

CI Officials Debate Focus on Stolen Identity Refund Fraud

By Shamik Trivedi — strivedi@tax.org

Stolen identity refund fraud (SIRF) has long been a priority for the IRS and the Justice Department, but some have suggested that the government's intense focus may detract from other, equally pressing issues.

Paul Camacho, special agent in charge (Las Vegas) in the IRS Criminal Investigation division, said December 6 that SIRF remains a priority for CI. "I've never seen such a coordinated effort within the IRS to deal with an issue" like with identity theft, Camacho said. He spoke at a criminal tax fraud and tax controversy conference in Las Vegas sponsored by the American Bar Association Section of Taxation and Criminal Justice Section.

DOJ Tax Division Directive 144, issued September 18, allows U.S. attorney's offices that designate a point of contact for SIRF cases to open tax-related grand jury investigations, to charge by complaint criminals engaged in SIRF crimes, and to obtain seizure warrants for the forfeiture of criminally derived proceeds arising from SIRF crimes, all without prior authorization from the Tax Division. (For prior coverage, see *Tax Notes*, Sept. 24, 2012, p. 1525, *Doc 2012-19462*, or *2012 TNT 182-3*.)

Kathryn Keneally, assistant attorney general for the Tax Division, emphasized that the directive is limited to SIRF cases. "It does not give U.S. attorney's offices authorization to indict, as you still need Tax Division approval for that," she said. "That's always been a fundamental part of what the Tax Division does to ensure uniform enforcement and consistency nationwide." Thus, practitioners are permitted to seek conferences with the Tax Division in all tax cases, she added.

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The directive is an example of the government working intelligently, Camacho said, adding that it allows for better pairing with local law enforcement.

Edward Cronin, CI division counsel/associate chief counsel, said there was unprecedented cooperation between the IRS and Justice in the creation of the directive, which has a two-year life span. The government hopes "that this movement will not be an indefinite problem," he said.

Mark E. Matthews of Caplin & Drysdale, a former CI chief, said that although SIRF is a problem, he wondered whether the resources put into it, including the ability granted by the directive for U.S. attorney's offices to directly access IRS resources, posed any concerns.

Richard Speier Jr., a consultant who previously served as CI deputy chief, said the IRS "has always had a one-refund-per-taxpayer policy" and that the amount of attention now being paid to SIRF shows not only an escalation of the enforcement response but also an escalation of the problem.

In 2006 CI was performing 4,000 open investigations per year, and the most recent figures, from 2011, show more than 5,100 investigations per year, Speier said. "So I'm trying to figure out, with the escalation of enforcement priority devoted to refund crime, what that leaves for the rest," he said.

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Ian M. Comisky of Blank Rome LLP was more direct, saying, "You're taking the finest financial investigators in the world, and you're having them do street crime."

Camacho defended CI's role, citing the directive and CI's ability to include local law enforcement personnel in work on specific cases. He said that although it's true that the investigations do not usually involve sophisticated financial issues, that enables CI "to bring in counterparts to be a part of that, and a lot of law enforcement wants to be a part of these investigations."

An audience member asked whether CI had any internal mechanisms, such as sophisticated algorithms akin to discriminant function system scores, to identify refunds that do not match historical tax return data. The individual said some of the examples of SIRF he has witnessed involved high-earning individuals' personal information being used to process earned income tax credit refunds.

NEWS AND ANALYSIS

Camacho said he wouldn't comment on the techniques CI uses but that practitioners who have suggestions should convey them to CI. ■

Jeremiah Coder contributed to this article.