



Records Preservation & Access Committee

Federation of Genealogical Societies, National Genealogical Society,
International Association of Jewish Genealogical Societies

January 24, 2012

Margaret Hostetler
United States House of Representatives
House Ways and Means Committee
B 317 RHOB
Washington, D.C. 20515

Dear Margaret:

On behalf of the Records Preservation and Access Committee, the umbrella organization representing the genealogical community, attached is our suggested legislative language addressing the concerns of people who fraudulently use deceased children's Social Security number for fraudulent tax purposes and are unrelated to the deceased child. We have also taken the opportunity to share with you a number of concerns, many of which we have discussed, and if appropriate, would like to discuss them further or if we can be of any assistance, please do not hesitate to contact us.

I have taken your suggestion to mark the attached document as "draft" so that we may amend our suggested language if desirable, at the appropriate time.

We are most interested in learning if a date for the hearing has been set in order to determine who may be available to represent the genealogical community at the upcoming hearing. I will call you on Wednesday, January 26th to determine if this was received and to learn if a date for the hearing has been set.

Again, thank you for the opportunity to present our suggested legislative language and our comments.

Sincerely,

Jan Meisels Allen
IAJGS Vice President,
Chairperson, IAJGS Public Records Access Monitoring Committee
Managing Member, Records Preservation and Access Committee



January 24, 2012

This document is in response to a request from the staff of the House Ways and Means Committee asking that we outline our position and offer suggestions targeting areas for appropriate legislation. Attached is draft legislative language (see pages 5 and 6 of this draft document) that we would request is considered for addressing the concerns of people who fraudulently use deceased children's Social Security number for fraudulent tax purposes and are unrelated to the deceased child.

The genealogical community shares the objective of protecting Americans against fraud and of addressing deficiencies in the current operation of the Death Master File. Our hope is that measures can be developed which address these concerns while preserving to the maximum extent practicable access for genealogical and other legitimate purposes. We stand ready to work with you to that end.

We urge legislators seeking to address these concerns to target the criminal behavior rather than seeking a "silver bullet" solution whose only real impact is felt by law-abiding citizens.

The following additional concerns of the genealogical community need to be addressed by future actions and if you would like to discuss them further or if we can be of any assistance, please do not hesitate to contact us.

Target the Criminal

There have been scattered news reports announcing arrests in identity theft and identity fraud cases but not nearly enough to send a message to potential perpetrators that it is a serious crime and that we intend to catch those who engage in it.

Effective prosecution of identity theft cases has been achieved most frequently as the result of extensive collaboration between local, state, and federal law enforcement agencies. The "Cash Back" Task Force first involved the Tampa Police Department and the county sheriff's office, and then was expanded to include the U.S. Secret Service and U.S. Postal Inspection Service. They announced on September 2, 2011, that their "Operation Rainmaker" had uncovered more than \$130 Million in tax fraud, arrested 49, intercepted \$100 Million tax dollars, recovered \$5 Million tax dollars and assets but identified at least \$25 Million in stolen tax dollars. Investigators reported that some of the defendants had been assured that using fake identities to file fraudulent tax returns online was not a crime and that no one was prosecuting such conduct. A police officer who had been one of the victims expressed frustration at the extent to which IRS had been prohibited from cooperating with the task force investigation.

Facilitate Inter-agency Investigations

This and other successful investigations have revealed the existence of significant barriers to communications between the IRS and law enforcement agencies. The Congress could appropriately examine whether existing privacy guidance has gone so far in shielding “taxpayer” information from non-tax collector governmental officials that it, in fact, undermines the integrity of the system. Legislation easing these restrictions may be indicated.

The resounding message we heard from the Operation Rainmaker press conference was that the online tax refund system is unacceptably vulnerable, has been corrupted, and there is a subculture fully aware and anxious to exploit the weaknesses in that system.

Close Vulnerabilities in the Online Tax Refund System

The challenge faced by the Internal Revenue Service is to strike an appropriate balance between expediting legitimate tax refund payments while intercepting fraudulent ones. We are confident that the IRS is aware of this exposure and is taking measures to reduce it. Technology is clearly part of the answer. Is the IRS using the Social Security Death Index and other automation initiatives to flag suspicious cases? How difficult would it be to run pending refund returns through SSDI to identify the returns of recently deceased persons for extra attention? A review of historical patterns and requests for additional documentation where needed should answer most questions. A procedure to establish quickly who the “real” taxpayer is should facilitate resolving these cases.

Address deficiencies in Master Death File

An expedited procedure (and adequate staffing) should be developed whereby the subject of an erroneous report in the Master Death File that they have died could establish their true identity and promote the early resolution of such cases. It might involve filing a report with local law enforcement (with photo and fingerprints) to assert their continued existence. This procedure would remove anonymity from the claimant.

New Tax Fraud Statute?

Most of these offenders have been charged under existing laws for theft, money laundering, racketeering and related offenses. We would defer to federal prosecutors as to the utility of defining a new tax fraud offense more specifically targeting these facts but that approach should get sympathetic consideration. Claiming the unrelated deceased child of another as a dependent for tax refund claims might be considered an “aggravating” factor increasing the punishment under the federal sentencing guidelines.

Position on SSDI closure proposals—

In our opinion, this approach aims at the wrong target. Even if the Social Security Death Index were totally taken down, it would have minimal impact on closing the vulnerabilities in the

online tax refund system. It would, however, dramatically impact the ability of law-abiding citizens to use it for the myriad of legitimate purposes for which it was created.

We urge the broader use of this resource. Clearly financial institutions could reduce fraudulent loans to identity thieves claiming to be persons who are deceased and already reported on SSDI. State Pension Programs need a mechanism giving them notice that a pensioner has died in another jurisdiction in order to know that their entitlement to benefits has changed. Credit card companies should be careful in changing the mailing address on statements without satisfying themselves that the “cardholder” does not appear on SSDI and that the request is legitimate. Those administering medical trials need to monitor the mortality of the participants. We hear of new purposes for which this resource is used every day.

We prefer continued appropriate access to the information that has been available from this resource. We are not convinced that the situation will change unless the government agencies set up improved procedures to red flag certain types of transactions.

We acknowledge that not all genealogists will need complete SSNs to resolving vexing issues in every case, but there are many situations in which it may be essential.

There are real costs associated with limiting access to public records. While these costs may be difficult to quantify, they clearly become more onerous as access to vital information is delayed or denied.

Resource for Containing Health Care Costs

Well-documented pedigrees are a key element in advancing and applying our knowledge about heritable medical conditions. The Surgeon General has recognized the value of this resource and encourages every citizen to seek to know more about the patterns of medical conditions that may run in their families. It may make it possible to limit testing to those necessary to confirm a heritable condition rather than conduct an extensive and expensive battery of tests to rule out other possible causes for the presenting symptoms.

Taking a good medical history of each patient has long been taught as essential element of providing the best quality of care. Pedigrees are what genealogists do.

Interest of the Genealogical Community

The interests of the genealogical community are not hard to understand. Access to records or the lack thereof, is the pivotal issue for genealogists. Without documentation, our family histories are more legend than history. Recent genetic advances have given additional significance to well-documented medical family histories. You can expect to hear expressions of concern from across the genealogical community whenever they may have reason to believe their access to these records is being threatened

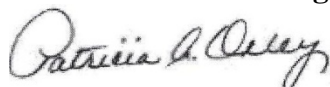
About the Records Preservation and Access Committee

The genealogical community works together through The Records Preservation and Access Committee (RPAC), a joint committee that today includes The National Genealogical Society (NGS), the Federation of Genealogical Societies (FGS) and the International Association of Jewish Genealogical Societies (IAJGS) as voting members. The Association of Professional Genealogists (APG), the Board for Certification of Genealogists (BCG), the American Society of Genealogists (ASG), ProQuest and Ancestry.com also serve as participating members. RPAC meets monthly, and more often if needed, to advise the genealogical and historical communities, as well as other interested parties, on ensuring proper access to vital records, and on supporting strong records preservation policies and practices.

This document has been reviewed and endorsed by the named representatives of the voting members of RPAC.

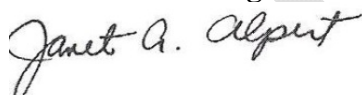
Respectfully submitted,

Federation of Genealogical Societies



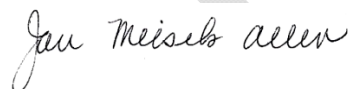
Patricia A. Oxley,
President, & FGS Representative on RPAC

National Genealogical Society



Janet A. Alpert,
Past President & NGS Representative on RPAC

International Association of Jewish Genealogical Societies



Jan Meisels Allen, Vice President &
IAJGS Representative on RPAC

Attachment

Attachment

RPAC Suggested Legislative Language

To address the tax issues surrounding the misuse of Social Security Numbers, the following language captures the concept that if a child under the age of 18 has their social security number associated with that of their parents or legal guardian, and if that information is afforded to the Internal Revenue Service, then administrative procedures may be put in place that would flag claims where the social security number of the deceased child did not match the social security numbers of its parents and appropriate action may be taken by the IRS, as follows:

Existing law requires the Social Security Administration to release the data contained in the Death Master File and arrange it for publication according to *Perholtz v. Ross*, C.A. Nos. 78-2385, 78-2386 D.D.C. Since that time, the data contained in the Death Master File has been widely used to prevent identity theft for fraudulent purposes through the wide dissemination of the information that the person identified with a uniquely identifying Social Security number is deceased.

This bill would require the Social Security Administration to add additional information to the Death Master File to be shared with the Internal Revenue Service for the purpose of prohibiting the criminal act of claiming unrelated deceased dependents.

- 1 SECTION 1. (1) The Commissioner of the Social Security Administration shall arrange and
2 permanently preserve the social security numbers of dependent children with the associated
3 social security numbers of their legal parents or guardians for all applications registered.
4 (2) The Commissioner of Social Security may release the indices and data files described in
5 paragraph (1) to the Internal Revenue Service. The Internal Revenue Service having obtained
6 the index pursuant to this paragraph may not release any portion of its contents to any other
7 party or government agencies.
8 (3) The Internal Revenue Service or other government agency may not sell or release Social
9 Security indices prepared and maintained by the Social Security Administration except as
10 authorized by law.
11 (4) In addition to the indices prepared pursuant to paragraph (1), the Commissioner of
12 Social Security shall prepare separate non-comprehensive electronic indices of all deceased
13 individuals with Social Security numbers that shall be made available for public inspection.
14 (5) For purposes of this bill, the following definitions apply:
15 (a) "Data files" means computerized data compiled from Social Security Applications
16 registered with the Social Security Administration.
17 (b) "Person" means any individual, firm, corporation, partnership, limited liability
18 company, joint venture, or association.
19 (c) "Personal identifying information" means first name, middle name, last name,
20 mother's maiden name, and father's surname, and a social security number that is
21 contained in the file.
22 (d) "Financial institution" means any commercial bank, trust company, savings and
23 loan company, insurance company, or person engaged in the business of lending money.
24 (e) "Commercial or non-profit company" means any company or not-for-profit organiza-
25 tion engaged in sharing information about deceased individuals for the pursuit of heir searches,
26 genetic research, blood quantum research, genealogy or family history research, or other
27 legal uses of the information as authorized by law.

28 (6) The Social Security Death Master File as presently constituted will be made available
29 for a reasonable fee to financial institutions, commercial companies, non-profit organizations
30 and educational institutions as authorized by law.

31 (7) Any person who, in violation of this section, uses, sells, shares, or discloses any informa-
32 tion provided pursuant to this section, or who uses information provided pursuant to this
33 section in a manner other than as authorized pursuant to this section, may be subject to the
34 assessment of a civil penalty by the Internal Revenue Service in the amount of \$_____. The
35 penalty provided in this section shall not be construed as restricting any remedy, criminal,
36 provisional, or otherwise, provided by law for the benefit of the agency or any person.

37 (8) The Social Security Administration and the Internal Revenue Service shall adopt any
38 regulations necessary to implement this section.

DRAFT