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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-202443

The Honorable Benjamin S. Rosenthal
Chairman, Subcommittee on Commerce,
Consumer and Monetary Affairs
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

Subject: IRS' Handling of Undelivered Income Tax
Refund Checks (GGD-81-71)

As you requested in your letter dated January 26, 1981, we have reviewed IRS' handling of undelivered income tax refund checks. Specifically, you asked us to review actions taken by IRS in response to two recommendations made in an August 1977 GAO report 1/ that the Commissioner of Internal Revenue

- furnish the news media with lists of individuals entitled to undelivered tax refunds; and
- determine if information in the Social Security Administration's (SSA) benefit files would be useful in locating individuals entitled to undelivered tax refunds and, if so, develop a procedure for using such information.

Undelivered income tax refund checks are those checks which could not be delivered by the Postal Service and which are returned to Department of the Treasury regional disbursing centers. Undelivered refunds are credited on computer files by IRS to each appropriate taxpayer's account for future action if the taxpayer is located or files a subsequent tax return. According to IRS, as of December 1980, it had on its computer files 87,760 accounts for individuals with undelivered refund checks amounting to \$24.5 million. The most common cause of undelivered refund checks, according to IRS, is individuals moving and not furnishing the Postal Service with forwarding addresses.

Rather than actively furnishing newspapers with lists of individuals due undelivered refund checks, IRS in most of its districts passively makes the lists available to newspapers. IRS made lists available to newspapers in 1978, 1979, and 1980 and plans to do so annually on a continuous basis. In passively making lists available to newspapers, IRS has had mixed results in getting them to publish the lists and has been more successful

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1/FGMSD-77-9, August 4, 1977.

*Primary incl 0807
Second incl 060*

with small weekly newspapers than with major daily newspapers. IRS recognizes that some of its districts have done little to sell the story to the newspapers and that improvements are needed to increase the publication of these lists. However, IRS' national office and Central Regional Office did not monitor the efforts and results of its district offices in getting lists published. We believe that both the national and regional offices should monitor such efforts to ensure that needed improvements are made.

For over 2-1/2 years, IRS and SSA have been discussing IRS' request to determine, through a computer tape match, the feasibility of using SSA benefit files to locate individuals due undelivered refunds. During this period, SSA has raised a disclosure issue of how it can provide SSA beneficiary information to IRS for income tax purposes consistent with the Privacy Act and its regulations. This summer SSA plans to match its computer benefit files with IRS computer files which were furnished to SSA in December 1980. However, SSA has suspended the question of how or if it will provide SSA beneficiary information to IRS for income tax purposes pending the results of the computer tape match. One of several disclosure options under consideration by SSA includes SSA notifying individuals identified from the tape match that IRS is holding income tax refunds for them.

We believe that SSA can administratively provide SSA beneficiary information to IRS under the Privacy Act. Further, because of the time and effort that IRS and SSA have already devoted to planning the tape match, we believe the tape match should be carried out without further delay. Additionally, because of past delays in efforts to resolve the disclosure issue, we believe that future efforts to resolve this issue should be closely monitored by the Commissioner of SSA. Regardless of the outcome of the disclosure issue, we believe it is imperative that individuals identified by the computer tape match be notified, as quickly as possible, either by an SSA or IRS mailing, that IRS has refunds for them.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of this review was to determine the present status of selected IRS actions to locate individuals due undelivered income tax refund checks. Our review was conducted at the IRS national office, Central Regional Office, and Cincinnati district office, and at the Social Security Administration's headquarters. We held discussions with responsible agency officials and examined pertinent correspondence and documentation to determine actions taken by IRS and SSA regarding individuals due undelivered refund checks. We also interviewed the public affairs officer of IRS' St. Louis district office.

Although IRS has developed special data on undelivered refund checks for you and has prepared a special computer tape of individuals due undelivered refunds for the tape match with SSA, IRS does not routinely develop or analyze such data. IRS could not provide us with reliable data on the number and dollar amounts of refund checks which are undelivered each year.

LISTS ARE ACCESSIBLE
TO NEWSPAPERS, BUT
MORE COULD BE DONE

IRS does not actively furnish newspapers with lists of individuals due undelivered income tax refunds. Instead it passively makes the lists available and achieves mixed results in getting these lists published. IRS needs to make additional efforts to get lists published, which would include monitoring district office efforts and examining alternatives when lists are not published.

IRS has mixed results in
getting lists published

In response to our 1977 recommendation, in 1978, 1979, and 1980 IRS provided each district office with a list of individuals in its jurisdiction due undelivered refunds for release to newspapers. District offices, according to IRS national office officials, generally made the lists available to newspapers through a "letter to the editor" approach.

Although IRS has had some success in getting lists published, improvements could be made. IRS does not routinely gather data on the extent to which newspapers publish lists of individuals entitled to undelivered refunds. However, IRS did measure newspapers' responses to its 1979 annual release of lists of individuals due undelivered refunds. On the basis of an inquiry from you, IRS surveyed each of its district offices on the 1979 annual release of lists to newspapers. IRS' summary of the survey showed that the lists were

- made available or furnished to the news media in 2,371 cities and towns, and
- published in at least 736 newspapers, including major dailies in Los Angeles and Des Moines.

Although the survey summary shows that IRS is having some success in getting lists published, IRS recognizes improvements can be made. The Assistant to the Commissioner (Public Affairs) in commenting on the survey in a July 23, 1980, memorandum to all Regional Commissioners stated that "The results were mixed. Many districts exerted themselves to sell the story to the media and thereby obtained excellent results while others did little."

Part of the lack of success in "selling the story" to newspapers may be attributable to passively making lists available to them rather than actively furnishing the lists. In IRS' Cincinnati district, for example, passively making lists available through the letter to the editor approach was unsuccessful for the 1980 list release. Although the Cincinnati district had a list of 622 individuals with undelivered refunds totaling \$186,-865.61, only 20 names were published. The 20 names were published in five weekly newspapers ranging in circulation from 2,850 to 21,427. In contrast, the St. Louis district, by sending lists to newspaper editors along with news releases, has consistently been successful in getting major daily newspapers such as the St. Louis Post-Dispatch and the St. Louis Globe-Democrat to publish its lists of individuals entitled to undelivered refunds. In 1980, these two newspapers published the St. Louis district's entire list of 970 such individuals. The public affairs officer for the St. Louis district partially attributed his success to actively furnishing these lists to newspaper editors rather than merely making them available through the letter to the editor approach.

Routine monitoring needed

IRS does not have statistics to monitor and measure the effectiveness of its various efforts in getting undelivered refund checks eventually delivered to the rightful individuals. For example, IRS' national office and Central Regional Office do not monitor the efforts and results of districts in releasing to newspapers their respective lists of individuals due undelivered refund checks. The survey conducted in June 1980 by the national office to obtain data on the release of lists to newspapers in 1979 was a one-time effort conducted at your request. Both the national office and Central Regional Office were generally aware of how district offices were making lists available to newspapers. However, they did not have data on the districts' efforts and results in getting lists published as well as determining the effectiveness of these lists in locating refund recipients. Further, the Central Regional Office took no action to attempt to improve publication by newspapers in the Cincinnati district, where no names were published in 1979 and only 20 in 1980.

As a result of the June 1980 survey, IRS recognized that some districts needed to do more in getting their lists published. However, without national and regional office monitoring, IRS has no assurance that districts are making needed improvements.

USEFULNESS OF SSA BENEFIT FILES HAS NOT YET BEEN DETERMINED

Although IRS has continuously sought assistance from SSA since July 1978, it has been unable to determine the usefulness

of SSA benefit files in locating individuals due undelivered refund checks. For over 2-1/2 years IRS and SSA have been discussing IRS' request to have SSA match its computer benefit files with IRS computer files on undelivered refund checks. During this period, SSA has been slow in resolving the issue of how it can provide SSA beneficiary information to IRS in a manner consistent with the Privacy Act and SSA regulations. SSA plans to perform the tape match sometime in the summer of 1981. However, SSA has suspended the resolution of the disclosure issue pending the results of the tape match.

SSA has been slow in resolving a disclosure problem

In June and July of 1978 IRS met and corresponded with SSA to initiate action on our 1977 recommendation that IRS determine the usefulness of SSA beneficiary files in identifying individuals entitled to undelivered refund checks. In pursuing the recommendation IRS requested that SSA match its computer files of SSA beneficiaries with IRS' computer tape of individuals due undelivered refund checks. The purpose of this match was to have SSA furnish IRS with addresses of SSA beneficiaries identified through the computer tape match.

SSA informed IRS in July 1978 that it could not provide IRS with address information on SSA beneficiaries until SSA amended its disclosure regulations implementing the Privacy Act. SSA pointed out that it could disclose SSA beneficiary information to Federal agencies if it was for "routine use" and published in the Federal Register as authorized under 5 U.S.C. 552 a(b)(2) of the Privacy Act. However, SSA's routine use for address information at that time was limited by its disclosure regulations (20 CFR part 401) to activities relating to the tax and benefit-paying provisions of the Social Security Act. SSA informed IRS that it had proposed an amendment to its disclosure regulations allowing it to disclose information to IRS for "income tax purposes." SSA pointed out, however, that the proposed regulation was at the Department level for review, and therefore, it would take at least several months before SSA could publish a new routine use statement covering disclosure to IRS.

Discussions between IRS and SSA on IRS' request for a computer tape match did not resume until a year later in July and August of 1979. On the basis of an inquiry from you in July 1979, IRS again contacted SSA to determine the status of SSA's proposed regulation covering disclosure for income tax purposes and to inquire about a working agreement for the computer tape match. Contrary to what was discussed a year before, SSA informed IRS that the proposed disclosure regulation was rewritten without specific mention of disclosing information to IRS. The proposed provision providing for disclosures to IRS was deleted pursuant to the recommendation of the Secretary of the former Department of Health,

Education and Welfare that the disclosure regulations be general and unspecific, showing broad principles of disclosure or confidentiality with specific situations listed only as illustrative examples. Despite the rewritten disclosure regulation, SSA informed IRS that it was still willing to disclose information to IRS and also willing to work out specific arrangements for a computer tape match. But implementation of the arrangement would still have to await publication of a routine use statement in the Federal Register to cover the disclosure to IRS.

Following another year of inactivity, IRS, on the basis of another inquiry from you, sought assistance from the SSA Commissioner to expedite the tape match. In an August 22, 1980, letter to the SSA Commissioner, the IRS Commissioner requested his assistance in expediting the process of getting a routine use statement published so that action could be taken on the computer tape match. The Commissioner of SSA responded favorably in an October 30, 1980, letter stating that (1) SSA had initiated action on the routine use statement and that it would take an estimated 3 to 4 months to get it published and (2) the routine use statement process would be closely monitored.

Despite the SSA Commissioner's estimate, the routine use statement has not yet been published, and the issue remains unresolved. Compounding this issue, SSA officials, prompted by a February 10, 1981, memorandum from an attorney in the Department of Health and Human Services' Office of the General Counsel, again questioned the legality of publishing a new routine use statement for disclosing information to IRS under its existing regulations. The memorandum stated that the proposed routine use statement raises serious disclosure questions, and SSA regulations do not appear to authorize the routine use.

Because of this recent legal question, SSA officials told us that they were suspending the resolution of the disclosure issue until after the computer tape match is made. IRS furnished its computer tape to SSA in December 1980, and SSA plans to make the match this summer. SSA officials told us that they were considering other disclosure alternatives in addition to the routine use process. One alternative being considered is for SSA to notify individuals identified through the tape match that IRS is holding refunds for them.

Disclosure issue needs
to be resolved quickly

In our opinion, the Privacy Act permits the publication of a routine use statement by SSA for the disclosure of its beneficiary addresses to IRS for purposes of locating individuals due undelivered income tax refunds. However, SSA argues that its disclosure regulations may prohibit such a routine use.

In its guidelines to implement the Privacy Act, the Office of Management and Budget explained the purposes for routine use disclosure by a Federal agency. It recognized that

"[t]here are corollary purposes 'compatible with the purpose for which [the information] was collected' that are appropriate and necessary for the efficient conduct of government and in the best interest of both the individual and the public. Routine uses include * * * housekeeping measures and necessarily frequent inter-agency or intra-agency transfers of information." 1/

Although SSA could disclose its beneficiary address information to IRS as a routine use under the Privacy Act, it has argued that such disclosure may be inconsistent with its current regulations. In its explanation of these regulations, SSA stated that it will disclose information for programs whose purposes are consistent with those of SSA, that is, "income maintenance to involve a strong public interest." SSA also stated that it

"will not generally disclose an individual's social security number or last-known address, since that information does not concern the individual's eligibility or benefit status in the social security program." 2/

We believe SSA should promptly resolve this issue of whether it needs to amend its regulations to allow for the disclosure of last-known addresses of SSA beneficiaries to IRS as a routine use. And, if SSA decides that its regulations need to be amended, this should be done without additional delay.

CONCLUSIONS

In surveying the success of its district offices in getting lists of individuals due undelivered refund checks published in 1979 by newspapers, IRS found that some districts were putting forth little effort. In this regard, IRS recognizes that further efforts could be made in many districts to get the lists published. However, the national office and the Central Regional Office do not monitor the districts' results to determine whether additional efforts are being made and to examine alternatives when lists are not published. In addition, IRS does not measure the effectiveness of lists that are published.

1/40 Fed. Reg. 28953 (1975).

2/45 Fed. Reg. 74907 (1980).

Since July 1978, IRS and SSA have discussed IRS' request that SSA match its computer files on SSA beneficiaries with IRS computer files on individuals due undelivered refund checks. Delays have occurred in accomplishing the computer tape match because of a disclosure issue. SSA has raised the issue of how and if it can provide IRS with SSA beneficiary information in a manner consistent with the Privacy Act and SSA regulations. SSA plans to do the computer tape match this summer but has suspended resolution of the disclosure issue pending the outcome of the tape match.

Because of the time and effort already expended by IRS and SSA in working on the tape match, we believe that SSA should proceed with the tape match without further delay. Furthermore, because of past delays in getting the disclosure issue resolved, we believe that efforts to resolve this issue should be closely monitored by the Commissioner of SSA.

RECOMMENDATION TO THE
COMMISSIONER OF INTERNAL REVENUE

We recommend that the Commissioner:

- Require routine monitoring of IRS districts' efforts in getting newspapers to publish lists of individuals entitled to undelivered refund checks and measure the effectiveness of these lists in getting checks delivered to rightful individuals.

RECOMMENDATION TO THE
SECRETARY OF HEALTH AND HUMAN SERVICES

We recommend that the Secretary direct the Commissioner of Social Security to assist IRS in determining the feasibility of using the Social Security Administration's benefit files as a means of locating individuals entitled to income tax refund checks by

- matching as soon as possible IRS computer tapes on undelivered refunds to address information on SSA's benefit files, and
- resolving the disclosure issue as quickly as possible so that taxpayers identified by the computer tape match can be notified, either by an SSA or IRS mailing, that they are entitled to undelivered tax refund checks.

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Because your subcommittee requested this report as quickly as possible, we did not obtain agency comments.

As arranged with your subcommittee, unless you publicly announce its contents earlier, no further distribution of this report will be made until 14 days from the date of the report. At that time we will send copies of this report to the Commissioner of Internal Revenue, the Secretary of Health and Human Services, the Acting Commissioner of Social Security and other interested parties.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Milton J. Eisenhower".

Acting Comptroller General
of the United States