

**VALUE OF IDENTITY PROTECTION SERVICES
EXCLUDABLE FROM GROSS INCOME**

In Announcement 2015-22, the Internal Revenue Service (“IRS”) stated that it will not require an individual whose personal information may have been compromised in a data breach to include in gross income the value of identity protection services provided by the organization that experienced the breach.

In addition, the IRS will not require these amounts to be reported on an information return filed with respect to such individuals.

Identity theft (a/k/a identity fraud) occurs when a person wrongfully obtains and uses another person’s personal information (e.g., name, social security number, or banking or credit account numbers) in a way that involves fraud, or deception, typically for economic gain.

Identity theft is a growing problem in the United States. It has been the number one consumer complaint to the Federal Trade Commission for 15 consecutive years.

In response to a data breach of an organization’s recordkeeping systems, organizations often provide credit reporting and monitoring services, identity theft insurance policies, identity restoration services, or other similar services (“identity protection services”) to the customers, employees or other individuals whose personal information may have been compromised as a result of the data breach. These identity protection services are intended to prevent and mitigate losses due to identity theft resulting from the data breach.

The IRS has announced that it will not require an individual whose personal information may have been compromised in a data breach to include in gross income the value of the identity protection services provided by the organization that experienced the data breach.

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Furthermore, the IRS will not require an employer providing identity protection services to employees whose personal information may have been compromised in a data breach of the employee's (or employer's agent or service provider's) recordkeeping system to include the value of the identity protection services in the employees' gross income and wages.

Moreover, the IRS will not require these amounts to be reported on an information return (e.g., a Form W-2 or Form 1099-MISC) filed with respect to such individuals.

The IRS stated that Announcement 2015-22 does not apply to cash received in lieu of identity protection services, or to identity protection services received for reasons other than as a result of a data breach (e.g., identity protection services received in connection with an employee's compensation package). Announcement 2015-22 also does not apply to proceeds received under an identity theft insurance policy because such treatment is governed by existing law.