

113TH CONGRESS
2D SESSION

S. 2736

To amend the Internal Revenue Code of 1986 to prevent identity theft related tax refund fraud, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. HATCH (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to prevent identity theft related tax refund fraud, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Refund Theft Prevention Act of 2014”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents of
 4 this Act is as follows:

- Sec. 1. Short title; etc.
- Sec. 2. Safe harbor for de minimis errors on information returns and payee statements.
- Sec. 3. Internet platform for Form 1099 filings.
- Sec. 4. Requirement that electronically prepared paper returns include scannable code.
- Sec. 5. Single point of contact for identity theft victims.
- Sec. 6. Criminal penalty for misappropriating taxpayer identity in connection with tax fraud.
- Sec. 7. Extend Internal Revenue Service authority to require truncated social security numbers on Form W-2.
- Sec. 8. Improvement in access to information in the National Directory of New Hires for tax administration purposes.
- Sec. 9. Password system for prevention of identity theft tax fraud.
- Sec. 10. Increased penalty for improper disclosure or use of information by preparers of returns.
- Sec. 11. Increase electronic filing of returns.
- Sec. 12. Increased real-time filing.
- Sec. 13. Limitation on multiple individual income tax refunds to the same account.
- Sec. 14. Identity verification required under due diligence rules.
- Sec. 15. Report on refund fraud.

5 **SEC. 2. SAFE HARBOR FOR DE MINIMIS ERRORS ON INFOR-**
 6 **MATION RETURNS AND PAYEE STATEMENTS.**

7 (a) IN GENERAL.—Subsection (c) of section 6721 is
 8 amended—

9 (1) by striking “EXCEPTION FOR DE MINIMIS
 10 FAILURE TO INCLUDE ALL REQUIRED INFORMA-
 11 TION” in the heading and inserting “EXCEPTIONS
 12 FOR CERTAIN DE MINIMIS FAILURES”,

13 (2) by striking “IN GENERAL” in the heading of
 14 paragraph (1) and inserting “EXCEPTION FOR DE

1 MINIMIS FAILURE TO INCLUDE ALL REQUIRED IN-
2 FORMATION”, and

3 (3) by adding at the end the following new
4 paragraph:

5 “(3) SAFE HARBOR FOR CERTAIN DE MINIMIS
6 ERRORS.—

7 “(A) IN GENERAL.—If, with respect to an
8 information return filed with the Secretary—

9 “(i) there are 1 or more failures de-
10 scribed in subsection (a)(2)(B) relating to
11 an incorrect dollar amount, and

12 “(ii) no single amount in error differs
13 from the correct amount by more than
14 \$25,

15 then no correction shall be required and, for
16 purposes of this section, such return shall be
17 treated as having been filed with all of the cor-
18 rect required information.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to returns required under sec-
21 tion 6049.

22 “(C) REGULATORY AUTHORITY.—The Sec-
23 retary may issue regulations to prevent the
24 abuse of the safe harbor under this paragraph,
25 including regulations providing that this sub-

1 paragraph shall not apply to the extent nec-
 2 essary to prevent any such abuse.”.

3 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-
 4 MENTS.—Subsection (c) of section 6722 is amended by
 5 adding at the end the following new paragraph:

6 “(3) SAFE HARBOR FOR CERTAIN DE MINIMIS
 7 ERRORS.—

8 “(A) IN GENERAL.—If, with respect to any
 9 payee statement—

10 “(i) there are 1 or more failures de-
 11 scribed in subsection (a)(2)(B) relating to
 12 an incorrect dollar amount, and

13 “(ii) no single amount in error differs
 14 from the correct amount by more than
 15 \$25,

16 then no correction shall be required and, for
 17 purposes of this section, such statement shall be
 18 treated as having been filed with all of the cor-
 19 rect required information.

20 “(B) EXCEPTION.—Subparagraph (A)
 21 shall not apply to payee statements required
 22 under section 6049.

23 “(C) REGULATORY AUTHORITY.—The Sec-
 24 retary may issue regulations to prevent the
 25 abuse of the safe harbor under this paragraph,

1 including regulations providing that this sub-
2 paragraph shall not apply to the extent nec-
3 essary to prevent any such abuse.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Subsection (i) of section 408 is amended by
6 striking “\$10” and inserting “\$25”.

7 (2) Paragraph (5) of section 3406(b) is amend-
8 ed—

9 (A) by striking “\$10” both places it ap-
10 pears and inserting “\$25”, and

11 (B) by adding at the end the following
12 flush text:

13 “The preceding sentence shall not apply to payments
14 of interest to which section 6049 applies.”.

15 (3) Subparagraphs (A) and (B) of section
16 6042(a)(1) are each amended by striking “\$10” and
17 inserting “\$25”.

18 (4) Paragraph (2) of section 6042(a) is amend-
19 ed by striking “\$10” and inserting “\$25”.

20 (5) Paragraphs (1) and (2) of section 6044(a)
21 are each amended by striking “\$10” and inserting
22 “\$25”.

23 (6) Paragraph (1) of section 6047(d) is amend-
24 ed by striking “\$10” and inserting “\$25”.

1 (7) Subsection (a) of section 6050B is amended
2 by striking “\$10” and inserting “\$25”.

3 (8) Subsection (a) of section 6050E is amended
4 by striking “\$10” and inserting “\$25”.

5 (9) Paragraphs (1) and (2) of section 6050N(a)
6 are each amended by striking “\$10” and inserting
7 “\$25”.

8 (10) Paragraphs (1) and (2) of section 6652(a)
9 are each amended by striking “\$10” and inserting
10 “\$25”.

11 (11) The heading of subsection (a) of section
12 6652 is amended by striking “\$10” and inserting
13 “\$25”.

14 (d) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to information returns required to
16 be filed, and payee statements required to be provided, on
17 or after the date of the enactment of this Act.

18 **SEC. 3. INTERNET PLATFORM FOR FORM 1099 FILINGS.**

19 (a) **IN GENERAL.**—Not later than 3 years after the
20 date of the enactment of this Act, the Secretary of the
21 Treasury (or such Secretary’s delegate) shall make avail-
22 able an Internet website or other electronic media, similar
23 to the Business Services Online Suite of Services provided
24 by the Social Security Administration, that will provide

1 taxpayers access to resources and guidance provided by
2 the Internal Revenue Service and will allow taxpayers to—

3 (1) prepare and file (in batches of not more
4 than 50) Forms 1099,

5 (2) prepare Forms 1099 for distribution to re-
6 cipients other than the Internal Revenue Service,
7 and

8 (3) create and maintain necessary taxpayer
9 records.

10 (b) EARLY IMPLEMENTATION FOR FORMS 1099–
11 MISC.—Not later than 1 year after the date of the enact-
12 ment of this Act, the Internet website under subsection
13 (a) shall be available in a partial form that will allow tax-
14 payers to take the actions described in such subsection
15 with respect to Forms 1099–MISC required to be filed or
16 distributed by such taxpayers.

17 **SEC. 4. REQUIREMENT THAT ELECTRONICALLY PREPARED**
18 **PAPER RETURNS INCLUDE SCANNABLE**
19 **CODE.**

20 (a) IN GENERAL.—Subsection (e) of section 6011 is
21 amended by adding at the end the following new para-
22 graph:

23 “(5) SPECIAL RULE FOR RETURNS PREPARED
24 ELECTRONICALLY AND SUBMITTED ON PAPER.—The
25 Secretary shall require that any return of tax which

1 is prepared electronically, but is printed and filed on
2 paper, bear a code which can, when scanned, convert
3 such return to electronic format.”.

4 (b) CONFORMING AMENDMENT.—Paragraph (1) of
5 section 6011(e) is amended by striking “paragraph (3)”
6 and inserting “paragraphs (3) and (5)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to returns of tax the due date for
9 which (determined without regard to extensions) is after
10 December 31, 2014.

11 **SEC. 5. SINGLE POINT OF CONTACT FOR IDENTITY THEFT**
12 **VICTIMS.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of the enactment of this Act, the Secretary of the
15 Treasury (or such Secretary’s delegate) shall establish new
16 procedures to ensure that any taxpayer whose return has
17 been delayed or otherwise adversely affected due to mis-
18 appropriation of the taxpayer’s taxpayer identity (as de-
19 fined in section 6103(b)(6) of the Internal Revenue Code
20 of 1986) has a single point of contact who—

21 (1) is an individual employee of the Internal
22 Revenue Service, and

23 (2) tracks the case of the taxpayer from start
24 to finish and coordinates with other specialized units
25 to resolve case issues as quickly as possible.

1 (b) CHANGE OF CONTACT.—The procedures under
2 subsection (a) shall provide that the single point of contact
3 may be changed—

4 (1) upon request of the taxpayer, or

5 (2) in any case where the individual employee
6 ceases employment or is otherwise unavailable for
7 any period, or a change is required to meet agency
8 staffing needs, but only if the taxpayer is notified of
9 any such change within 5 business days.

10 **SEC. 6. CRIMINAL PENALTY FOR MISAPPROPRIATING TAX-**
11 **PAYER IDENTITY IN CONNECTION WITH TAX**
12 **FRAUD.**

13 (a) IN GENERAL.—Section 7206 is amended—

14 (1) by striking “Any person” and inserting the
15 following:

16 “(a) IN GENERAL.—Any person”, and

17 (2) by adding at the end the following new sub-
18 section:

19 “(b) MISAPPROPRIATION OF IDENTITY.—Any person
20 who willfully misappropriates another person’s taxpayer
21 identity (as defined in section 6103(b)(6)) for the purpose
22 of making any list, return, account, statement, or other
23 document submitted to the Secretary under the provisions
24 of this title shall be guilty of a felony and, upon conviction
25 thereof, shall be fined not more than \$250,000 (\$500,000

1 in the case of a corporation) or imprisoned not more than
2 5 years, or both, together with the costs of prosecution.”.

3 (b) AGGRAVATED IDENTITY THEFT.—Section
4 1028A(c) of title 18, United States Code, is amended by
5 striking “or” at the end of paragraph (10), by striking
6 the period at the end of paragraph (11) and inserting “;
7 or”, and by adding at the end the following new para-
8 graph:

9 “(12) section 7206(b) of the Internal Revenue
10 Code of 1986 (relating to misappropriation of iden-
11 tity in connection with tax fraud).”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to offenses committed on or after
14 the date of the enactment of this Act.

15 **SEC. 7. EXTEND INTERNAL REVENUE SERVICE AUTHORITY**
16 **TO REQUIRE TRUNCATED SOCIAL SECURITY**
17 **NUMBERS ON FORM W-2.**

18 (a) IN GENERAL.—Paragraph (2) of section 6051(a)
19 is amended by striking “his social security number” and
20 inserting “an identifying number for the employee”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **SEC. 8. IMPROVEMENT IN ACCESS TO INFORMATION IN**
2 **THE NATIONAL DIRECTORY OF NEW HIRES**
3 **FOR TAX ADMINISTRATION PURPOSES.**

4 (a) IN GENERAL.—Paragraph (3) of section 453(i)
5 of the Social Security Act (42 U.S.C. 653(i)) is amended
6 to read as follows:

7 “(3) ADMINISTRATION OF FEDERAL TAX LAWS
8 RELATING TO FRAUD.—The Secretary of the Treas-
9 ury shall have access to the information in the Na-
10 tional Directory of New Hires for the sole purpose
11 of identifying and preventing fraudulent tax return
12 filings and claims for refund under the Internal Rev-
13 enue Code of 1986.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **SEC. 9. PASSWORD SYSTEM FOR PREVENTION OF IDENTITY**
18 **THEFT TAX FRAUD.**

19 (a) IN GENERAL.—The Secretary of the Treasury
20 shall implement an identity theft tax fraud prevention pro-
21 gram under which any individual taxpayer may elect to
22 be provided with a unique password which, as a result of
23 such election, will be required to be included on any Fed-
24 eral tax return filed by such individual before the return
25 will be processed. Such program shall be available not
26 later than January 1 of the first calendar year beginning

1 on or after the date that is 2 years after the date of the
2 enactment of this Act.

3 (b) **STUDY AND REPORT.**—The Secretary of the
4 Treasury shall conduct a study of the program under sub-
5 section (a) and, not later than 3 years after the January
6 1 date under such subsection, shall report to the Com-
7 mittee on Finance of the Senate and the Committee on
8 Ways and Means of the House of Representatives on the
9 efficacy of such program in reducing tax refund fraud.
10 Such report shall include a recommendation as to whether
11 the program under subsection (a) should be made manda-
12 tory, rather than elective, for all taxpayers.

13 **SEC. 10. INCREASED PENALTY FOR IMPROPER DISCLO-**
14 **SURE OR USE OF INFORMATION BY PRE-**
15 **PARERS OF RETURNS.**

16 (a) **IN GENERAL.**—Section 6713 is amended—

17 (1) by redesignating subsections (b) and (c) as
18 subsections (c) and (d), respectively, and

19 (2) by inserting after subsection (a) the fol-
20 lowing new subsection:

21 “(b) **ENHANCED PENALTY FOR IMPROPER USE OR**
22 **DISCLOSURE RELATING TO IDENTITY THEFT.**—

23 “(1) **IN GENERAL.**—In the case of a disclosure
24 or use described in subsection (a) that is made in
25 connection with a crime relating to the misappro-

1 priation of another person’s taxpayer identity (as de-
2 fined in section 6103(b)(6)), whether or not such
3 crime involves any tax filing, subsection (a) shall be
4 applied—

5 “(A) by substituting ‘\$1,000’ for ‘\$250’,
6 and

7 “(B) by substituting ‘\$50,000’ for
8 ‘\$10,000’.

9 “(2) SEPARATE APPLICATION OF TOTAL PEN-
10 ALTY LIMITATION.—The limitation on the total
11 amount of the penalty under subsection (a) shall be
12 applied separately with respect to disclosures or uses
13 to which this paragraph applies and to which it does
14 not apply.”.

15 (b) CRIMINAL PENALTY.—Section 7216(a) is amend-
16 ed by striking “\$1,000” and inserting “\$1,000 (\$100,000
17 in the case of a disclosure or use to which section 6713(b)
18 applies)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to disclosures or uses after the date
21 of the enactment of this Act.

22 **SEC. 11. INCREASE ELECTRONIC FILING OF RETURNS.**

23 (a) IN GENERAL.—Subparagraph (A) of section
24 6011(e)(2) is amended by striking “250” and inserting
25 “the applicable number of”.

1 (b) APPLICABLE NUMBER.—Subsection (e) of section
 2 6011, as amended by this Act, is amended by adding at
 3 the end the following new paragraph:

4 “(6) APPLICABLE NUMBER.—For purposes of
 5 paragraph (2)(A), the applicable number is—

6 “(A) in the case of returns and statements
 7 relating to calendar years before 2015, 250,

8 “(B) in the case of returns and statements
 9 relating to calendar year 2015, 100,

10 “(C) in the case of returns and statements
 11 relating to calendar year 2016, 50, and

12 “(D) in the case of returns and statements
 13 relating to calendar years after 2016, 20.”.

14 (c) RETURNS FILED BY A TAX RETURN PRE-
 15 PARER.—

16 (1) IN GENERAL.—Subparagraph (A) of section
 17 6011(e)(3) is amended to read as follows:

18 “(A) IN GENERAL.—The Secretary shall
 19 require that—

20 “(i) any individual income tax return,
 21 and

22 “(ii) any return or statement under
 23 subpart B, C, or E of part III of this sub-
 24 chapter,

1 which is prepared by a tax return preparer be
2 filed on magnetic media. The Secretary may
3 waive the requirement of the preceding sentence
4 if the Secretary determines, on the basis of an
5 application by the tax return preparer, that the
6 preparer cannot meet such requirement based
7 on technological constraints (including lack of
8 access to the Internet).”.

9 (2) CONFORMING AMENDMENT.—Paragraph (3)
10 of section 6011(e) is amended by striking subpara-
11 graph (B), and by redesignating subparagraph (C)
12 as subparagraph (B).

13 (d) EFFECTIVE DATES.—The amendments made by
14 this section shall apply to returns the due date for which
15 (determined without regard to extensions) is after Decem-
16 ber 31, 2014.

17 **SEC. 12. INCREASED REAL-TIME FILING.**

18 (a) ACCELERATED FILING OF FORMS W-2 AND W-
19 3.—

20 (1) IN GENERAL.—Section 6071 is amended by
21 redesignating subsection (c) as subsection (d), and
22 by inserting after subsection (b) the following new
23 subsection:

24 “(c) RETURNS RELATING TO EMPLOYEE WAGE IN-
25 FORMATION.—Returns and statements made under sec-

1 tions 6051 and 6052 shall be filed on or before February
 2 15 of the year following the calendar year to which such
 3 returns relate.”.

4 (2) CONFORMING AMENDMENT.—Subsection (b)
 5 of section 6071 is amended by striking “subparts B
 6 and C” and inserting “section 6053 and subpart B”.

7 (3) EFFECTIVE DATE.—The amendments made
 8 by this subsection shall apply to returns and state-
 9 ments relating to calendar years beginning after the
 10 date of the enactment of this Act.

11 (b) ACCELERATED FILING FOR CERTAIN FORMS
 12 1099.—

13 (1) IN GENERAL.—Subsection (c) of section
 14 6071, as amended by subsection (a), is amended—

15 (A) by striking “WAGE INFORMATION” in
 16 the heading and inserting “WAGE INFORMA-
 17 TION AND FORMS 1099–MISC”, and

18 (B) by inserting “, and any return which
 19 is filed on Form 1099–MISC,” after “6052”.

20 (2) CONFORMING AMENDMENT.—Subsection (b)
 21 of section 6071, as amended by this Act, is amended
 22 by striking “section 6053 and subpart B of part III
 23 of this subchapter” and inserting “subpart B of part
 24 III of this subchapter (other than returns filed on
 25 Form 1099–MISC)”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to returns relating to
3 calendar years beginning after December 31, 2014.

4 (c) STUDY REGARDING ADMINISTRATIVE IMPLEMEN-
5 TATION.—Not later than January 1, 2017, the Secretary
6 of the Treasury shall report to the Committee on Finance
7 of the Senate and the Committee on Ways and Means of
8 the House of Representatives including—

9 (1) a recommendation of whether the due dates
10 for filing Forms W-2 and W-3 with the Internal
11 Revenue Service and the Social Security Administra-
12 tion should be accelerated to January 31 to match
13 the due date for furnishing copies of such forms to
14 the recipient of the reported income,

15 (2) recommendations for processes—

16 (A) to match the information reported on
17 Forms W-2 and Forms 1099-MISC for the ef-
18 fective processing of returns and accurate deter-
19 mination of refunds, and

20 (B) to correct errors on such documents,
21 and

22 (3) any other recommendations such Secretary
23 may have for accelerating information reporting, in-
24 cluding the identification of any other forms that

1 should be due on an accelerated schedule in order to
2 prevent tax refund fraud.

3 **SEC. 13. LIMITATION ON MULTIPLE INDIVIDUAL INCOME**
4 **TAX REFUNDS TO THE SAME ACCOUNT.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of enactment of this Act, the Secretary of the Treas-
7 ury shall issue regulations that restrict the delivery or de-
8 posit of multiple individual income tax refunds from the
9 same tax year to the same individual account or mailing
10 address.

11 (b) EXCEPTION.—The regulation promulgated under
12 subsection (a) shall provide that the restrictions shall not
13 apply in cases and situations where the Secretary of the
14 Treasury determines there is not a likelihood of tax fraud.

15 **SEC. 14. IDENTITY VERIFICATION REQUIRED UNDER DUE**
16 **DILIGENCE RULES.**

17 (a) IN GENERAL.—Subsection (g) of section 6695 is
18 amended by adding at the end the following new sentence:
19 “Such due diligence requirements shall include a require-
20 ment that such preparer verify (in such manner and with
21 such documentation as the Secretary shall provide) the
22 identity of the taxpayer with respect to such return or
23 claim for refund.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to returns or claims for refund
3 filed after December 31, 2014.

4 **SEC. 15. REPORT ON REFUND FRAUD.**

5 Not later than 1 year after the date of the enactment
6 of this Act, and annually thereafter, the Secretary of the
7 Treasury (or the Secretary's delegate) shall report to the
8 Committee on Finance of the Senate and the Committee
9 on Ways and Means of the House of Representatives on
10 the extent and nature of fraud involving the use of a mis-
11 appropriated taxpayer identity with respect to claims for
12 refund under the Internal Revenue Code of 1986 during
13 the preceding completed income tax filing season, and the
14 detection, prevention, and enforcement activities under-
15 taken by the Internal Revenue Service with respect to such
16 fraud, including—

17 (1) the development of fraud detection filters
18 and how they are or may be updated and improved;

19 (2) the effectiveness of fraud detection activi-
20 ties, and the ways in which such effectiveness is
21 measured; and

22 (3) the methods by which such Service cat-
23 egorizes of refund fraud, and the amounts of fraud
24 that are associated with each category.

○