

H.R. 7082 (Public Law No: 110-428) – Inmate Tax Fraud Prevention Act of 2008

Background:

This report is issued pursuant to the requirements of H. R. 7082 (Public Law No: 110-428) cited as the 'Inmate Tax Fraud Prevention Act of 2008' (the Act) which was enacted on October 15, 2008. In addition to amending Title 26 USC Section 6103 to allow for the Internal Revenue Service (IRS) to make disclosures of certain return information of prisoners to the head of the Federal Bureau of Prisons, the Act also requires that "The Secretary of the Treasury shall annually submit to Congress and make publicly available a report on the filing of false and fraudulent returns by individuals incarcerated in Federal and State prisons. Such report shall include statistics on the number of false and fraudulent returns associated with each Federal and State prison."

Introduction:

The IRS annually processes millions of tax returns, including those filed by incarcerated individuals. These individuals, like all other taxpayers, have a legal obligation to pay their taxes and are entitled to a refund of any overpaid taxes. For calendar year 2009, the IRS identified over forty-four thousand *false* returns filed by prisoners. The IRS takes this and all forms of fraud seriously and precautions have been instituted to prevent associated refunds from being issued.

The IRS has fraud detection systems in place to identify and prevent the issuance of tax refunds based on false returns. These systems include the ability to determine whether the individual filing is incarcerated. While these systems have greatly enhanced the way the IRS identifies false returns, IRS is still unable to detect all false returns. Each year, the Director of Refund Crimes requests information from the Federal Bureau of Prisons (BOP), the 50 states, and the District of Columbia regarding all prisoners on roll over the previous 32 months. The information is provided on a voluntary basis by the prisons and no Federal or state correctional institution is under legal obligation to provide this data. Consequently, the completeness and accuracy of the data received is not always ideal and thus affects the IRS's ability to identify fraudulent returns filed by prison inmates. It should be noted, however, that the BOP has provided the IRS with prisoner data on every occasion that it has been requested in order to assist the IRS in its efforts to combat prisoner tax fraud. Furthermore, the BOP has also provided expertise to IRS officials regarding additional measures taken to reduce fraudulent filings, including the BOP's verification of negotiable instruments sent to inmates from the U.S. Treasury.

Furthermore, IRS' Criminal Investigation Division (CI) cannot prosecute every prisoner who commits refund fraud because we must be prudent with the Federal Government's limited investigative and prosecutorial resources. Investigations of prisoner refund fraud commonly involve the use of stolen identities and frequently involve co-conspirators that are not incarcerated. Hence, CI focuses its efforts on identifying those on the "outside" that assist with these schemes.

In May 2010, the responsibility for maintaining and assembling the prisoner file was transferred from CI to the Wage and Investment Division (W&I). Prior to this, a cross-functional Executive Steering Committee (ESC)—The Pre-Refund Program ESC—chartered a business process improvement effort to address the quality of the prisoner file and to streamline the process. W&I adopted and expanded this plan. High-level components of the plan included development of a letter to State and Federal prison authorities and technical contacts requesting that the authorities submit a file of prisoners incarcerated during the past 32 months, as well as a list of prison facilities and addresses. The resulting 102 files (from the states, D.C., and the Federal Bureau of Prisons) will be consolidated and perfected in the fall of 2010 for systemic access and matching. The plan also includes outreach from the Office of the Commissioner, W&I to leaders in the Federal Bureau of Prisons and state agencies. This outreach effort will be followed up with interviews with officials to develop a greater understanding of the issues relating to tax compliance in the prisoner community to improve IRS' ability to address these unique issues. In addition to the collection of the data, W&I is pursuing a modeling effort to improve IRS' ability to identify prisoners in real time with Earned Income Tax Credit claims for which they are ineligible. Finally, W&I has actively participated in an audit by the Treasury Inspector General for Tax Administration of the First Time Homebuyer Credit compliance effort that noted fraudulent claims by prisoners.

States have identified refund fraud within their respective institutions as a significant threat and have indicated a desire to obtain information on fraudulent refund schemes and impose criminal or administrative sanctions on the offending inmates. In the past, Title 26 USC Section 6103 Disclosure Laws did not allow for the sharing of tax return information with prisons (state or Federal). Some progress was made in 2008 with the enactment of the Inmate Tax Fraud Prevention Act, which authorizes IRS to disclose tax return information to the Federal Bureau of Prisons. However, Federal inmates represent only 6.6 percent of the fraudulent returns filed by all prisoners. We anticipate that the recent enactment of the Homebuyer Assistance and Improvement Act of 2010 (Public Law 111-198) will result in even more progress. The Homebuyer Assistance and Improvement Act authorizes the disclosure of tax return information to state prison officials and should result in closer cooperation between the IRS and state prison officials in shutting down fraudulent refund schemes.

Findings:

For calendar year 2009, the IRS identified 44,944 false returns filed by prisoners. Below is a synopsis of the number of false and fraudulent returns associated with each Federal and state prison.

Table 1 (attached): Summarizes the identified fraudulent returns received from incarcerated individuals by state. The table includes data for all 50 states as well as the District of Columbia and the Federal Bureau of Prisons. Identified inmates incarcerated in Florida, California and Georgia account for 19,841 of the identified fraudulent tax returns filed. These three states account for over 44 percent of the 44,944 false prisoner returns identified.

Table 2 (attached): Summarizes the identified false and fraudulent returns received from individuals classified as prisoners by institution within each state. The table includes data for all 50 states as well as the District of Columbia and the Federal Bureau of Prisons. In certain

instances, totals for individual institutions were below statistical reporting requirements and are aggregated by state as denoted by an asterisk (*). In other instances, data for the states was aggregated with other states at the end of the report in line item "Aggregation of State Institutions below statistical requirements." These instances are denoted in Attachment 2 with a carat (^).