



U.S. House of Representatives
COMMITTEE ON WAYS AND MEANS

THE 21st CENTURY IRS ACT (H.R. 5445)

Summary

Title I – Cyber Security and Identity Protection

Sec. 101. Public-private partnership to address identity theft refund fraud.

Current law: The Security Summit, formed in 2015, is a partnership that includes the IRS, state tax agencies, and the private-sector tax industry to address identity theft tax refund fraud (IDTTRF). In 2016, the Security Summit group members identified and agreed to share more than 20 data components relating to Federal and state returns to improve fraud detection and prevention. For example, group members are sharing computer device identification data tied to the return's origin, as well as the improper or repetitive use of the numbers that identify the internet address from where the return originates. Tax software providers agreed to enhance identity requirements and strengthen validation procedures for new and returning customers to protect their accounts from theft. Along with the IRS, 40 state departments of revenue, and 21 tax industry members have signed onto a Memorandum of Understanding regarding roles, responsibilities and information sharing pathways among the IRS, states and industry.

Provision: This provision codifies recent efforts of the IRS, through the Security Summit, to foster a partnership aimed at combatting IDTTRF with public and private stakeholders. Congress would like to ensure that these proactive efforts to protect taxpayers and combat IDTTRF continue to be a priority of the IRS.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 102. Recommendations of Electronic Tax Administration Advisory Committee regarding identity theft refund fraud.

Current law: The IRS Restructuring and Reform Act (RRA 98) established the Electronic Tax Administration Advisory Committee (ETAAC) to provide input to the IRS on improving electronic tax administration. ETAAC's responsibilities include researching, analyzing, and making recommendations on a variety of electronic tax administration issues. Pursuant to RRA

98, ETAAC reports to Congress annually concerning the IRS's progress on reaching its goal to electronically receive 80 percent of tax and information returns, legislative changes needed to assist the IRS in meeting the 80 percent goal, the status of the IRS strategic plan for electronic tax administration, and the effects of electronically filing tax and information returns on small businesses and the self-employed. ETAAC members come from state departments of revenue, large tax preparation companies, solo tax practitioners, tax software companies, financial services industry and low-income and consumer advocacy groups.

Provision: ETAAC's charter has since been amended to address the growing threat of IDTTRF, allowing it to work more closely with the Security Summit to address this issue. ETAAC's more recent annual reports to Congress have also provided meaningful recommendations on how to combat IDTTRF. This provision seeks to codify the changes made to ETAAC's charter by requiring ETAAC to study (including through providing organized public forums) and make recommendations to the Secretary regarding methods to prevent IDTTRF.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 103. Information sharing and analysis center.

Current law: The Security Summit, formed in 2015, is a partnership of the IRS, state tax agencies, and the private sector tax industry to address IDTTRF. In 2016, the Security Summit created an IDTTRF Information Sharing and Analysis Center (ISAC). The ISAC is a secure, web-based method for states, industry and the IRS to share and exchange information. The ISAC enables the IRS and the states to work together with external third parties to serve as an early warning system for refund fraud, identity theft schemes and cybersecurity issues. MITRE, a contractor, is tasked with hosting, maintaining and facilitating the web-based lead reporting and information sharing process for the ISAC.

As a general rule, returns and return information are confidential and cannot be disclosed unless authorized by the Code. The definition of return information is very broad and generally includes any information received or collected by the IRS with respect to liability under the Code of any person for any tax, penalty, interest or offense. There are several exceptions to the general rule of confidentiality. Such exceptions include provisions to permit disclosures to state tax administration officials, for IRS employees and officers to make investigative disclosures, and rules to allow one authorized party to disclose to another authorized party with the permission of the Commissioner.

Provision: Under this provision, the IRS is encouraged to participate in an IDTTRF information sharing and analysis center (ISAC) with state and private sector partners. The IRS has participated in the IDTTRF ISAC pilot, which tested the idea of more proactively and efficiently sharing information between ISAC members to quickly identify and prevent IDTTRF schemes. However, there are current statutory requirements, which limit the IRS's ability to share tax return information with its partners that is critical to combating these threats. This provision provides for the limited sharing of specified return information, such as IP address and

the speed at which the return was filed, with paid return preparers who are members of the ISAC. The proposal also requires the Secretary to develop metrics for measuring the success of the ISAC in detecting and preventing IDTTRF.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 104. Compliance by contractors with confidentiality safeguards.

Current law: Under present law, state tax agency employees may disclose returns and return information to contractors for tax administration purposes. These disclosures can be made only to the extent necessary to procure contractual equipment, other property, or the providing of services related to tax administration. The contractors can make redisclosures of returns and return information to their employees as necessary to accomplish the tax administration purposes of the contract, but only to contractor personnel whose duties require disclosure. Treasury regulations prohibit redisclosure to anyone other than contractor personnel without the written approval of the IRS.

By regulation, all contracts must provide that the contractor will comply with all applicable restrictions and conditions for protecting confidentiality prescribed by regulation, published rules or procedures, or written communication to the contractor. Failure to comply with such restrictions or conditions may cause the IRS to terminate or suspend the duties under the contract or the disclosures of returns and return information to the contractor. In addition, the IRS can suspend disclosures to the state tax agency or take such other actions as deemed necessary until the IRS determines that the conditions are or will be satisfied.

Provision: This provision puts in place additional confidentiality safeguards on return information provided to contractors. Under this provision, the IRS will not be able to provide taxpayer information to any contractors or other agents of a Federal, state, or local agency unless the contractor has safeguards in place to protect the confidentiality of return information and agrees to conduct on-site compliance reviews every three years. Under this proposal, the Federal, state, or local agency is required to submit a report of its findings to the IRS and certify annually that such contractors and other agents are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Title II – Development of Information Technology

Sec. 201. Management of Internal Revenue Service information technology.

Current law: The Code describes the duties and responsibilities for the IRS Commissioner, the Chief Counsel, and the Office of the Taxpayer Advocate. However, it does not lay out the duties

and responsibilities of an IRS Chief Information Officer (IRS CIO). In addition, the Code does not provide for the verification and validation of the Customer Account Data Engine (CADE) 2 and the Enterprise Case Management System.

Provision: This provision seeks to strengthen IRS accountability for the billions of taxpayer dollars annually spent on developing and maintaining IRS information technology (IT) systems. This provision codifies the position of the IRS's CIO and establishes clear roles and responsibilities for the CIO. The provision also mandates that the IRS develop and implement an IT strategic plan, in alignment with the overall goals of the IRS, to ensure adequate consideration and planning for the IRS's long-term IT needs. The IRS also must contract with a third party to independently verify and validate its plans for the completion of the second phase of the CADE 2 and the completion of the Enterprise Case Management system(s) within a year of enactment. Under this provision, the IRS is also required to complete its planning for the remainder of CADE 2 and have those plans independently verified and validated as well.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 202. Development of online accounts and portals.

Current law: The Code does not expressly provide for the development of individualized online accounts.

Provision: Similar to the goal of increasing electronic filing established in RRA 98, this provision establishes a new goal for the IRS to develop robust and secure online accounts for taxpayers and their preparers by the end of 2023. While the IRS currently provides limited online assistance through its web applications, it continues to lag behind in developing online options for those taxpayers who wish to use them. This provision is intended to supplement, not replace, other taxpayer services provided by phone or in person by the IRS. It also mandates that the IRS develop a process for the secure acceptance of tax forms and supporting documentation in an electronic format.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 203. Internet platform for Form 1099 filings.

Current law: The Code does not presently require the IRS to make available an internet platform for the preparation or filing of information returns, such as the series, Forms 1099.

Provision: This provision requires the IRS to develop an internet portal that would facilitate taxpayers filing Forms 1099 with the IRS phased in beginning in 2020. The internet portal is to be modeled after a Social Security Administration (SSA) system which allows individuals to file Forms W-2 with SSA. The website will allow taxpayers, with access to resources and guidance

provided by the IRS, to prepare, file, and distribute Forms 1099, and create and maintain taxpayer records

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Title III – Modernization of Consent-based Income Verification System

Sec. 301. Disclosure of taxpayer information for third-party income verification.

Current law: The Income Verification Express Service (IVES) is a program run by the IRS, which is used to verify a taxpayer's income upon consent of the taxpayer. The program is most often used by mortgage lenders and others in the financial community to verify the income of an individual seeking to obtain a loan. Through the IVES program transcript requests are received by electronic fax and rely on manual processes which is burdensome to applicants and lenders using the system.

Provision: This provision authorizes the IRS to develop an automated system to request transcripts under the IVES system. To cover the costs for developing the system, six months after enactment, the IRS is authorized to assess and collect a separate user fee over a two-year period on all IVES requests. The IRS is required to implement the new program one year after the close of that two-year period.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 302. Limit redisclosures and uses of consent-based disclosures of tax return information.

Current law: Under current law, returns and return information are confidential and cannot be disclosed unless authorized by Title 26. Under section 6103(c), a taxpayer may designate in a request or consent to the disclosure by the IRS of his or her return or return information to a third party. However, current law does not require a recipient receiving returns or return information by consent to maintain the confidentiality of the information received. Instead, the recipient is free to use the information for purposes other than for which the information was solicited from the taxpayer.

Provision: This provision limits tax return information redisclosures by the taxpayer's designee to only those redisclosures to which the taxpayer has expressly consented.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Title IV – Expanded Use of Electronic Systems

Sec. 401. Electronic filing of returns.

Current law: Currently, the IRS can only require individuals filing more than 250 returns with the IRS to file them electronically. While taxpayers who issue fewer than 250 returns can voluntarily submit the returns electronically, the IRS is prohibited from requiring them to do so.

Provision: This provision eventually would lower that threshold to 10 or more returns. This requirement would be phased in between the years 2019 and 2021. The provision also provides an exception to this requirement for tax preparers located in geographic areas with limited or no internet access.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 402. Uniform standards for the use of electronic signatures for disclosure authorizations to, and other authorizations of, practitioners.

Current law: The Secretary is required to develop procedures for the acceptance of signatures in digital and other electronic form. Until such time as such procedures are in place, the Secretary may waive the requirement of a signature for, or provide for alternative methods of signing or subscribing, a particular type or class of return, declaration, statement or other document required or permitted to be made or written under the internal revenue laws and regulations. The Secretary is required to publish guidance as appropriate to define and implement any waiver of the signature requirements or alternative method of signing or subscribing.

Provision: This provision requires the IRS to publish regulations and other guidelines that establish uniform standards that would allow for electronic signatures to be used to request taxpayer return information for the purposes of providing disclosures to a practitioner or to execute a power of attorney. Such guidance is required to be published six months from the law's enactment.

JCT estimate: The Joint Committee on Taxation has determined this provision has no revenue effect.

Sec. 403. Payment of taxes by debit and credit cards.

Current law: Under current law, the IRS cannot accept credit and debit card payments for taxes directly due to a restriction on the payment of fees charged by the card issuer. As a result, the IRS must use a third-party processor to accept credit and debit card payments.

Provision: This provision allows the IRS to directly accept credit and debit card payments for taxes, provided that the fee is paid by the taxpayer. The IRS is directed to seek to minimize these fees when entering into contracts to process credit and debit cards.

JCT estimate: The Joint Committee on Taxation has determined this provision will raise revenues by less than \$500,000 over the budget window.