon property he or she has an interest in or NFTL on, to satisfy the tax liability of another.
3. This situation can appear in two ways:
  - o The owner of the of the SSN claims the Service wrongfully levied upon property he or she has an interest in or NFTL on, to satisfy the tax liability that does not belong to him or her.
  - o The non-owner of the SSN communicates with the IRS and claims wrongful levy. The individual calling is "inappropriately" using another taxpayer's SSN for purposes of employment and has a levy on wages/bank that was issued on the "borrowed" SSN.
4. The individual that has been garnished is contacting IRS after levy payment(s) have been sent to the IRS asking for a return of the levy payments and/or request to stop the levy. Release the Levy (the CR must initiate the refund of the wrongful levy payments even if the caller/non-owner does not specifically request the refund).

| If Speaking With ... | Then Verify ...  |
|----------------------|--|
| Owner of the SSN,    | <ul style="list-style-type: none"><li>o An ID thief has filed a return in the taxpayer's name.</li><li>o The taxpayer did not have a filing obligation (or at least didn't file a return), which delayed IRS discovering the ID Theft.</li><li>o The ID Theft return either was audited or reviewed and there is an assessed balance on the victim's account that IRS is attempting to collect (defaulted deficiency or summary assessment of overstated withholding).</li><li>o IRS uses its levy authority to collect against the assessment.</li><li>o Contact from <b>SSN owner</b> claiming refund of levy proceeds would fall under normal payment RSED procedures and time frames (<b>2 years from payment date</b>).</li></ul> |
| Non-owner of the     | <ul style="list-style-type: none"><li>o Communicating with the non-owner of the SSN (verify name, address, and SSN/ITIN).</li></ul>  |

|      |   |
|------|---|
| SSN, | <ul style="list-style-type: none"> <li>○ Levy was issued to a source belonging to the non-owner of the SSN based on the taxes assessed under the SSN of the rightful owner or assessed based on the earning of the non-owner of the SSN.</li> <li>○ Taxes were assessed on the account of the rightful owner of the SSN or assessed based on the earnings of the non-owner of the SSN.</li> <li>○ The true owner's account (SSN) is being used by the owner and the non-owner (not merely by the non-owner to work).</li> <li>○ Contact from <b>non-owner must be within 9 months</b> of the levy issuance.</li> </ul> <p><b>EXAMPLE:</b> A levy source has paid funds to the IRS from an account of a non-liable party.</p> <p><b>NOTE:</b> If IRS is contacted more than 9 months after the date of the levy, we have no authority to return the wrongful levy payments.</p> <p><b>NOTE:</b> The CR must secure information to determine that the individual requesting the return of levy proceeds is the "the borrower" of the SSN and not the owner of the original SSN (i.e. proves use of the SSN via pay stubs or any other substantiating document rent receipt where the current address is the address on the CC IRPTR print out and pay stubs show use of that SSN). In addition, the non-owner must provide substantiation to show ownership of the levy payments.</p> |
|------|---|

5. A levy may remain in effect based on the following information and circumstances outlined in IRM 5.11.2.2.1, *Legal Basis for Releasing Levies*:
  - The liability was assessed in the name of the non-owner of the TIN
  - The assessment is based solely on the income of the non-owner of the TIN, and there are no credits (payment, offset etc.) attributable to the victim for the assessment listed on the levy
  - Pre levy notices were properly issued to non-owner of the TIN; the Service assessed the liability under the TIN/SSN of the non-owner

**REMINDER:** To prevent re-issuance of levy, change levy source to "INFO ONLY".

**IRM 5.19.1.9.7.1 Processing Guidelines for ACS/ACSS Employees, updated table under paragraph (1).**

1. If the caller (non-owner of the SSN) has documentation/verification readily available, instruct the caller to fax the information into the IRS during the call. The phone assistor is required to take all necessary action during the call and document AMS with all actions taken.

| If ...  | And ...  | Then ...  |
|---|--|---|
| Non-owner of the SSN contacts IRS within 9 months of the levy issuance date | Non-owner has their own account (i.e. valid SSN OR ITIN) | <p>Non-owner substantiates levy payment(s).</p> <ol style="list-style-type: none"> <li>1. Complete full compliance check. Refer to IRM 5.19.1.3.4.1, <i>Full Compliance Check</i>.</li> <li>2. Ask the non-owner for substantiation (i.e. pay stubs or payroll records) to prove ownership of the levy payments.</li> <li>3. If substantiation is secured during call (faxed to CR) and verified, initiate a transfer of the income payments received from the non-owner levy source to the non-owner's account (SSN OR ITIN).</li> <li>4. Manually refund the levy payment(s) to the non-owner; complete Form 5792, <i>Request for IDRS Generated Refund</i>, (reference the non-owner's true account number on the refund check), per IRM 21.4.4.4.1, <i>Preparation of Form 5792, IDRS Generated Refund</i>.</li> <li>5. If substantiation needs to be mailed in:<br/>Provide ACSS address<br/>Input history code:<br/>W&amp;I: "TOO1,XX,RFND"<br/>SB/SE: "TOO1,XX,RFND"</li> <li>6. Input TC 570 (to freeze funds/prevent refund).</li> <li>7. Document AMS.</li> </ol> |
| Non-owner   | Non-owner  | <ol style="list-style-type: none"> <li>1. Advise the non-owner to file a</li> </ol>   |

|  |  |   |
|--|--|---|
| <p>of the SSN contacts IRS within 9 months of the levy issuance date</p> | <p>does not have his own account.</p>  | <p>return, Form W-7, <i>Application for IRS Individual Taxpayer Identification Number</i>, (if no ITIN), and substantiation to verify payments and mail to ACSS.</p> <p>If Non-Owner of the SSN request Income Documents refer to IRM 21.3.4.32.2, <i>Income Documents Related to ID Theft Issues</i>.</p> <ol style="list-style-type: none"> <li>2. Input TC 570 (to freeze funds/prevent refund).</li> <li>3. For SB/SE or W&amp;I cases. input history code: "TOO1,99,ITIN" (or "IRSN")</li> </ol> <p><b>NOTE:</b> IRM 21.3.4.32.2, <i>Income Documents Related to ID Theft Issues</i>, addresses issue if borrower requests CC IRPTR income documents.</p> <p><b>REMINDER:</b> ITIN application process:</p> <ol style="list-style-type: none"> <li>1. Federal income tax return.</li> <li>2. Form W-7, <i>Application for IRS Individual Taxpayer Identification Number</i>.</li> <li>3. Proof of identity and foreign status documents.</li> <li>4. Assistance available to complete Form W-7, <i>Application for IRS Individual Taxpayer Identification Number</i>:<br/>800-829-1040<br/>IRS.GOV<br/>TAC<br/>Acceptance Agent</li> </ol> |
| <p>Non-owner contacts IRS more than 9 months after the levy issuance</p> | <p><b>Intentionally Left Blank</b></p> | <p><b>Do not</b> return the levy payment(s) to the non-owner</p> <ol style="list-style-type: none"> <li>1. Advise the taxpayer that the payment cannot be returned to them because they did not</li> </ol>  |

|   |                          |  |
|---|--------------------------|--|
| date but less than 12 months.   |                          | <p>request it timely.</p> <ol style="list-style-type: none"> <li>2. Input TC 570 (to freeze funds/prevent refund).</li> <li>3. Reassign SB/SE or W&amp;I cases to:<br/>"TOO1,XX,EXCESSC"<br/>XX = If payment is less than 12 months old, adjust the follow-up date accordingly to meet the 12 month requirement.</li> </ol>  |
| Non-owner contacts IRS more than 12 months after the levy issuance date | Intentionally Left Blank | <p><b>Refer the payment(s) to Excess Collection</b></p> <ol style="list-style-type: none"> <li>1. Advise the taxpayer that the payment cannot be returned to them because they did not request it timely.</li> <li>2. Complete Form 8758, <i>Excess Collections File Addition</i>, for each credit.</li> </ol> <p>Helpful Hints: <b>Box 3</b> Source Code ="CO" (from where credit is transferred Collection ="CO")<br/> <b>Box 4</b> Status Code ="IDEN" (Identified) <b>Box 9</b> Payment Type (remittance received)<br/> "CA" = cash<br/> "CC" = cashier's check<br/> "MO" = money order<br/> "PC" = personal check<br/> "UK" = unknown<br/> <b>Box 16</b> Reason = "Wrongful Levy-Do Not Apply or Refund ID Theft" IRM 3.17.220.2.1.1, <i>Preparation of Form 8758</i></p> |