

Grassley-Thune-Cardin Amendment #1 to the Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud

Cosponsors:

Short Title: Taxpayer Bill of Rights and improved IRS procedures

Description of Amendment: This amendment is based on provisions in the *Taxpayer Bill of Rights Enhancement Act of 2015*, introduced by Senators Grassley and Thune, and tax administration provisions supported by Senator Cardin that are pending introduction. All provisions are based on input from the National Taxpayer Advocate.

In particular, the amendment:

- Codifies the ten taxpayer rights adopted by the IRS in 2014 and requires the Commissioner to ensure that IRS employees are familiar with and act in accord with these rights.
- Improves IRS liens and levy administration by extending the time limit for contesting IRS levies, modifying lien notice filing procedures and information reporting, and providing relief from federal tax levies for businesses that meet certain hardship criteria.
- Codifies current IRS practice that allows “innocent spouses” to seek relief under Internal Revenue Code section 6015(f) at any time.
- Protects certain retirement benefits from IRS levies absent “flagrant” conduct and contains several provisions to hold individuals harmless on any wrongful levy of retirement accounts.
- Requires the IRS to submit proposed or temporary regulations pre-publication to the National Taxpayer Advocate for comment and requires the IRS to address those comments in the preamble to final regulations.
- Directs the IRS to locate at least one appeals officer and settlement officer in each state, and provides a statutory right to access the Office of Appeals.

Offset: To be provided.

[Note: Amendment sponsor(s) reserve the right to modify this amendment for technical, revenue-related (if applicable), germaneness, or other purposes.]

Grassley Amendment #2 to the Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud

Cosponsors:

Short Title: To clarify that awards payable under the IRS Whistleblower Program includes proceeds from FBAR violations and similar tax enforcement penalties.

Description of Amendment: This amendment would clarify that all enforcement programs that Treasury has delegated to the IRS the authority to investigate, to assess and to collect penalties related to reporting requirements (that are similar to those used for assessing and collecting taxes) will be considered collected proceeds eligible for awards under IRC section 7623, effective for claims filed for which the IRS have not made a final determination regarding an award as of date of enactment.

Offset: N/A

Roberts Amendment #1 to an Original Bill to *Prevent Identity Theft and Tax Refund Fraud*

Cosponsors: Burr, Portman, Enzi, Thune, Isakson

Short Title: Stop Targeting of Political Beliefs by the IRS Act of 2015

Description of Amendment: The amendment would prevent further IRS targeting of conservative 501(c)(4)s by reverting back to the IRS standards and definitions that were in place on January 1, 2010 and suspend for one year any IRS rulemaking related to 501(c)(4)s, including the new candidate-related political activity definition

Offset: No offset required.

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

Roberts Amendment #2 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Cosponsors: Burr, Portman, Enzi, Thune, Isakson

Short Title: Restoring Access to Medication Act

Description of the Amendment: This amendment would repeal Sec. 9003 of the Patient Protection and Affordable Care Act to restore the ability of plan participants to use the funds in their FSA, HRA, HAS, or Archer MSA to purchase over-the-counter medications.

Offset: To be determined

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue neutrality, or other purposes.]

Roberts Amendment #3 to an Original Bill to *Prevent Identity Theft and Tax Refund Fraud*

Cosponsors: Burr, Portman, Isakson

Short Title: Health Insurance Tax Repeal

Description of Amendment: This amendment would repeal Sec. 9010(b) of the Patient Protection and Affordable Care Act of 2010.

Offset: To be determined

[NOTE – Amendment sponsors reserve the right to modify the amendment for technical, revenue neutrality, or other purposes.]

Enzi Amendment #1 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: To restore States' sovereign rights to enforce State and local sales and use tax laws.

Description of Amendment: This amendment would allow States, if they chose to do so, to have out-of-state retailers collect the sales tax that is due on all sales – online sales, catalog sales and in-store sales. It would provide two options by which states could begin collecting sales taxes from online and catalog purchases. It also exempts businesses with less than \$1 million in online or out-of-state remote sales from collection requirements. The amendment text is the same as S. 698, the Marketplace Fairness Act of 2015.

Offset: CBO estimates that S. 698 would have no impact on the federal budget. The bill would not affect direct spending or revenues.

Cornyn Amendment #1 to a bill to prevent identity theft and tax refund fraud.

Short title: To permit certain contingent fee arrangements.

Description of Amendment:

The amendment would permit contingent fee arrangements in connection with tax returns or claims for refunds prepared on behalf of a taxpayer other than an individual, estate or trust.

Score: --

Thune Amendment #1 to the Chairman's Mark of a Bill to Prevent Identity Theft and Tax Refund Fraud

Cosponsors: Stabenow

Short Title: A sense of the Senate that penalties for impersonating an IRS official or agent should be increased and enforced to the fullest extent of the law.

Description of Amendment: The chairman's mark increases penalties in the tax code for using a stolen identity to file any return or other document, and it expresses the sense of the Senate that this crime should be added to the list of predicate offenses contained in the Aggravated Identity Theft Statute. This amendment would add a sense of the Senate that penalties for impersonating an IRS official or agent should be increased and enforced to the fullest extent of the law.

While the tax code does not contain penalties for impersonating a federal employee (IRS or otherwise), 18 U.S. Code Section 912 provides that whoever falsely impersonates a federal officer or employee for the purpose of obtaining money shall be fined or imprisoned not more than 3 years. However, this penalty has been unsuccessful in deterring scam artists from pretending to be IRS agents and demanding payment for taxes supposedly owed, a scam that has become increasingly common.

The Treasury Inspector General for Tax Administration (TIGTA) states that they have received reports of 600,000 contacts since October 2013, resulting in nearly 4,000 victims who have collectively reported over \$20 million in financial losses as a result of these scams. According to the IRS, these scams often target older Americans and those who speak English as a second language. The amendment would put the Finance Committee on record in support of strengthened penalties and enforcement so as to deter these criminal activities.

For more information, see <http://www.irs.gov/uac/Dont-Fall-for-New-Tax-Scam-Tricks-by-IRS-Posers>.

Burr Amendment #1 to an *Original Bill to Prevent Identity Theft and Tax Refund Fraud*

Cosponsors: Thune and Roberts

Short Title: No Bonuses for Tax Cheats Act

Purpose: Forbids bonuses to IRS employee with seriously delinquent tax debt or other misconduct

Description of Amendment: Prohibits the Secretary of the Treasury from providing any discretionary performance award to any employee of the Internal Revenue Service (IRS) for whom there is substantial evidence of misconduct or a seriously delinquent tax debt. Requires the Secretary to consider such a denial or withholding of a discretionary performance award as an action necessary to protect the integrity of the IRS, for purposes of any collective bargaining agreement. The amendment text is the same as S. 2272, introduced April 30, 2014.

Offset: Not necessary

Coats Amendment #1 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: Adding information on victim response times to the required IRS report on identity theft refund fraud.

Description of Amendment:

The amendment adds information on the average amount of time victims who contacted the IRS had to wait before their case was resolved, as well as the longest period of time a victim had to wait for resolution, to the list of information required in the IRS report on identity theft refund fraud.

No offset is required.

Coats Amendment #2 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: Making the theft of an identify protection personal identification number in order to file any return or other document a felony crime under the Internal Revenue Code of 1986.

Description of Amendment:

The Chairman's Mark makes identity theft in order to file a return or other document a felony crime under the tax code. The amendment would similarly add theft of an identity protection personal identification number in order to file a return or other document as a felony crime under the tax code. In addition, the amendment would change "this crime" to "these crimes" in the Sense of the Senate about adding to the list of offenses in the Aggravated Identity Theft Statute in Title 18.

No offset is required.

Coats Amendment #3 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: Requirement of IRS report on the status of the Information Sharing and Assessment Center.

Description of Amendment:

A working group established by the IRS is currently aiming to make the Information Sharing and Assessment Center (ISAC) operational by January 1, 2016. The ISAC would be a data-sharing center where the federal government, states, and industry groups exchange information under a legal structure about security breaches, identity theft, and refund fraud.

The amendment would require the IRS to submit a report to the Senate Committee on Finance and the House Committee on Ways and Means no later than 90 days after the date of enactment that includes information on whether the January 1, 2016, goal of the ISAC being fully operational has been met or will be met, what challenges remain in the effective sharing of information, and steps the IRS and other parties involved with the ISAC are taking to address these challenges.

No offset is required.

HELLER AMENDMENT #1

Heller Amendment #1 to the Chairman's Mark

Cosponsors: Warner

Short Title: To require the Stakeholder Partnerships, Education and Communication (SPEC) section of the IRS Wage and Investment Division to work with the private sector, state agencies and external organizations to provide stronger outreach and education on identity theft.

Description of Amendment: The IRS has a critical role in educating taxpayers of the risks associated with identity theft, particularly since the agency is most likely to be able to identify and educate the most vulnerable taxpayers. Currently, SPEC partners with almost 3,000 national and local partner organizations, including the AARP and VITA, to provide information that enable partners to respond to elderly and other taxpayers who are victims of identity theft or need guidance on this area.

In light of the IRS' "Get Transcript" application breach and rise in identity theft, this amendment aims to specifically provide outreach and education on the Chairman's Mark to vulnerable populations, including low income, elderly, disabled, Native American and rural populations. Outreach content should largely focus on, but is not limited to, the legislation's enhancements to the IRS voluntary PIN program (provision #6 of the Chairman's Mark) and how taxpayers can apply for it. Further, this IRS education campaign should also address phone scams, which occurs when innocent taxpayers, especially seniors, become victimized when someone impersonates an IRS agent via telephone. Outreach should additionally be targeted in each state based on age demographics.

The IRS should develop a methodology for evaluation, including identifying measurable goals and performance measures, to assess the agency's progress on identity theft outreach. These goals and measures are to be included in the first biannual ID Theft Fraud Report (provision #2 of the Chairman's Mark). The GAO would then analyze the IRS's strategy, goals and performance measures and release their findings in the following four biannual ID Theft Fraud Reports.

Offset: TBD

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

HELLER AMENDMENT #2

Heller Amendment #2 to the Chairman's Mark

Cosponsors:

Short Title: To require the IRS to complete a feasibility study on what the costs and benefits are to enhancing its taxpayer authentication approach for taxpayers filing a return electronically.

Description of Amendment: This filing season, more than 86% of individual tax returns were electronically filed. As part of the authentication process to electronically file, the taxpayer currently has the option to choose between “shared secrets” or an Electronic Filing PIN (EFP) supplied by the IRS, after further authentication. According to a recent GAO report, IRS officials and several third parties, including software providers and paid preparers, suggested that the IRS enhance its taxpayer authentication approach by expanding some current tools and by exploring additional options. According to the GAO review of IRS and third-party information, each of these options has strengths and weaknesses.

This amendment would direct the IRS to review adding additional security measures—such as the requiring the taxpayer to answer additional authentication questions—in the electronic tax return filing process. The effectiveness of these security measures would be measured against the potential burden placed on taxpayers. The findings would be included in the first biannual ID Theft Fraud report (provision #2 of the Chairman's Mark). The GAO would submit a final review of the IRS study and report out their findings in the following biannual ID Theft Fraud Report.

Offset: TBD

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

HELLER AMENDMENT #3

Heller Amendment #3 to the Chairman's Mark

Short Title: Amendment of a perfecting nature

Description of Amendment: TBD

Offset: To be provided.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

Stabenow-Thune Amendment #1 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: To provide more resources to educate taxpayers about scams that target them and how they can protect themselves.

Description of Amendment: In recent years, the IRS has cited identity theft and refund fraud on its “Dirty Dozen” list of tax scams that taxpayers should be aware of to avoid becoming victims. However, many other types of tax scams target taxpayers, including IRS impersonation scams and phishing scams. These scams can have serious consequences for taxpayers who fall prey to them, and unfortunately, elderly taxpayers are often especially vulnerable. This amendment would allow funds transferred under Section 11 of the Chairman’s Mark to also be used for purposes of informing the public about other types of tax scams that target taxpayers, and providing them with information about how they can protect themselves.

Offset: No offset is expected to be required.

Brown Amendment #1 (to a Bill to Prevent Identity Theft and Tax Refund Fraud). Offered with Sens. Menendez and Cardin.

Short Title: Volunteer Income Tax Assistance Act

Description: On page 16, after the word “enactment,” by adding the following language:

21. Provide greater access to volunteer income tax assistance programs for low-income taxpayers

Present Law

The Volunteer Income Tax Assistance (VITA) Program’s demonstration program awards matching grants to VITA sites to serve additional low-income individuals and families. Since its establishment in 2007, the program has grown to over 200 grant recipients, but it still only serves about two-thirds of grant applicants.

Description of Proposal

The proposal would direct the Internal Revenue Service to establish a Community Volunteer Income Tax Assistance Matching Grant Program (VITA grant program) for the development, expansion, or continuation of volunteer tax preparation programs to assist low-income taxpayers and members of underserved populations.

The proposal would also establish the National Center to Promote Quality, Excellence, and Evaluation in Volunteer Income Tax Assistance. It would require such Center to: (1) promote the adoption of a universally accessible volunteer training platform for the preparation of federal income tax returns, (2) provide technical assistance to tax return preparation program managers, (3) identify and disseminate best practices related to tax site management, (4) support outreach and marketing efforts, and (5) provide evaluation of programs and activities funded under this bill.

Effective Date

The proposal is effective on the date of enactment.

Summary: This would amend the underlying legislation to include the Volunteer Income Tax Assistance Act, which would ensure that volunteers and nonprofits across the country can continue to provide essential tax preparation services each spring by creating a permanent matching grant program for VITA sites

Offset: To be determined

Brown Amendment #2 (to a Bill to Prevent Identity Theft and Tax Refund Fraud). Offered with Sens. Warner, Casey, Carper, and Cardin, Cantwell.

Short Title: Expressing the sense of the Senate that the Internal Revenue Service should not be tasked with increased responsibilities without adequate funding adjustments to ensure successful completion of those duties.

Description: On page 16, after the word “enactment,” by adding language to express the sense of the Senate that Congress should not burden the Internal Revenue Service with increased responsibilities unless it is also willing to provide adequate resources to ensure the Service’s ability to carry such tasks.

Summary: This would amend the underlying legislation to include a sense of the Senate that Congress is unfairly asking the IRS to do more with less.

Offset: No revenue effect.

Bennet Amendment #1 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud.

Short Title: An amendment that would permit the use of electronic signatures on certain IRS forms.

Description of the Amendment: Electronic signatures provide a convenient option for small businesses and individual taxpayers to complete certain forms that they have to submit to the IRS. The Service has noted that “[t]he e-signature option helps reduce office expenses like paper, postage and physical storage space and time-consuming efforts spent obtaining a physically signed authorization form.”

The IRS currently permits taxpayers to use electronic signatures when they request a transcript of their tax returns. The IRS also allows taxpayers to use electronic signatures on e-file authorization forms.

This amendment would require the IRS to permit taxpayers to use e-signatures on forms to designate another person or entity to receive their taxpayer information during a specific period of time. This is called a Taxpayer Information Authorization form (Form 8821). The amendment would also require the IRS to permit the use of e-signatures on forms that authorize another person to represent the taxpayer before the IRS such as a student taxpayer clinic program. This is called the Power of Attorney and Declaration of Representative Form (Form 2848).

Under the amendment, the IRS would be required to publish guidance to permit the use of e-signatures for these documents within 6 months.

Offset: To be provided, if necessary.

[NOTE – Amendment sponsor reserves the right to modify the amendment for technical, revenue-neutrality, or other purposes.]

Casey Amendment #1 to a Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: To permit the IRS to disclose to law enforcement officials relevant tax return information related to missing or exploited children

Description of Amendment: Of the 800,000 children reported missing in the United States each year, around 200,000 are victims of family abduction carried out by a parent or other relative. IRS tax returns often contain basic identification information belonging to these children—information that law enforcement officials could use to locate them. In a 2007 study, the Treasury Inspector General for Tax Administration (TIGTA) examined 1,700 Social Security Numbers for missing children and their alleged abductors from the National Center for Missing and Exploited Children database and found that in more than a third of the cases, the IRS had new addresses on file. The tax return information, however, is confidential under Section 6103 and therefore cannot be disclosed to investigating authorities without consent.

This amendment would be similar to S. 246, the Recovering Missing Children Act, as introduced in the 112th Congress, to permit the IRS to disclose certain tax return information to law enforcement officials who are conducting a criminal investigation into missing or exploited children. Taxpayer information will only be released to law enforcement officials as a part of a legitimate investigation or judicial proceeding, under the orders of a federal judge. Clarifying the IRS's authority to release taxpayer information in cases of missing and exploited children is a common-sense fix that maintains the existing balance between taxpayer privacy and judicious release of information that will make a meaningful difference to a child's safety.

No offset expected to be needed

Casey Amendment #2 to a Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: To require the IRS to provide, in its notification to taxpayers of the suspected theft of their or their dependents' identities, instructions for filing police reports and forms allowing taxpayers to authorize disclosure of their personal information to investigating officials

Description of Amendment: The Chairman's Mark would require the IRS to notify a taxpayer if the agency determines that there may have been an unauthorized use of that taxpayer's identity or the identity of any of his or her dependents. This amendment would require the IRS to include in that communication: (1) instructions to the taxpayer about filing a police report and (2) the forms the taxpayer must submit to allow investigating law enforcement officials to access the taxpayer's personal information.

No offset expected to be needed

Casey Amendment #3 to a Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: To allow taxpayers to give advance consent for disclosure of taxpayer information to law enforcement officials investigating identity theft

Description of Amendment: Law enforcement agencies investigating tax-related ID theft must seek a taxpayer's consent to obtain information from the IRS related to the theft. IRS has implemented a program called Law Enforcement Assistance Program or LEAP, which is designed to facilitate the sharing of information between the IRS and law enforcement in cases of identity theft. However, challenges remain, in part because law enforcement must obtain individual waivers from victims, which can lead to delays in the time-sensitive investigative process as authorities attempt to apprehend criminals before they do additional damage with a stolen identity. To streamline this process, this amendment would allow a taxpayer to give advance consent to the IRS to share Section 6103-protected information with state and local law enforcement in the event that these authorities open an investigation into the theft of the taxpayer's identity.

No offset expected to be needed

Warner Amendment #1 to an Original Bill to Prevent Identity Theft and Tax Refund Fraud

Short Title: Government Accountability Office (GAO) Study of Tax-Related Identity Theft Notifications

Description of Amendment:

This amendment would require the GAO to study the clarity of the language the IRS uses for notifying taxpayers of instances of potential and known tax-related identity theft refund fraud and to examine the IRS systems that generate tax-related identity theft notifications, including notices and letters, with the goal of ensuring that the right correspondence is sent to the taxpayer automatically. The study (or studies) should:

1. Identify and review commonly used tax-related identity theft notifications for clarity and thoroughness. This review should consider the content of notifications and the extent of the directions provided to the taxpayer for further action.
2. Examine IRS rules and procedures for ensuring that notifications convey essential information to taxpayers as clearly as possible.
3. Examine IRS systems and processes for generating applicable notices, including the length of time it takes to assign the correct notifications upon discovery of tax-related identity theft.
4. Offer recommendations for improvements where appropriate.