

Internal Revenue Service

Memorandum

Date: February 11, 2009

To: Shagufta Ahmed, OIRA Desk Officer

From: R. Joseph Durbala, IRS, Reports Clearance Officer

Subject: Emergency Approval Request for New Form 14039.

We are requesting Emergency processing of a new ICR. We have developed Form 14039 - Identity Theft Affidavit as a vehicle for taxpayers to identify themselves to us as victims or potential victims of identity theft. We are requesting that OMB expedite the approval process for Form 14039 for the following reasons:

- 1) Form 14039 is essential to supporting the mission of the Internal Revenue Service. Identity theft is a fast-growing problem that, absent appropriate processes, impacts the collection of taxes and the further administration of the Internal Revenue Code. Over the past year, we have developed improved processes for tracking identity theft incidents and assisting affected taxpayers in order to reduce impact to their tax accounts. Form 14039 is an integral part of these new processes, as it enables taxpayers who our systems have not yet identified to self-identify as victims or potential victims of identity theft.
- 2) Identity theft is a significant source of public harm. Tax-related identity theft has had the potential to burden victims and erode confidence in the tax system. As stated above, our improved processes for handling tax-related identity theft reduce burden and fraud and, consequently, public harm. In some cases, our processes require taxpayers to substantiate identity theft incidents by providing specific documentation. Form 14039 has been developed to serve that purpose.
- 3) Form 14039 is critical to prevent the disruption of the collection of information. This form has been developed to replace our use of the Federal Trade Commission's Affidavit of Identity Theft (hereafter "FTC Affidavit") as that form has proved confusing and burdensome for our customers. In her 2007 and 2008 Annual Reports to Congress, the National Taxpayer Advocate indicated that IRS use of the FTC Affidavit confuses taxpayers who wish to report identity theft primarily as a result of the language on the form instructing them not to submit the form to government agencies. This language reflects the FTC Affidavit's purpose as a vehicle for collecting data. It is not intended for use by other government agencies. Further, the FTC Affidavit requires notarization, which we believe is an unnecessary burden on our customers, given the inclusion of a jurat statement. Finally, the jurat statement in the FTC Affidavit is particularly problematic as it includes a waiver for disclosure of the information to other agencies. Requiring such a waiver as a condition for an identity theft victim to take advantage of our processes for protecting them contradicts our strict responsibilities under Internal Revenue Code Section 6103 to protect taxpayer information from disclosure.

For the aforementioned reasons, our continued use of this form impedes our ability to collect information on identity theft incidents and, accordingly, interferes with our ability to appropriately serve taxpayers and carry out our mission.

4) Additionally, this form is necessary to satisfy the OMB mandate, issued in OMB 07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, to collect personally identifiable information (PII) only to the extent necessary for our business purposes. The information collected via the FTC Affidavit is more PII than is needed for our purposes and loss or compromise of that information would place our customers at increased risk of identity theft. Unnecessary PII collected via the FTC Affidavit includes driver's license number, date of birth, full social security number (SSN), email address, length of time at current address, and details about the theft/incident. In contrast, Form 14039 is one page in length and requests only the limited PII necessary for our purposes. The form asks for the last 4 digits of the taxpayer's SSN (as mandated by OMB Memo 07-16).

For the reasons above, we request review and approval of Form 14039 – IRS Identity Theft Affidavit by February 19, 2009. If you have any questions or concerns, please contact Candice Cromling, Director, Privacy and Information Protection, or Jerry Olivarez, senior tax analyst, at 972-308-1729.

Please advise me whether this Emergency request will be accepted by OMB by February 15, 2009. If you have any questions or concerns, please let me know. I can be reached at (202) 622-3634 via e-mail at RJoseph.Durbala@irs.gov.

Your assistance in this matter is appreciated.

R. Joseph Durbala
IRS, Reports Clearance Officer