

## When The (IRS Refund) Check Isn't In the Mail



**Anton Janik, Jr.**  
ajanik@mwlaw.com  
(501) 688.8888

09/16/2024

A recent spate of mail thefts has left the IRS holding the bag when taxpayer refunds have failed to reach those taxpayers. Congress has begun looking into these thefts. Some have occurred from USPS employee theft, but others arise from outside intervening actors. According to an August 27, 2024 House Ways and Means Committee [letter](#) to the Inspector General of the U.S. Postal Service (IRS OIG) and the Acting Treasury Inspector General for Tax Administration (TIGTA), the problem is both extensive and costly: considering just the theft in New York's 11th Congressional District, it totaled \$3 million. Another \$4 million in thefts was reported to have occurred over at the Kennedy Airport Mail Facility. And another \$4 million was stolen in Houston. The thefts include tax refunds, social security checks, and stimulus checks.

That impacts a lot of taxpayers, and it appears, impacts some taxpayers more than once. The Ways and Means letter reports that in some instances, reissued IRS refund checks were also stolen. Addressing a cashed stolen refund check also significantly impacts taxpayer time. The claim process proceeds through the Bureau of the Fiscal Service, and can take [six weeks](#) to complete. For clients that need that check, crossing the end of a calendar month has material impact.

The Ways and Means Committee asked TIGTA and the IRS OIG to immediately begin an investigation into that theft to determine the volume, frequency, locations and methods used when IRS checks are stolen via USPS mail, and to come up with solutions that will address what taxpayers can do when they have a paper check stolen from the mail, including the option of switching to direct deposit and to identify what barriers exist to doing same. Further, the Committee asked for an identification of what changes need to be made to prevent these thefts from happening in the future.

The Committee has asked TIGTA and the IRS OIG to provide it a briefing on what is currently known about this theft scheme, and the work that TIGTA and the IRS OIG have done historically to prevent same. Although Ways & Means directed that TIGTA and the IRS OIG contact the majority staff by September 10, 2024 to schedule that briefing, we have been unable to locate that hearing on the Ways & Means' schedule.

So, what advice do you have for clients? For starters, taxpayers can use the IRS's Where's My Refund? Tool or the IRS2Go mobile app to check a refund's status. If one is reported delivered but not received, taxpayers can file Form 3911 (Taxpayer Statement Regarding Refund) to provide information to the IRS to trace the nonreceipt or loss of an issued refund check. As noted above, if the refund check was cashed, the process is addressed through the Bureau of the Fiscal Service.

But more practically here, while taxpayers will always have concerns about data privacy and government knowledge of their bank accounts, best practices would have your clients make and receive their payments and refunds electronically. I remember in my early days as a Trial Attorney in the Department of Justice's Tax Division, that one of my fellow attorneys was widely known to refuse electronic deposits

of his weekly paycheck because it was “just not the Government’s business” to know his bank accounts. And so, for those clients that are especially prickly about such things, that account could be set up at a separate bank solely for the purpose of making such payments or receiving such deposits. That setup doesn’t resolve all concerns, but at least it doesn’t leave that taxpayer forever waiting on a check in the mail.