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New IRS Impersonation Email Scam

Cross References

- IR-2019-145, August 22, 2019

The IRS is warning taxpayers and tax professionals about a new IRS impersonation scam campaign spreading nationally on email.

The IRS detected this new scam as taxpayers began notifying phishing@irs.gov about unsolicited emails from IRS imposters. The email subject line may vary, but recent examples use the phrase "Automatic Income Tax Reminder" or "Electronic Tax Return Reminder."

The emails have links that show an IRS.gov-like website with details pretending to be about the taxpayer's refund, electronic return or tax account. The emails contain a "temporary password" or "one-time password" to "access" the files to submit the refund. But when taxpayers try to access these, it turns out to be a malicious file.

"The IRS does not send emails about your tax refund or sensitive financial information," said IRS Commissioner Chuck Rettig. "This latest scheme is yet another reminder that tax scams are a year-round business for thieves. We urge you to be on-guard at all times."

This new scam uses dozens of compromised websites and web addresses that pose as IRS.gov, making it a challenge to shut down. By infecting computers with malware, these imposters may gain control of the taxpayer's computer or secretly download software that tracks every keystroke, eventually giving them passwords to sensitive accounts, such as financial accounts.

The IRS, state tax agencies and the tax industry have made progress in their efforts to fight stolen identity refund fraud. But people remain vulnerable to scams by IRS imposters sending fake emails or harassing phone calls.

The IRS doesn't initiate contact with taxpayers by email, text messages or social media channels to request personal or financial information. This includes requests for PIN numbers, passwords or similar access information for credit cards, banks or other financial accounts.

The IRS also doesn't call to demand immediate payment using a specific payment method such as a prepaid debit card, gift card or wire transfer. Generally, the IRS will first mail a bill to any taxpayer who owes taxes.

Federal Income Tax Withholding Methods

Cross References

- IRS Pub. 15-T
- https://www.irs.gov/pub/irs-dft/p15t--dft.pdf

The IRS has released a draft copy of new IRS Pub. 15-T, *Federal Income Tax Withholding Methods,* for use in calculating withholding in 2020. The way employers will figure federal income tax withholding for 2020 Form W-4, *Employee's Withholding Certificate,* is changing to match the changes to the new form. IRS Pub. 15-T contains a look at the new employer steps to figure federal income tax withholding.

The 2020 Form W-4 has been redesigned to reduce the form's complexity and to increase transparency and accuracy in the withholding system. Beginning with the 2020 Form W-4, employees will no longer be able to request adjustments to their withholding using withholding allowances. Instead, Form W-4 will allow employees to provide their employers with amounts to increase or reduce taxes and amounts to increase or decrease the amount of wage income subject to income tax withholding.

The computations described in IRS Pub. 15-T will allow employers to figure withholding regardless of whether the employee provided a Form W-4 in an earlier year or will provide a new Form W-4 in 2020. The publication also allows employers to figure withholding based on their payroll system and withholding method of choice.

The publication goes into detail explaining the following methods that employers may use for calculating 2020 withholding:

1) Percentage Method Tables for Automated Payroll Systems,
2) Wage Bracket Method Tables for Manual Payroll Systems with Forms W-4 From 2020 or Later,
3) Wage Bracket Method Tables for Manual Payroll Systems with Forms W-4 From Before 2020,
4) Percentage Method Tables for Manual Payroll Systems with Forms W-4 From 2020 or Later, and
5) Percentage Method Tables for Manual Payroll Systems with Forms W-4 From Before 2020.

Those who work with payroll departments are encouraged to review the new IRS Pub. 15-T before the beginning of the first 2020 pay period.

DNA Testing Deductible as a Medical Expense

Cross References

- Ltr. Rul. 201933005, August 16, 2019

The taxpayer requested a ruling on whether or not the cost of certain genetic testing services and their resulting reports are considered deductible medical expenses under IRC section 213(d).

The taxpayer has a healthcare flexible spending account (FSA) and seeks to use the FSA to purchase genetic testing services. The cost of the service includes a DNA collection kit plus a report on the results of the DNA testing. The report provides the taxpayer with a deeper understanding of his or her health risks, and encourages the taxpayer to share the information with a healthcare provider for additional testing, diagnosis, or treatment. The taxpayer did not seek a ruling on whether the cost of the report relating to ancestry is a medical expense.

In general, an expense that is merely beneficial to the general health of an individual is personal and is not for medical care. For example, education on how to improve one's general health, such as through diet and exercise, is not medical care. Diagnostic services, however, may be considered medical care.

Revenue Ruling 2007-72 states that the term diagnosis encompasses the determination that a disease may or may not be present, and includes testing of changes to the function of the body that are unrelated to disease. Amounts paid for diagnostic and similar procedures and devices qualify as medical care, even if such diagnostic procedure is performed without a physician's recommendation. An example of this is a pregnancy test.

The DNA testing in this case includes genotyping which is considered a diagnostic medical procedure, and information on the taxpayer's ancestry, which is not medical care. Therefore, the taxpayer must allocate the price paid for the DNA collection kit and health services between the medical and non-medical items and services to determine the portion of the cost that qualifies as medical care under IRC section 213(d).

IRS Sending Letters on Virtual Currency Transactions

Cross References

• IR-2019-132, July 26, 2019

The IRS has begun sending letters to taxpayers with virtual currency transactions that potentially failed to report income and pay the resulting tax from virtual currency transactions or did not report their transactions properly.

"Taxpayers should take these letters very seriously by reviewing their tax filings and when appropriate, amend past returns and pay back taxes, interest and penalties," said IRS Commissioner Chuck Rettig. "The IRS is expanding our efforts involving virtual currency, including increased use of data analytics. We are focused on enforcing the law and helping taxpayers fully understand and meet their obligations."

The IRS started sending the educational letters to taxpayers last week. By the end of August, more than 10,000 taxpayers will receive these letters. The names of these taxpayers were obtained through various ongoing IRS compliance efforts.

For taxpayers receiving an educational letter, there are three variations: Letter 6173, Letter 6174 or Letter 6174-A, all three versions strive to help taxpayers understand their tax and filing obligations and how to correct past errors.

Taxpayers are pointed to appropriate information on www.irs.gov, including which forms and schedules to use and where to send them.

Last year the IRS announced a Virtual Currency Compliance campaign to address tax noncompliance related to the use of virtual currency through outreach and examinations of taxpayers. The IRS will remain actively engaged in addressing non-compliance related to virtual currency transactions through a variety of efforts, ranging from taxpayer education to audits to criminal investigations.

Virtual currency is an ongoing focus area for IRS Criminal Investigation.

IRS Notice 2014-21 states that virtual currency is property for federal tax purposes and provides guidance on how general federal tax principles apply to virtual currency transactions. Compliance efforts follow these general tax principles. The IRS will continue to consider and solicit taxpayer and practitioner feedback in education efforts and future guidance.

The IRS anticipates issuing additional legal guidance in this area in the near future.

Taxpayers who do not properly report the income tax consequences of virtual currency transactions are, when appropriate, liable for tax, penalties and interest. In some cases, taxpayers could be subject to criminal prosecution.

Revocation of Passports

Cross References

• IR-2019-141, August 8, 2019

The IRS is urging taxpayers to resolve their significant tax debts to avoid putting their passports in jeopardy. They should contact the IRS now to avoid delays in their travel plans later.

Under the Fixing America's Surface Transportation (FAST) Act, the IRS notifies the State Department of taxpayers certified as owing a seriously delinquent tax debt, which is currently $52,000 or more. The law then requires the State Department to deny their passport application or renewal. If a taxpayer currently has a valid passport, the State Department may revoke the passport or limit a taxpayer's ability to travel outside the United States.

When the IRS certifies a taxpayer as owing a seriously delinquent tax debt, the taxpayer receives a Notice CP508C from the IRS. The notice explains what steps the taxpayer needs to take to resolve the debt. IRS telephone assistors can help taxpayers resolve the debt. For example, they can help taxpayers set up a payment plan or make them aware of other payment options. Taxpayers should not delay because some resolutions take longer than others.

It's especially important for taxpayers with imminent travel plans who have had their passport applications denied to call the IRS promptly. The IRS can help taxpayers resolve their tax issues and expedite reversal of their certification to the State Department. When expedited, the IRS can generally shorten the 30 days processing time by 14 to 21 days. For expedited reversal of their certification, taxpayers will need to inform the IRS that they have travel scheduled within 45 days or that they live abroad.

For expedited treatment, taxpayers must provide the following documents to the IRS:

- *Proof of travel.* This can be a flight itinerary, hotel reservation, cruise ticket, international car insurance or other document showing location and approximate date of travel or time-sensitive need for a passport.
- *Copy of letter from the State Department denying their passport application or revoking their passport.* The State Department has sole authority to issue, limit, deny or revoke a passport.

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The IRS may ask the State Department to exercise its authority to revoke a taxpayer's passport. For example, the IRS may recommend revocation if the IRS had reversed a taxpayer's certification because of their promise to pay, and they failed to pay. The IRS may also ask the State Department to revoke a passport if the taxpayer could use offshore activities or interests to resolve their debt but chooses not to.

Before contacting the State Department about revoking a taxpayer's passport, the IRS will send Letter 6152, *Notice of Intent to Request U.S. Department of State Revoke Your Passport,* to the taxpayer to let them know what the IRS intends to do and give them another opportunity to resolve their debts. Taxpayers must call the IRS within 30 days from the date of the letter. Generally, the IRS will not recommend revoking a taxpayer's passport if the taxpayer is making a good-faith attempt to resolve their tax debts.

Ways to resolve tax issues. There are several ways taxpayers can avoid having the IRS notify the State Department of their seriously delinquent tax debt. They include the following:
- Paying the tax debt in full,
- Paying the tax debt timely under an approved installment agreement,
- Paying the tax debt timely under an accepted offer in compromise,
- Paying the tax debt timely under the terms of a settlement agreement with the Department of Justice,
- Having a pending collection due process appeal with a levy, or
- Having collection suspended because a taxpayer has made an innocent spouse election or requested innocent spouse relief.

Relief programs for unpaid taxes. Taxpayers may qualify for one of several relief programs including the following:
- ***Payment agreement.*** Taxpayers can ask for a payment plan with the IRS by filing Form 9465. Taxpayers can mail this form along with a tax return, bill or notice. Taxpayers who are eligible can use the Online Payment Agreement system to set up a monthly payment agreement. Using the Online Payment Agreement system can save time.
- ***Offer in compromise.*** Some taxpayers may qualify for an offer in compromise, an agreement between a taxpayer and the IRS that settles the tax liability for less than the full amount owed. The IRS looks at the taxpayer's income and assets to determine the taxpayer's ability to pay. Taxpayers can use the Offer in Compromise Pre-Qualifier online tool to help them determine whether they're eligible for an offer in compromise.

Subject to change, the IRS also will not certify a taxpayer as owing a seriously delinquent tax debt or will reverse the certification for a taxpayer:
- Who's in bankruptcy,
- Who's identified by the IRS as a victim of tax-related identity theft,
- Whose account the IRS has determined is currently not collectible due to hardship,
- Who's located within a federally declared disaster area,
- Who has a request pending with the IRS for an installment agreement,
- Who has a pending offer in compromise with the IRS, or
- Who has an IRS accepted adjustment that will satisfy the debt in full.

For taxpayers serving in a combat zone who owe a seriously delinquent tax debt, the IRS postpones notifying the State Department of the delinquency and the taxpayer's passport is not subject to denial during the time of service in a combat zone.

Stigmatization Due to a Flood is Not a Casualty Loss

Cross References
- *Taylor,* T.C. Memo. 2019-102, August 19, 2019

The taxpayer's house was built in 1930 and is located in one of Houston's most exclusive and prestigious subdivisions. It was originally built for Harry Hanszen (the Hanszen House) and designed by John Staub, a famous residential architect, in the French Norman style based on a medieval chateau in France. The Hanszen House is considered Mr. Staub's greatest picturesquely romantic house. The taxpayer purchased the property in 1998 for $9.25 million.

The house was damaged by Hurricane Ike on September 13, 2008. The house sustained wind damage from the hurricane, as well as water damage from flooding.

To compute a casualty loss deduction, the following values of the damaged or destroyed property must be established:
1) The fair market value before the casualty,
2) The fair market value after the casualty, and
3) The taxpayer's basis in the property.

As a general rule, the pre-casualty and the post-casualty values must be determined by competent appraisal. The regulations state that a competent appraisal must recognize the effects of any general market decline affecting undamaged as well as damaged property which

may occur simultaneously with the casualty so that any deduction will be limited to the actual loss resulting from damage to the property.

As an alternative method of proving a decline in value, the regulations provide that if the taxpayer has repaired the property damage resulting from the casualty, the taxpayer may use the cost of repairs to prove the loss of value. The cost of repairing the property must be the actual cost incurred to repair the property, not an estimate.

The taxpayer relied on two appraisals to calculate the decline in value of his property due to the hurricane. The two appraisals showed a difference in fair market value between the pre-casualty and post-casualty property of $7,387,000.

The court stated that the post-casualty appraisal relied heavily on the stigmatization of Hanszen House due to the flooded basement. The appraisal noted that the fear of future flooding may have caused an immediate adverse buyer reaction.

The court stated that physical damage to property is a prerequisite to deducting a casualty loss. The court has traditionally ruled that no deduction is allowed based on a temporary decline in market value. In one case, the court stated: "The scheme of our tax laws does not, however, contemplate such a series of adjustments to reflect the vicissitudes of the market, or the wavering values occasioned by a succession of adverse or favorable developments." Such a decline was termed "a hypothetical loss or a mere fluctuation in value." In another case, it stated: "No allowance can be made for purported immediate buyer resistance to purchases in a flood-damaged area, particularly in the absence of evidence of post flood sales of comparable properties."

The taxpayer's appraisal stated there was a general market decline in 2008. Approximately one-third fewer properties sold in the neighborhood in 2008 compared to 2007.

The court stated the decline of value did not occur solely because of the damage resulting from Hurricane Ike. The taxpayer received insurance payments that exceeded the total cost of repairs. Accordingly, the court ruled the taxpayer was not entitled to a casualty loss deduction for 2008.