



# **Department of Justice**

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**STATEMENT OF**  
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**ASSISTANT ATTORNEY GENERAL**  
**TAX DIVISION**

**BEFORE THE**  
**SPECIAL COMMITTEE ON AGING**  
**UNITED STATES SENATE**

**FOR A HEARING EXAMINING**  
**TAX FRAUD AND IDENTITY THEFT**

**PRESENTED ON**  
**APRIL 10, 2013**

**Testimony of Assistant Attorney General Kathryn Keneally  
before the United States Senate Special Committee on Aging  
Wednesday, April 10, 2013  
Washington, D.C.**

Chairman Nelson, Ranking Member Collins, and Members of the Special Committee, thank you for the opportunity to appear before you this afternoon to discuss the Department of Justice's efforts to combat tax refund fraud arising from identity theft.

The Department greatly appreciates the commitment that the Chairman, the Special Committee, and the staff have brought to this important issue. Combatting the illegal use of social security numbers and other personal identification information to file false tax returns seeking fraudulent refunds is a top priority for both the Division and U.S. Attorneys' Offices across the country. Your efforts to bring attention to this fast-growing and insidious crime will help educate taxpayers about the importance of detecting and reporting identity theft and tax fraud, and will send a strong message to those who would commit these crimes that their schemes will be detected and prosecuted to the fullest extent of the law.

The Department of Justice's Tax Division, which I have the privilege of leading, has one purpose: to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation. Regulations have vested the responsibility for authorizing almost all grand jury investigations of potential criminal tax violations and prosecutions for tax offenses with the Tax Division.

The nation-wide reach of the Tax Division's centralized criminal tax enforcement serves another important goal: it facilitates the government's ability to respond efficiently and forcefully to often-changing patterns of wrongdoing. The recent explosion in the use of stolen social security numbers and personal identification information to file false tax returns seeking fraudulent refunds is an example of this type of challenge.

Stolen identity refund fraud, or SIRF, can be described all-too-simply as a series of crimes by which criminals steal social security numbers, file tax returns showing a false refund claim, and then have the refunds electronically deposited to a bank account or to prepaid debit cards, or sent to an address where the wrongdoer then can get access to the refunds. Although the offense may be easy to describe, SIRF crimes are often implemented through complex, multi-step and multi-level schemes. SIRF crimes are committed by individuals working alone, by family members working together, and by other groups of people working through established local or nationwide criminal

enterprises. The low physical risk and high potential for financial gain has made stolen identity refund fraud a crime of choice for drug dealers and gangs. Even in cases that involve a single defendant or small group of defendants, the number of incidents and victims can reach into the thousands.

Too often, the most vulnerable members of our communities – the elderly and the infirm – have become victims when their identities have been stolen at nursing homes and hospitals by dishonest employees who are often paid for the information. In other cases, the pain to grieving families has been increased by the use of information taken from public death lists. For the public the risk is clear: SIF crimes can and do arise in any setting where the lure of fast money puts at risk personal identifying information, including at state agencies, student loan providers, the military, prisons, companies servicing Medicaid programs – the list is growing all too long. On the other end of the scheme, we have witnessed postal workers who have been compromised, robbed, and in one instance, murdered to gain access to the refund checks that had been mailed.

There are real consequences for taxpayers who are the victims of stolen identity refund fraud. It is a common characteristic for identity thieves to file the fraudulent returns early, in an attempt to get ahead of the taxpayer's filing of a correct return. While the IRS will make good on any refund that is due to the taxpayer, there are unfortunately inevitable burdens and delays while this is sorted out, including a profound sense of violation. And most fundamentally, when a stolen identity is used to commit refund fraud, all taxpayers are impacted by the loss to the Federal Treasury.

The Department and the IRS have devoted significant resources to addressing stolen identity refund fraud. Over the past several years, the Department has successfully prosecuted a large number of cases in which stolen identities were used to perpetrate tax fraud, resulting in lengthy prison sentences and substantial fines and forfeitures. Here are just a few examples from the past year of cases successfully prosecuted by the Tax Division and our U.S. Attorney's Office partners.

In May 2012, an Alabama woman, Veronica Dale, was sentenced to 27 years and 10 months in prison, and her co-conspirator, Alchico Grant, was sentenced to 25 years and 10 months in prison, for their roles as leaders of a refund fraud ring. Dale admitted filing over 500 fraudulent returns using the stolen identities of Medicaid beneficiaries, which Dale obtained while employed by a company that serviced Medicaid programs. Each sentence included an order to pay \$2.8 million in restitution.

In June 2012, a Florida man was sentenced to 5 years and 4 months in prison for filing false and fraudulent tax returns using names and Social Security numbers of

recently deceased taxpayers. Several co-conspirators directed at least \$1.7 million in refunds to locations in Florida, and the refund checks were then sent by U.S. mail to co-conspirators in Ohio, who then sold and distributed those checks for negotiation at various businesses and banking institutions.

In November 2012, a Barbados national was sentenced in the Northern District of Illinois to 11 years and 6 months in prison and ordered to pay nearly \$1.7 million in restitution for a scheme in which he filed over 470 false returns, claiming fraudulent refunds in excess of \$120 million, in the names of deceased individuals.

In February of this year, an Alabama woman was sentenced to 12 years in prison and ordered to pay \$1.3 million in restitution. She obtained identities from multiple sources, including state databases, and filed more than 1,000 false tax returns claiming over \$1.7 million in tax refunds. She also established an elaborate network for laundering the refunds through prepaid debit cards.

These crimes are also committed by tax preparers who abuse their special access to taxpayer information to file false returns without their clients' knowledge or consent. In one recent case, a Georgia return preparer used many of his former clients' names and social security numbers to file wholly fraudulent refund claims. His crimes were discovered, and in January of this year, he was sentenced to 5 years in prison.

As these examples illustrate, SIRC crimes are different from the crimes typically faced by the Tax Division. Charges brought in SIRC cases rarely concern the types of issues that must be addressed in virtually all other criminal tax matters, such as whether the return is in fact incorrect under the tax laws or whether the taxpayer acted willfully. Also, notably, SIRC prosecutions are often reactive to exigent circumstances: in many cases, the crime is discovered by local law enforcement officers who come upon a large cache of Treasury checks or debit cards loaded with fraudulent tax refunds.

Recognizing these fast-moving law enforcement needs, the Tax Division recently issued Directive 144, which went into effect on October 1, 2012. Directive 144 delegates to local U.S. Attorneys' Offices the authority to initiate tax-related grand jury investigations in SIRC matters, to charge those involved in SIRC crimes by complaint, and to obtain seizure warrants for forfeiture of criminally-derived proceeds arising from SIRC crimes, without prior authorization from the Tax Division. The Tax Division retains authority in connection with forfeitures if any legitimate taxpayer refunds are involved.

While the Directive still requires the Division's approval for the filing of criminal charges by information or indictment, simultaneous with the issuance of Directive 144, the Tax Division also implemented expedited procedures for such authorizations in reactive cases. In SIRF cases in which an arrest has been made or a criminal complaint has been issued and an indictment deadline is fast-approaching, the Tax Division has committed to review a request to indict within three calendar days.

The challenges posed by SIRF crimes requires strong coordination among and fast responses by all law enforcement, including local sheriffs and police, many federal law enforcement agencies, and prosecutors with U.S. Attorneys' Offices and the Tax Division. Directive 144 and the new expedited review procedures facilitate these goals, while retaining the Tax Division's authority over tax prosecutions.

This retention of authority serves the second purpose of the Directive, specifically, the centralization of knowledge about SIRF crimes. With this centralized knowledge, prosecutors and law enforcement agencies can work together to identify schemes and to pursue the most culpable schemers. In particular, the IRS has dedicated significant resources to identifying patterns of fraudulent filings. It is a top priority for the IRS to stop these crimes at the door, and the Service has worked with diligence and determination to develop strong filters. It is vital that the IRS receive real-time information developed through criminal enforcement to improve its filters, and to support future law enforcement efforts through its fraud detection efforts. It is also of great importance that the IRS obtain as much information as possible so that the needs of victims can be addressed as quickly and effectively as possible. For these reasons, Directive 144 provides that the Tax Division be kept informed at all significant steps in the investigation and prosecution, so that we can coordinate with the IRS as well as with other prosecutors and law enforcement agencies.

Directive 144 was the result of collaborative efforts among the Tax Division, the Internal Revenue Service, and the U.S. Attorneys' Offices to strengthen the law enforcement response to SIRF crimes. As part of the Directive, all U.S. Attorney's Offices designated a SIRF point-of-contact, and in November 2012, within a few weeks after the Directive was issued, we conducted training with presentations by prosecutors and agents experienced in SIRF cases and attended by many of these points-of-contact. We continue to leverage our experience in prosecuting SIRF cases through our close relationships with prosecutors in the U.S. Attorneys' Offices throughout the country.

In the six months since implementation of Directive 144 and the expedited review procedures, the Tax Division has authorized more than 275 SIRF investigations involving more than 500 subjects across 37 states, the District of Columbia, and Puerto Rico.

Although the largest concentration of those matters arose in Florida, a significant number arose in New York, Georgia, Mississippi, Texas, Alabama, New Jersey, Illinois, and Michigan.

The prosecution of SIRF crimes is a national priority, and, together with our law enforcement partners, we will continue to look for the most effective ways to bring this conduct to an end and to punish these wrongdoers.

Thank you again for the opportunity to provide the Department's perspective on this issue, and I look forward to answering any questions that you may have.