



National Association  
of Tax Professionals

## **IRS OVERSIGHT BOARD 2013 PUBLIC FORUM**

*Panel 2: Working Together To Combat Fraud*

NATP's Commentary Regarding:

Ways We Can All Work Together To Reduce Intentional  
Evasion and Reduce Non-Compliant Behavior

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## BACKGROUND

The National Association of Tax Professionals (NATP) is honored to submit this paper to the IRS Oversight Board. NATP appreciates the opportunity to comment on strategies for combatting identity theft and fraud.

NATP is a grassroots organization that was formed in 1979 by tax professionals for tax professionals. Its founders envisioned a support organization that could provide education on the complex tax code, its regulations and other pronouncements in laymen's language. Currently NATP has over 25,000 members and 39 Chapters throughout the United States.

NATP provides its members with the necessary resources that enable them to properly advise their clients in tax matters and prepare accurate returns. Federal tax research and education are the core benefits to members. With these tools, tax practitioners are better equipped to effectively resolve taxpayer issues while ensuring tax compliance.

## COMBATTING TAX FRAUD HAS BEEN A "HOT TOPIC"

Recently, the matter of tax fraud and identity theft in particular has been a prime focus of the government. In the past two years, Congress has conducted six hearings on identity theft or refund fraud.<sup>1</sup> The Senate held a hearing<sup>2</sup> on April 16 that featured testimony<sup>3</sup> from appropriate governmental agencies as well as other experts regarding the phenomenon of increased fraud and identity theft through the filing of tax returns. Senate Finance Committee (SFC) Chairman Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah) have also launched a process for the committee to begin developing a proposal to reform America's tax

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<sup>1</sup> The following committees and subcommittees have held hearings on identity theft in the last two years:

- May 21, 2011, the Senate Finance Subcommittee on Fiscal Responsibility and Economic Growth;
- June 2, 2011, the House Oversight and Government Reform Subcommittee on Government Organization, Efficiency, and Financial Management;
- March 30, 2012, the Senate Finance Subcommittee on Fiscal Responsibility and Economic Growth;
- May 8, 2012, the House Ways and Means Subcommittee on Oversight and Social Security;
- June 28, 2012, the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security; and
- November 29, 2012, the House Oversight and Government Reform Subcommittee on Government Organization, Efficiency, and Financial Management.

<sup>2</sup> Senate Finance Committee Hearing On Tax Fraud And Tax Identity Theft: Moving Forward With Solutions, 215 Dirksen Senate Office Building, Washington, DC, 10:00am, April 16, 2013, last viewed on April 22, 2013 at:

<http://www.finance.senate.gov/hearings/hearing/?id=62739085-5056-a032-5281-4500bf4d4fb3>

<sup>3</sup> Steven T. Miller, Acting Commissioner, Internal Revenue Service; Nina E. Olson, National Taxpayer Advocate; Jeffrey A. Porter, Chair of the American Institute of Certified Public Accountants (AICPA) Tax Executive Committee; Marianna LaCanfora, Acting Deputy Commissioner for Retirement and Disability Policy, Social Security Administration. Papers last viewed at: <http://www.finance.senate.gov/hearings/hearing/?id=62739085-5056-a032-5281-4500bf4d4fb3>

code. The SFC has been convening weekly to discuss a series of options papers<sup>4</sup> on a wide range of issues within tax reform. Some of these papers discuss options for thwarting fraud.

Senator Bill Nelson (D-FL) introduced S. 676 on April 9, 2013. The title of this bill is the *Identity Theft and Tax Fraud Prevention Act of 2013*. It provides for several measures to frustrate and combat fraud. Senators Benjamin L. Cardin (D-MD), Dianne Feinstein (D-CA) and Charles E. Schumer (D-NY) are co-sponsors of this bill. Congressman Bill Foster (D-IL) introduced H.R. 1532 on April 12, 2013. The title of this bill is the *Autofill Act of 2013* which addresses some anti-fraud proposals. Congressmen Jared Huffman (D-CA) and Mike Quigley (D-IL) are co-sponsors of this bill. Indeed, a number of other Congresspersons have also introduced such legislation, including but not limited to Debbie Wasserman Schultz (D-FL), Trey Radel (R-FL), Joe Garcia (D-FL) and Ileana Ros-Lehtinen (R-FL).

Nina Olson, the National Taxpayer Advocate, in her 2012 Annual Report to Congress<sup>5</sup> reported that tax-related identity theft is one of the most serious problems facing victims and the IRS. The Treasury Inspector General for Tax Administration (TIGTA) has been announcing its reports<sup>6</sup> at a pretty rapid rate this past week, pointing out weakness in IRS practices regarding the stemming of fraudulent activity. All of the above reports and analyses have fostered excellent ideas. Here are just some of them that we whole-heartedly support:

1. Fighting identity theft by restricting access to the Social Security Administration's Death Master File (DMF), while still making it available to entities that need it to combat fraud.
2. Working closer with the Bureau of Prisons to shut down prisoners engaged in the perpetration of tax fraud.
3. Piloting and then further implementing a Real-Time Tax System (RTTS) that effectively utilizes upfront matching of third-party information to that reflected on tax returns.
4. Improving information sharing with federal, state and local law enforcement.

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<sup>4</sup> "Simplifying the Tax System for Families and Businesses," March 21, 2013, last viewed on April 22, 2013 at: <http://www.finance.senate.gov/issue/?id=b1ae1ce3-c25c-43c3-82da-6d33378e62bf>; "Business Investment and Innovation," April 11, 2013, last viewed on April 22, 2013 at: <http://www.finance.senate.gov/issue/?id=72355fe8-b834-467e-bae8-79a77f7517f8>; and "Family, Education and Opportunities," April 18, 2013, last viewed on April 22, 2013 at: <http://www.finance.senate.gov/issue/?id=211fefcd-aac7-47af-92e4-a2a25c3db2cf>. These papers are the joint product of the majority and minority staffs of the Finance Committee with input from Committee members' staffs.

<sup>5</sup> See National Taxpayer Advocate 2012 Annual Report to Congress, Pgs. 42-67 (Most Serious Problem: The IRS Has Failed to Provide Effective and Timely Assistance to Victims of Identity Theft).

<sup>6</sup> See "Fraud Indicators Are Not Always Recognized and Properly Investigated by the IRS," TIGTA Press Release 2013-13, April 17, 2013; "Taxpayer Referrals of Suspected Tax Fraud are Misrouted and Improperly Screened by the IRS," TIGTA Press Release 2013-14, April 18, 2013; and "TIGTA: The IRS Was Not in Compliance With All IPERA Requirements for FY 2012," TIGTA Press Release 2013-15, April 22, 2013, for example.

5. Tax simplification, especially repealing provisions that require taxpayers to calculate their tax liabilities multiple times (as is done to determine a taxpayer's subjection to the Alternative Minimum Tax (AMT), the Personal Exemption Phase-out (PEP) and like tax measures). The more complicated our tax administration is, the less likely we will be able to develop an effective and robust RTTS.
6. The truncation of social security numbers on W-2 and other forms.
7. Providing the IRS with adequate funding and stability to enable the performance demanded of it.
8. Eliminating the practice of incompetent and unscrupulous tax return preparers.

NATP does have particular unique, practical observations and recommendations some of which center on the above-mentioned proposals. Our ideas address more immediate and timely solutions that can dramatically improve the fight against fraud in the near-term, allowing for subsequent improvement and even replacement of measures that may be temporary.

## **COULD "SIMPLE" IDEAS AT LEAST ADD VALUE?**

"Simple" ideas are often overlooked, particularly when it comes to technical problems and issues. There is an inherent tendency to assume that everything connected to complex problems is also, therefore, complex. Engineers and pundits of all kinds advise against trying to find the "silver bullet" that fixes a problem once and for all. They are fond of the quote by H.L. Mencken: "For every complex problem, there is a solution that is simple, neat and wrong." We won't take the time and space to debate them here, but we'd like to think that complex problems often contain less complicated components that may be addressed and refined in a way that has a positive bearing on a solution. We would rather quote Albert Einstein here regarding problem-solving:<sup>7</sup> "...as simple as possible, but not simpler."

There are some fairly "elemental" propositions that we believe will effectively assist with combatting tax fraud. Some of these may appear to resemble "Monday morning quarterbacking." We want to clearly state here that it is not our intent to blame anyone or to denigrate the sincere, hard-won efforts on the part of regulators and government. Our object in making these suggestions is to learn from the past and ask ourselves if we can do better.

### **Act Sooner**

We have noted that a number of the ideas put forth to help combat fraud have been proposed before and, in some instances, long ago. If they are good ideas today, why were they not good ideas when they were proposed before? Sometimes good ideas are proposed, but

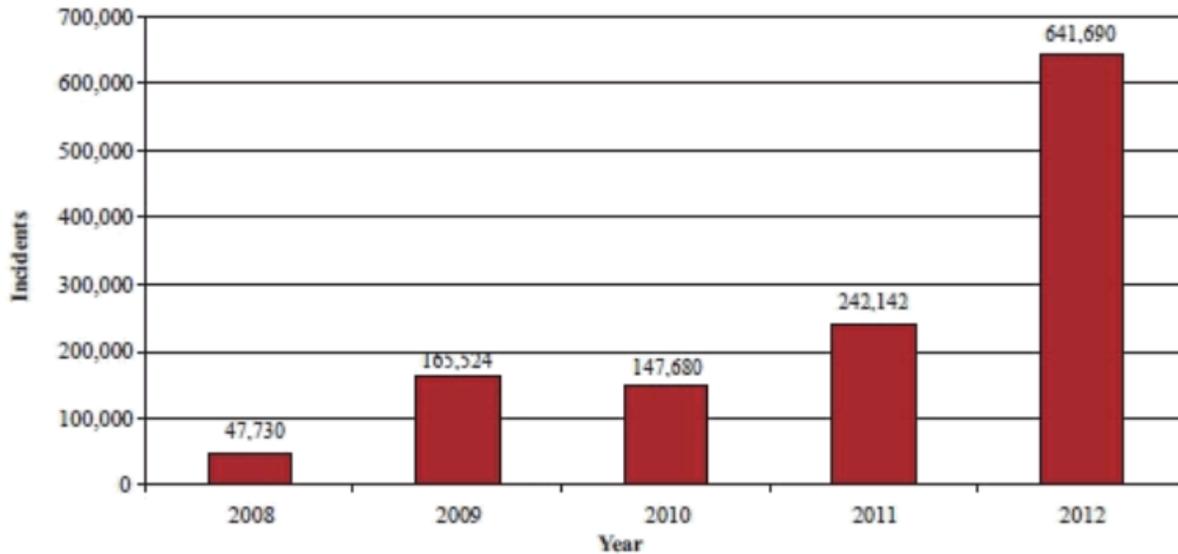
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<sup>7</sup> Prausnitz, Frederik, Roger Sessions – How a "Difficult" Composer Got That Way, Oxford University Press, New York NY, Copyright 2002, Pg. 230. Quoting Albert Einstein.

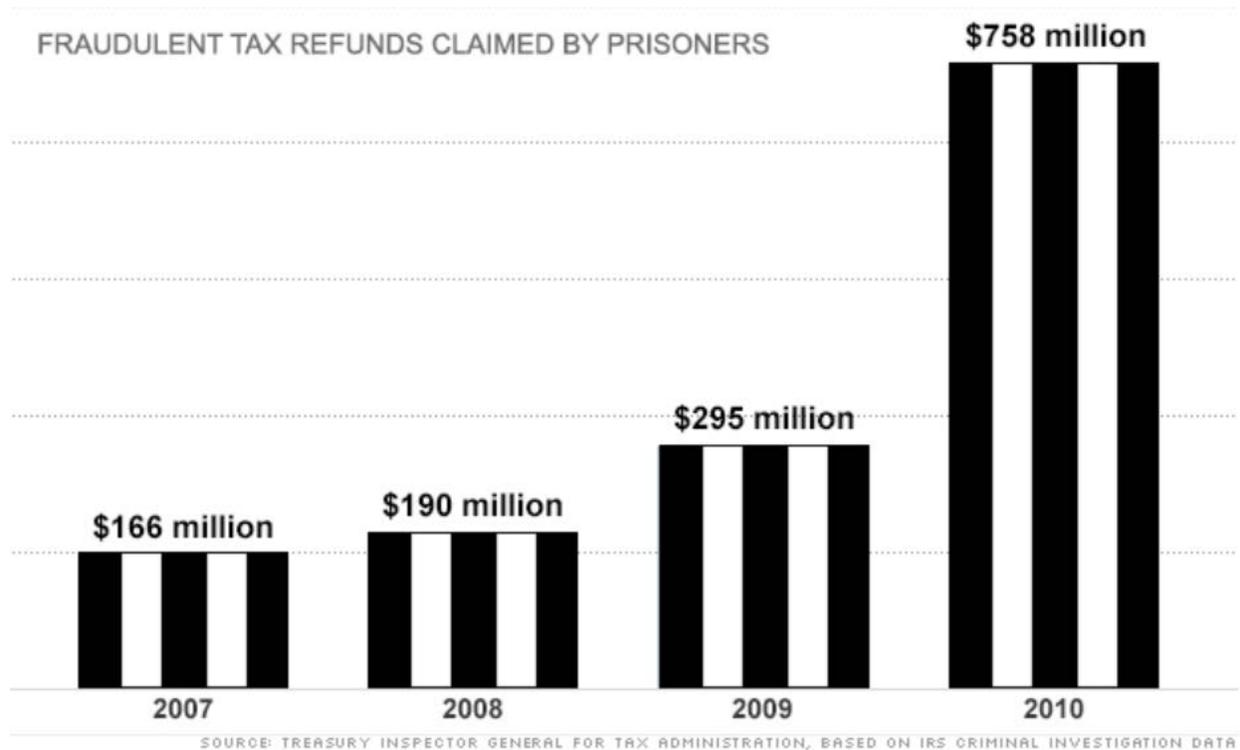
they're not timely because the needed or required technology to implement has not caught up with them. Sometimes, however, we wonder whether those who solicit advice either listen to it or see it for its value and practicality. Lee Iacocca, former President and CEO of the Chrysler Corporation said:<sup>8</sup> "So what do we do? Anything. Something. So long as we just don't sit there. If we screw it up, start over. Try something else. If we wait until we've satisfied all the uncertainties, it may be too late." This quote seems hasty and encouraging of poor planning along the lines of "ready, shoot, aim." As we put it in context, however, particularly as it may apply to a RTTS, we believe it has applicability and requires courage.

Identity theft is not a new phenomenon. What is new about it is the rate at which it is accelerating, particularly among the prison population. (See Fig. 1 & 2)

**Figure 1. Tax-Related Identify Theft Incidents Reported by the GAO, 2008 to 2012**



<sup>8</sup> Wilkerson, Carrie, The barefoot executive: the ultimate guide for being your own boss and achieving financial freedom, Thomas Nelson, Nashville, Tennessee, Copyright 2011, Pg. 56. Quoting Lee Iacocca.



Prisoners are claiming an increasing amount of fraudulent tax refunds from behind bars.

Figure 2

Nina Olson first provided notice that this phenomenon was a problem back in her 2004 Annual Report to Congress<sup>9</sup> nearly a decade ago. It was likely a problem before she reported it. Consider the increase in the problem as portrayed in Figure 1 above since 2008. Could something have been done about it in, say, 2005 or 2006? Perhaps requiring a “shared secret” in order to file an income tax return might have helped. An example of a “shared secret” is the taxpayer’s current or prior year’s adjusted gross income. This item, as a security measure to prevent those who would attempt to gain access to the e-systems of the IRS inappropriately, was available<sup>10</sup> before 2005 and is still in use today for taxpayers and/or their tax professionals to access e-services securely. When does a problem warrant a solution...when it’s too late? Not according to Mr. Iacocca, and not according to NATP either. We need to act sooner and listen to those we task with providing us advice. A “little thing” like a shared secret may have saved taxpayers and the federal government a lot of money and the disturbing fraudulent activities we see today.

<sup>9</sup> National Taxpayer Advocate 2004 Annual Report to Congress 133-136 (Most Serious Problem: Inconsistent Campus Procedures).

<sup>10</sup> Treasury Publication 3187 (Revised January 2005), “IRS e-Strategy for Growth: Expanding e-Government for Taxpayers and Their Representatives,” Pg. 12. Last viewed on April 23, 2013 at: <http://www.unclefed.com/IRS-Forms/2005/p3187.pdf>

The concept of a RTTS is also in recent vogue. Once again, Nina Olson has been on top of this idea, alluding to it as far back in her Annual Reports to Congress as 2009.<sup>11</sup> In her most recent testimony before the Senate Finance Committee<sup>12</sup> on April 16, 2013, she repeated that upfront matching would reduce taxpayers' vulnerability to identity-theft related refund fraud and that such a system would deter fraud by stopping the refund associated with an upfront mismatch. She also recommended that the IRS develop a long-term plan to enable front-end data matching and a RTTS. Senator Bill Nelson, in Sec. 502 of S. 676 proposes a Plan of Action for Transitioning to a Real-Time Tax System: "Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall submit to Congress a report analyzing and outlining options and potential timelines for moving toward a tax system that reduces burdens on taxpayers and decreases tax fraud through real-time information matching." NATP submitted a paper as an original participant on Panel 1 of this IRS Oversight Board Public Forum stating that we believe the IRS already has the ability to pilot a RTTS.<sup>13</sup> Certainly there are challenges, and we note them in that paper.<sup>14</sup> But this is an idea whose time has come, why wait?

### **If It Doesn't Make Sense, Change It**

Today's news is full of examples of questionable funding cuts in government that ostensibly are attributable to the "Sequester." Long before the Sequester, however, Congress has had a penchant for underfunding the very agency that can demonstrate ROI and that brings funds into the government: the Internal Revenue Service. As usual, Nina Olson speaks eloquently to the impairment such underfunding causes the IRS and its ability to serve taxpayers and collect tax.<sup>15</sup> We will not reiterate her comments here. There is so much to cover as to why these cuts do not make sense. Here we are, looking for "solutions" to the problem of fraud, full well knowing that enforcement is the one serious effort that ultimately brings it to a halt. A cursory perusal of the testimony of Nina Olson and Steve Miller at the Senate Finance Committee hearing this past April 16 reveals that it's annually costing us tens of billions of dollars to fall behind in prosecuting these crimes. And we proceed to further limit funding to

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<sup>11</sup> National Taxpayer Advocate 2009 Annual Report to Congress 338-345.

<sup>12</sup> Nina E. Olson, National Taxpayer Advocate, Written Statement for Hearing on "Tax Fraud, Tax ID Theft and Tax Reform: Moving Forward With Solutions," pg. 9, before the Senate Finance Committee, April 16, 2013, last viewed on April 23, 2013 at: <http://www.finance.senate.gov/imo/media/doc/Olson%20Testimony1.pdf>

<sup>13</sup> NATP paper – "Advancing the Efficiency of the Tax Administration System Through Expanded Information and Online Services – The Practicalities of a "Real-Time Tax System," Testimony before the IRS Oversight Board 2013 Public Forum, May 1, 2013, pg.14-15, last viewed on April 23, 2013 at: <http://www.natptax.com/TaxKnowledgeCenter/GovernmentNews/Documents/IRS%20Oversight%20Board%20Panel%201%20Paper%20-%20May%202013.pdf>

<sup>14</sup> Ibid, pgs. 14 – 23.

<sup>15</sup> Nina E. Olson, National Taxpayer Advocate, Written Statement for Hearing on "Tax Fraud, Tax ID Theft and Tax Reform: Moving Forward With Solutions," pg. 9, before the Senate Finance Committee, April 16, 2013, last viewed on April 23, 2013 at: <http://www.finance.senate.gov/imo/media/doc/Olson%20Testimony1.pdf>

the IRS? Why do we do this? Consider what Mr. Miller has told us regarding what the IRS has to do to stay abreast of just the fraud problem: the acquisition and upgrading of technology; the utilization and monitoring of social media; the establishment of an ID Theft Clearing House; the re-purposing of over three percent of the entire employment of the IRS to work on identity theft. Yes, the IRS is working smarter, but the agency is obviously falling behind and is in a serious state of duress. The myriad warnings from TIGTA should register; are we listening? Speaking of warnings, what should we make of the recent statement from Senator Baucus<sup>16</sup> and others that more problems lay ahead for the implementation of the *Affordable Care Act*? Will the IRS be further stretched as it oversees compliance with this legislation?

Marianna LaCanfora recently pointed out<sup>17</sup> that there is a serious conflict between the *Freedom of Information Act* and the *Gramm-Leach-Bliley Financial Modernization Act of 1999* which requires the Social Security Administration (SSA) to disclose the DMF to anyone who asks for it, including prisoners and perpetrators of fraud and identity theft. To be clear, personal identification information, including social security numbers of deceased individuals is literally made available to entities or individuals who misuse it. According to Ms. LaCanfora, “Only Congress can strike the proper balance between restricting access to death information and making it available to those entities that legitimately need the information to combat fraud.” We find it ironic that the very information needed to combat fraud is used to perpetrate and propagate it. The SSA, by virtue of disclosing this information, violates the Financial Privacy Rule and the Safeguards Rule established by the Federal Trade Commission in compliance with direction from Congress via *Gramm-Leach-Bliley*. Another irony: the SSA could comply with *Gramm-Leach-Bliley*, but it would thereupon be in violation of the *Freedom of Information Act*. If a law had to be violated here, and clearly that was the case, would it have made more sense to violate the *Freedom of Information Act*? The reason *Gramm-Leach-Bliley* was chosen, however, is because an individual sued the government under the *Freedom of Information Act* and won. We would hope that Congress will timely “fix” this and listen to those it tasks with providing it advice. It is unfortunate that the government is put in the position of not following or being able to follow the very laws it requires the public to comply with.

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<sup>16</sup> Ricardo Alonso-Zaldivar, “Max Baucus Says He Fears Obamacare Is Headed For ‘Huge Train Wreck,’” 4/17/13, AP, last viewed on April 24, 2013 at: [http://www.huffingtonpost.com/2013/04/17/max-baucus-obamacare\\_n\\_3101801.html?utm\\_hp\\_ref=politics](http://www.huffingtonpost.com/2013/04/17/max-baucus-obamacare_n_3101801.html?utm_hp_ref=politics)

<sup>17</sup> Marianna LaCanfora, Acting Deputy Commissioner for Retirement and Disability Policy-Social Security Administration, Written Statement for Hearing on “Tax Fraud, Tax ID Theft and Tax Reform: Moving Forward With Solutions,” pg. 2,3, before the Senate Finance Committee, April 16, 2013, last viewed on April 23, 2013 at: <http://www.finance.senate.gov/imo/media/doc/SSA%20SFC%20Testimony%20Tax%2004%2016%2013.pdf>

## Getting More Out of What You Already Have

Data-mining has been a viable tool in use by the IRS for more than a decade. This item, like others above, could also readily have fit under the heading: “Act Sooner.” A research paper<sup>18</sup> was submitted to and presented at the 2004 IRS Research Conference in Washington DC. It stated that relational database mining was then possible whereby the IRS could identify tax fraud by examining “electronic fingerprints.” DeBarr and Harwood stated that “As the number of tax return filings continues to increase from year to year, the IRS would like to use computer-based technology to help perform an initial screening of returns to detect potential abusive activity and fraud using indicators endorsed by compliance experts.” We would like to think, now that we have mandated e-filing requirements, modernized e-filing and CADE II, that the IRS could maximize its ability to uncover areas of unreported income and inappropriately claimed deductions and thereby “target audit” non-compliant taxpayers. Part of the problem of uncovering unreported income is that some payors are not filing information returns. Therefore, payees may be of the opinion that such income is not reported to the IRS and can therefore be unclaimed on their returns. The IRS should have the ability to affect both ends of those transactions. We offer the following basic examples to illustrate:

- Any return that includes a Schedule C, a Schedule E and/or a Schedule F claims expenses for the operations of those businesses. Data-mining could determine whether those taxpayers have issued and filed Forms 1099 for all payments over \$600 to individuals for service. If not, those taxpayers should receive a letter asking whether they so issued and filed and, if not, why not. The letter could be “educational” to begin with and punitive in follow up.
- Trigger levels could be set for specific items reported on a tax return. If a return claims \$12,000 or \$15,000 in repair and maintenance expenditures, for example, what is the likelihood that they haven’t used a contractor? If assets in the way of capital improvements for \$25,000 or more are placed in service for the tax year, what is the likelihood that a contractor made them or performed an installation? A letter could be sent out to the taxpayer asking for receipts or other explanation as to why an information return was not issued and filed.

We are uncertain whether the IRS utilizes such queries as these and links them to automated correspondence requests. We do believe, however, that the IRS is mired in historical and traditional processes that need changing in order to maximize productivity. In their defense, we know they are underfunded and bombarded by requests and demands from Congress, the

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<sup>18</sup> DeBarr, David and Harwood, Maury, “Relational Mining for Compliance Risk,” a paper presented at the IRS Research Conference, June 2-3, 2004 at the Willard Intercontinental Hotel in Washington, DC, last viewed on April 22, 2013 at: <http://www.irs.gov/pub/irs-soi/04debarr.pdf>

public and other government agencies that pose a continual challenge to their prime focus. Having pointed that out, we are of the opinion that it's time that processes reflect the capability of modern technology already in use at the IRS. One of the discussion topics suggested for this panel was the potential use of a return preparer database. We are pleased that the government now has a viable return preparer database. We will comment on that briefly below. We'd like to suggest that a more intense utilization of the taxpayer return database may prove more productive, however.

Richard Ainsworth and Andrew Shact wrote a very excellent recent article<sup>19</sup> arguing that E-Verify, if properly adapted and extended, would not only advance immigration reform but could also be an important mechanism for tax reform, specifically as it affects refund fraud. E-Verify is an Internet-based database that allows employers to verify an employee's work eligibility. The Department of Homeland Security operates the E-Verify Internet database in partnership with the SSA. It's a voluntary system on the federal level, but all 50 states have used it and 21 states require some or all employers to use it. The Supreme Court has held<sup>20</sup> that states may constitutionally mandate the use of E-Verify. The idea for this program has been around since 1986, but it hasn't existed in its "modern" form until 2007. Four of the data points entered in the E-Verify system are important for preventing refund fraud:

1. The employee's full name;
2. The employee's SSN;
3. The employer's name; and
4. The employer's TIN.

Ainsworth and Shact propose that the E-Verify system would be required to encrypt those four elements and reduce the result to a digital signature represented as an alphanumeric algorithm and a 2D bar code. They state that Forms W-2 and 1099 could thereby be secure and self-validating. The IRS should be able to confirm in real time that the Form W-2 attached to a tax return has been issued:

1. By the stated employer (with name and address);
2. Under the stated employer's TIN;
3. To the named employee;
4. Under the employee's SSN;
5. For the stated amount of wages, tips, or other compensation; and
6. With the specified federal income tax withheld.

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<sup>19</sup> Richard T. Ainsworth and Andrew Shact, "E-Verify Can Stop Refund Fraud," Tax Notes Today, April 23, 2013, Taxanalysts, available by subscription only and last viewed on April 24, 2013 at:

[http://services.taxanalysts.com/taxbase/tnt3.nsf/\(Number/2013+TNT+78-4?OpenDocument&Login](http://services.taxanalysts.com/taxbase/tnt3.nsf/(Number/2013+TNT+78-4?OpenDocument&Login)

<sup>20</sup> 131 S. Ct. 1968 (2011).

They say that, if the IRS could immediately confirm the validity of the Forms W-2 submitted with returns, most refund fraud would be eliminated. This system is up and operating in Brazil and it could be working dramatically here in the United States if the Internal Revenue Service would link up with the Department of Homeland Security and the SSA. That's doable here, now, in the short-term. It could save billions.

### **Little Things Mean a Lot**

It's not as if the IRS has been standing still in the face of the fraud onslaught, quite the contrary. One program they initiated to protect individuals from being further victimized by identity theft is the IP PIN program. It stands for Identity Protection Personal Identification Number. Basically, taxpayers are "taken off" the requirement to use SSNs and issued an IP PIN on all subsequent tax return filings. A natural question occurs to us here: if the issuance of these numbers works so well in stemming future identity theft, why isn't the IRS utilizing it for all taxpayers? It seems like such a little thing, but it's working. Chuck Lacijan, former staff director of the IRS Oversight Board for eleven years, wrote a detailed article<sup>21</sup> suggesting exactly that. He astutely notes that the SSN has been compromised as a secure means of identity verification because valid names and SSN information are too easily obtainable by fraudsters. Then he suggests that the IRS allow taxpayers to apply for an IP PIN proactively, before they become victims of identity theft.

The discussion points for this panel ask how the IRS and stakeholders can work together to develop and implement initiatives to create a pro-compliance environment. Stakeholders have been working with the IRS for decades to provide education to the preparer community as well as to taxpayers. Tax preparers, in particular, are "gatekeepers" for adding reasonable assurance to compliance on the part of their clients. While they cannot be auditors for the IRS, they can raise awareness concerning compliance and fraud.

We said above that we would comment on the PTIN database, a concept NATP has spoken to since 2005.<sup>22</sup> We finally have preparer registration. It became a reality in 2011 with the institution of the PTIN requirement. This may seem a little thing in the context of all that was contemplated under the regulation of all tax return preparers. Many think that the decision against the government in the Loving, et. al. case has provided a genuine setback to the Service in terms of its regulating the tax return preparation industry. Whereas we believe that continuing education should be mandated for all that practice in this industry, we also believe

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<sup>21</sup> Charles A. Lacijan, "Proactively Preventing Refund Fraud Based on Identity Theft," Tax Notes Today, April 17, 2013, Taxanalysts, available by subscription only and last viewed on April 24, 2013 at:

[http://services.taxanalysts.com/taxbase/tnt3.nsf/\(Number/2013+TNT+74-7?OpenDocument&Login](http://services.taxanalysts.com/taxbase/tnt3.nsf/(Number/2013+TNT+74-7?OpenDocument&Login)

<sup>22</sup> NATP paper – "Preparing Your Taxes: How Costly Is It?," Testimony before the U.S. Senate Committee on Finance, April 4, 2006, pg. 7, last viewed on April 23, 2013 at: <http://www.natptax.com/040406SFChearing.pdf>

that the Service has accomplished much through its implementation of PTIN registration. The reality is that the IRS has finally got its arms around the preparer community. This single achievement means the following:

- The IRS can now associate tax returns with the tax professionals who have filed them, thanks also to mandated e-file along with mandated PTIN registration.
- The incompetent and unscrupulous can “officially” be identified and quantified with the exception of those who have “gone underground.”
- We will be able to assess the previously “empty,” spurious and/or undocumented claims about the contributions preparers make to fraud and incompetent work because we will have solid data. We’ll see who the perpetrators are, the extent of the problem and the nature of improvements needed. Hopefully the IRS has tasked a team to query the database and generate the needed reports.
- The IRS will have the data it needs to confront Congress with the need for targeted regulatory legislation.

### **ONE LAST THOUGHT:**

Everyone that makes a mistake or files an erroneous tax return is not necessarily fraudulent. That may seem an obvious statement, but it bears thought and focus, particularly in light of the emotion and concern on the part of Congress and the IRS. We see calls and proposals for penalties, increased sanctions and additional detailed legislation. We see legislation that utilizes penalties as a source of funding. In particular, we’ve seen rhetoric and anecdotes directed to the preparer community as a locus for fraud and unscrupulous behavior. We neither deny nor dispute anecdotes. We take issue with a broad-brush characterization of tax professionals as the authors and source of the fraud and identity theft problem we’re experiencing. The United States tax administration system enjoys the highest voluntary compliance in the world largely because of the contributions of those tax professionals that over 60% of taxpayers rely on for advice and help.

There’s a reason why the American public seeks professional help with their tax returns: the law and its regulations are just too complicated. They continue to change and proliferate. Very well-intentioned “experts” have a hard time preparing tax returns correctly. The IRS itself, including Counsel, has a very difficult time coming up with correct answers.<sup>23</sup> It may be that another look needs to be taken at what we mean by the word “fraud.” In the vernacular world

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<sup>23</sup> NATP paper – “Advancing the Efficiency of the Tax Administration System Through Expanded Information and Online Services – The Practicalities of a “Real-Time Tax System,” Testimony before the IRS Oversight Board 2013 Public Forum, May 1, 2013, pg.15-16, last viewed on April 23, 2013 at: <http://www.natptax.com/TaxKnowledgeCenter/GovernmentNews/Documents/IRS%20Oversight%20Board%20Panel%201%20Paper%20-%20May%202013.pdf>

of taxpayers, what might be considered fraudulence is a misnomer because the action they take is done ignorantly with full intent to comply with rules and regulations that are just too convoluted for them to understand. To complicate matters, they often perpetuate erroneous action by sharing it with others as innocent advice.

## CONCLUSION

The suggestions of the many contributors on how to combat fraud are more than noteworthy. They are actionable and the goal of reducing fraud can be attained in the short term. Our focus in this paper has been to encourage the government to take action now, to observe that much of the advice being given is redundant in time as well as content, to realize that workable methodologies can be implemented immediately to put a serious crimp in fraudulent activity and stem the actions of the fraudulent. We are pleased that this topic is the subject of concern and investigation, but we have pointed out that it constitutes the seventh time that this topic has been entertained by government in the last two years.

We have no illusions about the significant challenges that will be faced in the undertakings that have been put forth. Some of them may prove unpopular, even though they are effective. We will again quote Lee Iacocca, this time on one of his 9 C's of Leadership<sup>24</sup>:

*“Courage – A leader must have courage. The courage to sit down at the table and talk, to defend what is right, even when it might be unpopular.”*

It may be advisable for the IRS to consider forming a “dream team”<sup>25</sup> comprised of vendor and government executives, funded, empowered and tasked with accomplishing some of the guidance from contributing stakeholders. We spoke of this concept in the paper we submitted to Panel 1.<sup>26</sup> NATP wishes to thank the IRS Oversight Board for inviting us to participate in this important dialogue on how we can work together to combat fraud. We are always available to share our unbiased knowledge on issues of tax administration from the perspective of all tax professionals.

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<sup>24</sup> Lee Iacocca, *Where Have All The Leaders Gone*, Simon & Schuster, London, UK, Copyright 2007, pg. 5-10.

<sup>25</sup> “Cancer Dream Teams: Road to a Cure” Cover Article, Time Magazine, April 1, 2013, available at <http://healthland.time.com/2013/03/21/cancer-dream-teams-road-to-a-cure/>

<sup>26</sup> NATP paper – “Advancing the Efficiency of the Tax Administration System Through Expanded Information and Online Services – The Practicalities of a “Real-Time Tax System,” Testimony before the IRS Oversight Board 2013 Public Forum, May 1, 2013, pg.21, last viewed on April 23, 2013 at: <http://www.natptax.com/TaxKnowledgeCenter/GovernmentNews/Documents/IRS%20Oversight%20Board%20Panel%201%20Paper%20-%20May%202013.pdf>