

The IRS Continues Taking Measures to Enhance Security - the EIN Application Process Changed Earlier This Year

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With data breaches becoming a common event throughout the world, the Internal Revenue Service ("IRS") has been undertaking a number of initiatives aimed at enhancing its security of taxpayer information and preventing the filing of fraudulent tax returns by taxpayer impersonators. Many of these initiatives are invisible to the public.

The IRS has joined forces with state taxing agencies, tax professionals, software developers and financial institutions to form the "Security Summit." This coalition is organized into six working groups, namely:

1. Authentication Group: Tasked with identifying methods to strengthen taxpayer authentication practices.

2. Financial Services Group: Tasked with exploring means to prevent unauthorized persons from accessing taxpayer accounts.

3. Information Sharing Group: Tasked with identifying ways to improve capabilities to detect and prevent identity theft tax refund fraud.

4. Strategic Threat Assessment and Response Group: Tasked with reviewing the entire tax ecosystem in order to identify threats and risks, and to develop a strategy to mitigate or eliminate such threats and risks.

5. Communication and Taxpayer Awareness Group: Tasked with increasing awareness of the need to protect taxpayer information among taxpayers and tax professionals.

6. Tax Professional Group: Tasked with examining how new security requirements will impact tax professionals and how tax professionals can aid in the prevention of identity theft tax refund fraud.

According to statements published by the IRS, the Security Summit is currently comprised of 42 state taxing authorities and 20 members of the tax preparation and software industries.

The coalition's efforts in the past two years have resulted in a 57 percent decline in confirmed

identity theft tax returns and a 65 percent decline in the number of taxpayers reporting themselves to the IRS as a victim of tax return fraud.

The work of the IRS and the Security Summit is quite positive. These efforts need the support of the tax community and should be applauded.

Earlier this year, as part of the Service's continued efforts to enhance security, it changed the Employer Identification Number ("EIN") application process. I suspect many tax practitioners missed the IRS announcement of this somewhat nuanced change. Nothing on IRS Form SS-4 or the accompanying instructions mentions the change. While this change may not directly impact tax practitioners, it likely impacts clients.

In IR-2019-58 (March 27, 2019), the Service announced that, commencing May 13, 2019, only individuals with tax identification numbers may request an EIN as the "responsible party" on the application. Put simply, only individuals with a Social Security number ("SSN") or a taxpayer identification number ("ITIN") may now act as the responsible party on an EIN application. In most cases, the responsible party is the person who ultimately owns or controls the entity.

The import of this change is that entities using their own EIN may no longer act as the "responsible party" on the application for EINs of other entities (i.e., entities that they own or control). This change applies to both the paper form of EIN applications (i.e., IRS Form SS-4) and online EIN applications.

The new EIN application rule does not directly impact tax professionals. There is no change in the rules applying to tax practitioners who act as the third-party designee for entities in obtaining EINs. Again, the new rule only applies to entities acting as the "responsible party" in the EIN application process.

The rationale behind the new rule is that it will provide greater security to the EIN process by requiring that the "responsible party" be an individual with a SSN or ITIN. Additionally, it will ultimately improve transparency.

The need to protect private data and information continues to be a challenge. Tax practitioners need to be more diligent in this regard than ever before.

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