



IRS Nationwide
Tax Forum | 2023

Navigating Fraud Landmines as Tax Professionals

Rev 6/29/2023

Learning Objectives

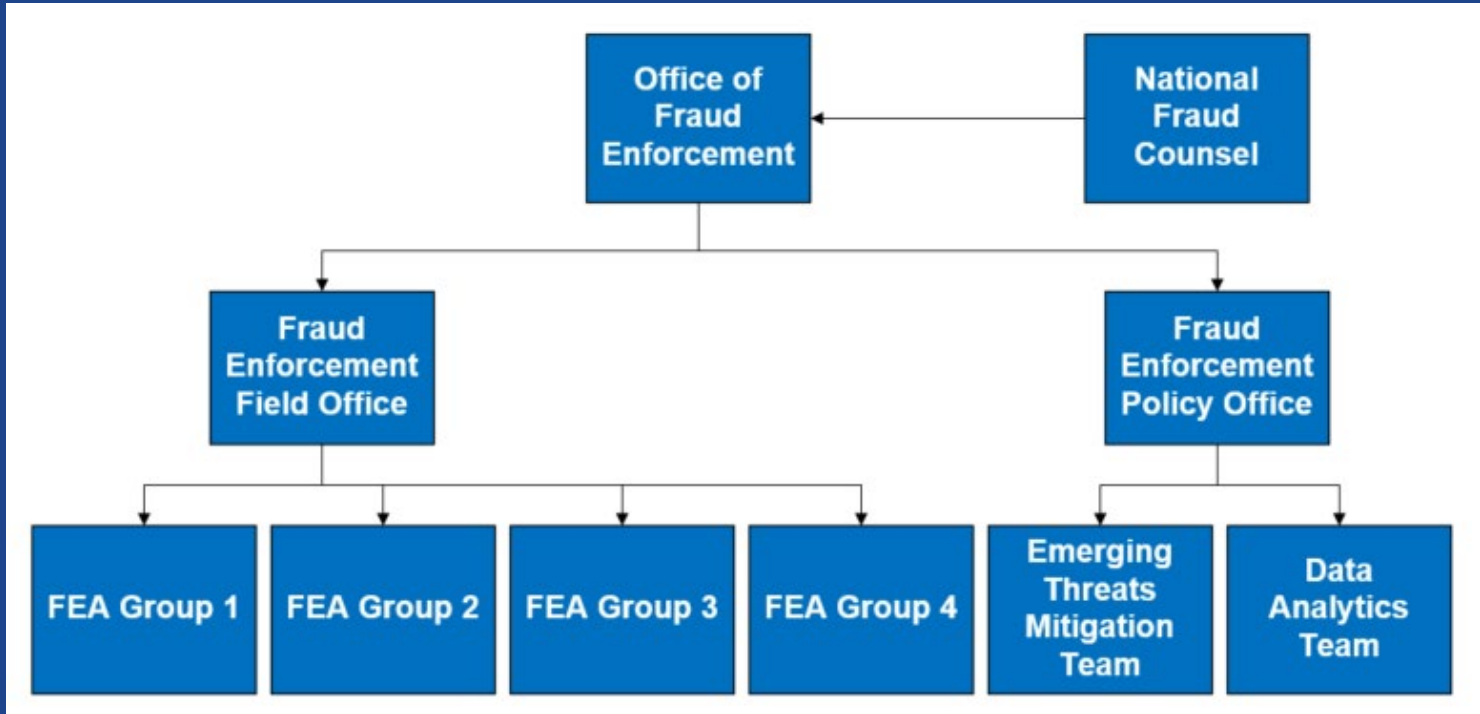
By the end of this presentation, you will be able to:

- Explain the purpose of the Office of Fraud Enforcement.
- Give examples of current fraud schemes, their results and how to avoid them.
- Report fraud to the IRS.

History of the Office of Fraud Enforcement

- Predecessor was the National Fraud Program
- OFE Established in March 2020
- Direct report to SB/SE Deputy Commissioner, Collection & Operations Support
- Combines both a reactive *AND* proactive approach to battling fraud issues

Who is the Office of Fraud Enforcement?



OFE Mission

To promote compliance through strengthening the IRS's response to fraud and mitigating emerging threats.

This includes:

- Cultivating internal and external partnerships to identify new treatment streams to enhance enforcement,
- Strengthening fraud detection and development to address areas of high-fraud and high-risk noncompliance and
- Pursuing civil fraud penalties and referring cases that may lead to prosecutions where appropriate.

Where Can I Find Out More About OFE?

- [Office of Fraud Enforcement At-a-Glance | Internal Revenue Service \(irs.gov\)](#)

Know Your Client

- Know Your Client (KYC) is the process of obtaining information about a customer and verifying their identity.
- Circular 230 § 10.22 Due Diligence Requirements.
- Serves an important purpose for providing services to clients, preventing liability, and avoiding association with money laundering, types of fraud, or other suspicious activities.

Know Your Client

- Know your client's name, type of business, type of records maintained, banking practices, and other pertinent information.
- Complete a Tax Organizer.
- Complete a Client Interview.
- “Renew” Your KYC Information.

How to Report Fraud

How Do You Report Suspected Tax Fraud Activity? | Internal Revenue Service (irs.gov)

The screenshot shows the IRS website's navigation bar with links for Help, News, English, Charities & Nonprofits, and Tax Pros. Below the navigation bar is a search bar and a breadcrumb trail: Home / File / Individuals / How Do You Report Suspected Tax Fraud Activity? The main heading is 'How Do You Report Suspected Tax Fraud Activity?' with language options for English, Español, 中文(繁體), 한국어, Русский, and Tiếng Việt. A left-hand menu lists various categories: Individuals (highlighted), Businesses and Self-Employed, Charities and Nonprofits, International Taxpayers, Governmental Liaisons, Federal State Local Governments, Indian Tribal Governments, and Tax Exempt Bonds. The 'Individuals' section is expanded to show sub-topics: Who Should File, How to File, When to File, Where to File, Your Information, Life Events, Students, Employees, Parents, Military, and Seniors & Retirees. The main content area is titled 'How Do You Report Suspected Tax Fraud Activity?' and includes a sub-heading 'Report Suspected Tax Law Violations' with a brief description and a list of tax fraud types. It also features sections for 'Rewards', 'Report Identity Theft', 'Report Other Types of Tax Fraud', and 'Report Fraudulent IRS Emails and Websites'.

Individuals

- Who Should File
- How to File
- When to File
- Where to File
- Your Information
- Life Events
- Students
- Employees
- Parents
- Military
- Seniors & Retirees

Businesses and Self-Employed

Charities and Nonprofits

International Taxpayers

Governmental Liaisons

Federal State Local Governments

Indian Tribal Governments

Tax Exempt Bonds

How Do You Report Suspected Tax Fraud Activity?

English | Español | 中文(繁體) | 한국어 | Русский | Tiếng Việt

You can report an individual or a business you suspect of tax fraud.

Report Suspected Tax Law Violations

Submit [Form 3949-A, Information Referral online](#) [\[PDF\]](#) if you suspect an individual or a business is not complying with the tax laws. We don't take tax law violation referrals over the phone. We will keep your identity confidential when you file a tax fraud report. You won't receive a status or progress update due to tax return confidentiality under IRC 6103.

Tax fraud includes:

- False exemptions or deductions
- Kickbacks
- A false or altered document
- Failure to pay tax
- Unreported income
- Organized crime
- Failure to withhold
- Failure to follow the tax laws

Rewards

To claim a reward for information about tax fraud, use [Form 211, Application for Award for Original Information](#) [\[PDF\]](#).

Report Identity Theft

Visit [Identity Theft Central](#) if you think someone stole your identity and used your Social Security number for employment or could use it to file a tax return. You can also visit [Taxpayer Guide to Identity Theft](#).

Report Other Types of Tax Fraud

[Report Suspected Abusive Tax Promotions or Preparers - Form 14242](#) [\[PDF\]](#)
Abusive tax promotion or avoidance scheme

[Return Preparer Complaint - Form 14157](#) [\[PDF\]](#)
Fraudulent activity or an abusive tax scheme by a tax return preparer or tax preparation company.

[Tax Return Preparer Fraud or Misconduct Affidavit - Form 14157-A](#) [\[PDF\]](#)
Tax return preparer filed a return or altered your return without your consent and you are seeking a change to your account. Send this form in addition to Form 14157.

[Tax-Exempt Organization Complaint \(Referral\) - Form 13909](#) [\[PDF\]](#)
Misconduct or wrongdoing by an exempt organization or employee plan.

Report Fraudulent IRS Emails and Websites

See [Report Phishing and Online Scams](#) to report fraudulent IRS emails or websites.

Individuals Topics

- [Tools](#)
- [Taxpayer Advocate](#)
- [Affordable Care Act](#)

Reporting ERC Fraud

- The IRS has created a new email box specifically for taxpayers and practitioners to submit leads related to abusive Employee Retention Credit promoters and preparers
- Submit Form 14242 to:

SBSE.ERC.Leads@irs.gov

What Happens When I Report Fraud?

- Because of disclosure and privacy laws, the IRS will not generally update you on the status of a case/information item you submit.
- This does not mean the IRS did not do anything with your information. The information you provide is valuable. Many times, information is aggregated to identify schemes and areas of abuse.
- Information items are scored and placed into the workflow based upon priorities and resources.
- You can help by submitting detailed information and providing documentation when possible.

What Happens to Fraudsters?

- Civil Fraud Penalties (75% Penalty)
- Fraudulent Failure to File Penalties (75% Penalty)
- Criminal Prosecution
 - Prison
 - Fines & Penalties
 - Restitution
 - Forfeiture

Current Fraud Schemes

1. COVID-19 Tax Credit Fraud
2. Labor Broker Schemes
3. Dark Web/ID Theft

COVID-19 Tax Credits: ERC Overview

- Employee Retention Credit (ERC) – Refundable tax credit available to eligible employers against payroll taxes.
- Credit amount is based on wages paid during specified periods during the COVID-19 pandemic.
- Must have either fully/partially suspended business operations due to a government order because of COVID-19, had a significant decline in gross receipts, or was a Recovery Startup Business.

COVID-19 Tax Credits: SLFLC Overview

- Credit for Qualified Sick Leave and Family Leave (SLFLC)—Refundable tax credit available to eligible:
 1. Employers against payroll taxes;
 2. Certain Self-Employed Persons against income taxes; &
 3. Household Employers against income taxes.
- Credit amount is based on qualified sick leave and family leave wages paid during specified periods during the COVID-19 pandemic.

COVID-19: Description of Schemes

- ERC Schemes rank #1 on IRS's 2023 Dirty Dozen List.
- Fictitious businesses created by individuals to claim ERC (and to engage in PPP loan fraud).
- Intentionally inflated amounts reported as qualifying wages for COVID-19 tax credits on original and amended returns.
- Abusive promoters/preparers encouraging taxpayers to report/claim false COVID-19 tax credits.

COVID-19: Bush Case Review

United States v. Bush, Case No. 3:21-cr-00074 (E.D. Tenn.)

Findings

- Porsha Bush (Knoxville, TN) engaged in > \$540,000 in CARES Act Fraud.
- Submitted false Schedule C Profit and Loss Statements.

COVID-19: Bush Case Review (cont'd)

Findings (cont'd)

- False statements: # of employees & amount of wages paid.
- Spent fraudulently obtained funds on travel, personal debt, clothes, electronics, and other personal expenses.
- Sentenced: 57 months in prison / Restitution: \$471,621 / Fined: \$25,000.

COVID-19: Briley Case Review

United States v. Briley et al., Case No. 6:22-cv-00204 (E.D. Tex.)

Findings

- Per DOJ, Jason Briley and others in his tax preparation firm (Longview, TX) caused \$53M in tax harm to government.
- Reported false COVID-19 tax credits, false Schedules C & F items, and false Form 2106 Employee Business Expenses.

COVID-19: Briley Case Review (cont'd)

Findings (cont'd)

- False statements: # of employees & amount of wages paid.
- Disgorgement: ~\$7.4M / Permanently enjoined from engaging in tax preparation activity.

Labor Broker Schemes: Overview

General Definition

- Labor Broker - Any person or business that provides workers to another business(es) over a set period of time for a negotiated fee.
- Other names: employee leasing agency, staffing company, and human resource provider.

Labor Broker Schemes: Overview

Advantages for General Contractor

- Relief from Administrative Responsibilities (e.g. tax filing/payment requirements) related to directly hiring employees
- Legally Shielded from Labor Related Disputes
- Staffing Flexibility

Labor Broker: Characteristics of Schemes

- Concealment of True Operator's Identity.
- Fraudulent Non-Filer/ Tax Evasion (Income Tax, Employment Tax, and Information Returns).
- General Contractor is creator of shell company posing as Labor Broker.

Labor Broker: Characteristics of Schemes

- Large Cash Transactions to pay workers “under the table”.
- Exploitation of Undocumented Workers who have been used as cash couriers or a proxy in some other capacity for the labor broker business.

Labor Broker: Characteristics of Schemes

Non-Tax Implications

- Lack of compliance with other agencies, e.g. Department of Labor, workforce commissions for various states.
- Workers at risk without coverage for medical/health insurance coverage or unemployment benefits.
- Unfairly undercutting bids from law-abiding competitors.

Labor Broker: Chugay Case Review

United States v. Chugay, Case No. 4:21-cr-10008 (S.D. Fla.)

Findings

- Mykhaylo Chugay and others (Key West, FL) ran a series of labor-staffing companies
- Encouraged workers to illegally enter U.S. and sent \$11M in checks/wires to co-conspirators in Ukraine and elsewhere

Labor Broker: Chugay Case Review

Findings (cont'd)

- Defrauded the U.S. out of more than \$25M in income and payroll taxes.
- Chugay Found Guilty: Tax Evasion (\$25M in unreported income/payroll taxes), Immigration Law Violations, and Money Laundering.
- Chugay Sentenced: Over 24 years.

Dark Web/ID Theft

- A hidden internet environment accessible with special software, configurations, or authorized access.
- Repository of stolen personal information illegally obtained by various means.

Dark Web/ID Theft

- Hacking networks, servers, computer systems and various devices.
- Phishing attempts that successfully induce victims to divulge sensitive information, e.g. SS#, passwords, bank account info, and credit card numbers.
- Compromised data may be used to commit tax fraud.

Dark Web/ID Theft

5 Warning Signs of ID Theft

- 1) Tax Return Rejection
- 2) No record of correct employment history or wages
- 3) IRS notice of unexpected additional tax, refund offset or other change
- 4) IRS notice of online account activation/deactivation
- 5) Assignment of an employer identification number not requested

Dark Web/ID Theft: Meza Case Review

United States v. Meza, Case No. 1:20-cr-00035-1 (N.D. Ill.)

Findings

- Wilmer Alexander Garcia Meza (Waukegan, IL) fraudulently obtained ITINs using others' personal identifying information.
- Used ITINs to file tax returns to claim refunds resulting in \$221,923 in tax harm to the U.S.
- Sentenced: 29 Months / Restitution: \$221,923.

OFE's Responses to Schemes

- OFE Field Offices – Fraud Enforcement Advisors assist audit and collection employees with case development.
- Emerging Threats Mitigation Team – Performs data analytics to identify potential fraud and coordinates projects to prevent and extinguish threats to tax administration.
- OFE collaborates with all divisions to address fraud including CI and the Office of Promoter Investigations.

How to Avoid Schemes/Scams

Education/Awareness

- Attend National Tax Forums and Other Conferences
- Read DOJ Tax Division Press Releases
- Visit IRS.gov
- Report fraudulent schemes, preparers and promoters

Communication with Clients Via Website/Social Media

- Warn Clients of Phishing Attempts
- Offer Consultation about To-Good-To-Be-True “Tax Benefits”
- Post “IRS Dirty Dozen”

Hot Topics	Search Terms
Form 1099-K	Form 1099-K, payment cards, third party payments
How the IRS contacts taxpayers	IRS scams, impersonation, does the IRS call you
Clean Vehicle Credits	Clean Vehicle Credit, ev tax credit, 45w tax credit
Residential and Home Energy Credits	solar tax credit, energy efficient home improvement credit
E-file Forms 1099 With IRIS	IRIS tax portal, Information Returns Intake System, file 1099 online
Reporting suspected tax law violations	Form 3949-A, tax fraud report, abusive tax avoidance, IRS report fraud
Digital Assets	convertible virtual currency and cryptocurrency, stablecoins, NFTs



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Questions???

