



**Georgia Department of Revenue**

# **FTA Electronic Filing Symposium**

May 2010

## **Identity Theft, Fraud Detection and Criminal Prosecutions**

Staci Guest

Office of Special Investigations

May 5, 2010

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**Georgia Department of Revenue**

## **The Beginning**

- Staff prior to 2005: 1 Chief; 2 Investigators; 1 Administrative Assistant
- Department of Revenue (DOR) generally inactive in investigations and prosecution of tax criminal activity
- Taxpayers and their representatives relatively free from criminal exposure for fraud
- 2004- increase in electronically filed returns; DOR staff noticed dramatic increase in fraudulent returns and refunds
- 2005- Office of Special Investigations expands: Commissioner brought experienced auditors to Special Investigations and hired a new director with extensive former criminal prosecutorial experience to develop unit designed to IDENTIFY, PREVENT, INVESTIGATE and PROSECUTE tax crimes against the Department of Revenue

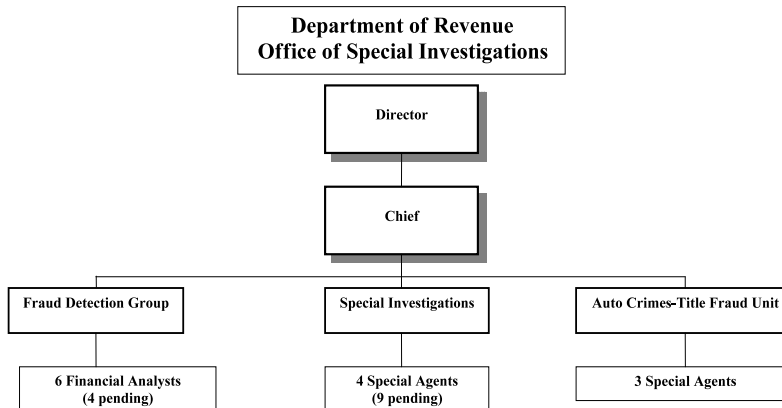
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## Georgia Department of Revenue

### Organization Chart



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## Georgia Department of Revenue

### Fraud Detection Group

**Mission:** Identify questionable returns, block issuance of fraudulent refunds, and prevent fraud

Responsibilities:

- 1) Identity Theft
- 2) Review Questionable Returns/Block Fraudulent Refunds
- 3) Assist with investigations and prosecutions

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## Georgia Department of Revenue

- 1) **Identity Theft**- someone steals your Social Security number and files a tax return in order to receive a refund.

Step 1- Send victim an Identity Theft packet:

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## Georgia Department of Revenue

### Cover Letter



State of Georgia  
Department of Revenue  
Office of Special Investigations  
1800 Century Boulevard  
Suite 1175  
Atlanta, Georgia 30345-3205  
(404) 417-2180

December 29, 2009

Victim  
1234 Any Street  
Rex, Georgia 30273

RE: ALLEGED FORGERY

Dear Taxpayer:

You recently notified this Department of an Alleged Fraudulent Return and/or Forgery of a refund check. Please complete the enclosed forms and attach a copy of a Driver's License or State ID. Additionally, enclose a copy of any police report that has been filed in regard to this matter. If you have not filed a police report, please be advised that you may be required to do so at some time during this investigation.

Please be sure to change your address and phone number with the Department of Revenue in the event that you move during this tax year. The enclosed documents should be returned to the address shown above.

Sincerely,

Tameka Young  
Office of Special Investigations

(Enclosures attached)

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# Georgia Department of Revenue

## Letter of Circumstance



State of Georgia  
Department of Revenue  
Office of Special Investigations  
1800 Century Boulevard  
Suite 1175  
Atlanta, Georgia 30345-3205  
(404) 417-2180

### LETTER OF CIRCUMSTANCE

Tax Year (s) \_\_\_\_\_

Describe in detail the circumstances of the fraudulent activity and how you became aware of it. For example, consider how someone could have obtained your social security number/W-2's/ name. Was your home or office burglarized? If more space is needed, feel free to attach additional sheets of paper.

I suspect the following person of having misused the fraudulent item(s) described on the attached Affidavit: Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Are you willing to prosecute?  yes  no Did you file a police report?  Yes  No

Name of law enforcement agency: \_\_\_\_\_ Case Number: \_\_\_\_\_ Detective's name: \_\_\_\_\_

Please enclose a copy of the police report if you filed. \* We may ask you to file one if you did not.

Have you filed a Georgia tax return for the period of this audit?  yes  no

If not, why? \_\_\_\_\_

Attach a copy of your Driver's License or State ID.

Attach a copy of your Social Security Card.

I declare under penalty of perjury that the foregoing is correct.

Signature \_\_\_\_\_ Date \_\_\_\_\_

In addition to the claimant's signature, the payee must sign below (forged claims only)

I declare under penalty of perjury that I was legally entitled to receive \$ \_\_\_\_\_

from the item(s) described on the attached Affidavit.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Attach a copy of your Driver's License or State ID and Social Security Card

Do Equal Opportunity Employer

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# Georgia Department of Revenue

## Fraud Affidavit



Check Amount \_\_\_\_\_

Check Date \_\_\_\_\_

Issued by \_\_\_\_\_

Payable to the Order of \_\_\_\_\_

Form REV-40 (2/04)

### AFFIDAVIT FOR ALLEGED FRAUDULENT RETURN AND/OR FORGERY

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me \_\_\_\_\_ a Notary Public

(NAME OF NOTARY PUBLIC)

In and for said State and County, \_\_\_\_\_

(AFFIRANT'S NAME(S))

who on oath deposes and states the following:

\_\_\_\_\_ An electronic return was filed for the income tax year \_\_\_\_\_ using my(our) social security number(s) that was not filed on my(our) behalf, I(we) did not authorize, I(we) had no knowledge of, and which I(we) did not receive benefit of any associated refund.

\_\_\_\_\_ A paper return was filed for the income tax year \_\_\_\_\_ using my(our) social security number(s) that was not filed on my(our) behalf, I(we) did not authorize, I(we) had no knowledge of, and which I(we) did not receive benefit of any associated refund.

\_\_\_\_\_ I(We) did not endorse the following income tax refund check for tax year \_\_\_\_\_ for the person(s) named as payee(s) on:

Check Number \_\_\_\_\_

I(We) state that the payee endorsement(s) appearing on said check has been forged. Further,

I(we) believe it was forged by \_\_\_\_\_

who resides at \_\_\_\_\_

I(We) further state that I(we) will testify, declare, depose or certify to the truth of the foregoing before any competent tribunal, officer or person, in any case now pending or that may hereafter be instituted in connection with the matter contained in this affidavit.

Under penalty of perjury, I declare that I have examined the information contained on this form and to the best of my knowledge and belief it is true, correct and complete.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Sworn or and subscribed before me, \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

(NOTARY PUBLIC)

(MY COMMISSION EXPIRES - DATE)

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# Georgia Department of Revenue

## Disclosure for Law Enforcement



### Disclosure Authorization Form For Law Enforcement Purposes

**1. Taxpayer**  
Name and address \_\_\_\_\_  
City/State/Zip/County \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Georgia State Tax ID No. \_\_\_\_\_  
Georgia Sales Tax Registration No. \_\_\_\_\_  
Georgia Withholding Tax No. \_\_\_\_\_  
Daytime Telephone Number \_\_\_\_\_

**2. Law Enforcement Agency**  
Name, address, and agency contact person \_\_\_\_\_  
Daytime Telephone Number \_\_\_\_\_

**3. Tax Matters:**

Tax Type	(X)	Year(s) or Period(s)
Personal Income Tax		
Sales and Use Tax		
Corporate Income Tax		
Withholding Tax		
Other (specify):		

**4. Signature of Law Enforcement Agency:** On behalf of the law enforcement agency shown above, I hereby certify that any confidential information or records disclosed or discussed by the Georgia Department of Revenue pursuant to this initial authorization will be used by the agency solely in investigating possible violations of state or federal law by parties other than the Taxpayer and in any criminal prosecution, civil proceeding, or other action that may result.  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature of Notary \_\_\_\_\_ Date \_\_\_\_\_  
NOTARY SEAL

**5. Signature of or for the Taxpayer.** The Georgia Department of Revenue hereby is authorized to disclose and/or discuss confidential information or records concerning the Taxpayer's Tax Matters to officers, employees, and agents of the law enforcement agency shown above. If signed by a corporate officer, member, partner, trustee or executor/conservator, I certify that I have the authority to execute this authorization form on behalf of the Taxpayer.  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Title (if applicable): \_\_\_\_\_  
The person signing as or for the taxpayer appeared this day before a notary public and acknowledged this disclosure authorization form as a voluntary act or deed.  
Signature of Notary \_\_\_\_\_ Date \_\_\_\_\_ NOTARY SEAL

#### Section 5 - Signature of Taxpayer

Taxpayer	Who must sign
Individuals	The individual taxpayer must sign.
Corporations	A corporate officer or a person designated by a corporate officer must sign.
Partnerships	A partner having authority to act in the name of the partnership must sign.
Trusts	A Trustee must sign.
Estates	An Executor/Executrix or the personal representative of the estate must sign.
Limited Liability Companies	A member having authority to act in the name of the company must sign.



# Georgia Department of Revenue

## Identity Theft cont'd

- Step 2- Process true tax return
- Step 3- Place collection efforts on hold pending review
- Step 4- Flag victim's account to review subsequent year's tax return for fraud



## Georgia Department of Revenue

### 2) Review Questionable Returns/Block Fraudulent Refunds

- Define fraud:
  - Questionable withholding
  - Questionable itemized deductions
  - Questionable schedule Cs
  - Other?
- Collaborate with Information Technology Division (ITD) to enhance system capabilities for detecting fraud
- Create criteria to flag/block questionable returns
- Review blocked refunds to release those that don't meet definition
- Substantiate questionable returns
- Regularly monitor total refunds blocked to adjust criteria
- Block vs. adjust returns
- Add appropriate penalties

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## Georgia Department of Revenue

### Schemes- Fraudulent Withholding

2 2 2 2 2		Employee's social security number		OMB No. 1545-0008	
b Employer identification number (EIN) 58-269510		1 Wages, tips, other compensation 19,159		2 Federal income tax withheld 9,159	
c Employer's name, address, and ZIP code JT's Cleaning Service 6576 Truth Street Suspect, GA 31091		3 Social security wages		4 Social security tax withheld	
		5 Medicare wages and tips		6 Medicare tax withheld	
		7 Social security tips		8 Allocated tips	
d Control number		9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial Jane B Taxpayer		11 Nonqualified plans		12a	
Last name 25 JB Lane		13 Statutory employee plan		12b	
KINGS, GA 30615		14 Other		12c	
f Employee's address and ZIP code				12d	
15 State GA	16 State wages, tips, etc. 19,159	17 State income tax 2,310	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

Form Wage and Tax Statement  
Copy 1 - For State, City, or Local Tax Department

2009

Department of the Treasury-Internal Revenue Service

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# Georgia Department of Revenue

## Schemes-Fraudulent Deductions

**SCHEDULE A (Form 1040) Itemized Deductions**

OMB No. 1545-0074

Department of the Treasury (State Proprietorship) Attach to Form 1040. See Instructions for Schedule A (Form 1040).

**JANE B TAXPAYER** Your social security number

**Medical and Dental Expenses**

1 Medical and dental expenses (see page A-1) 1 0

2 Enter amount from Form 1040, line 38 2 0

3 Multiply line 2 by 7.5% (.075) 3 0

4 Subtract line 3 from line 1. If line 3 is more than line 1, enter -0- 4 0

**Taxes You Paid**

5 State and local (check only one box):

a  Income taxes, or 5 12,250 00

b  General sales taxes 6 0

7 Real estate taxes (see page A-6) 7 0

8 New motor vehicle taxes from line 11 of the worksheet on back. Skip this line if you checked box 9b. 8 0

9 Other taxes. List type and amount 9 0

10 Add lines 5 through 8 10 12,250 00

**Interest You Paid**

11 Home mortgage interest and points reported to you on Form 1098, if paid to the person from whom you bought the home, see page A-7 and show that person's name, identifying no., and address 11 0

12 Points not reported to you on Form 1098. See page A-7 for special rules 12 0

13 Qualified mortgage insurance premiums (see page A-7) 13 0

14 Investment interest. Attach Form 4952 if required. (See page A-8.) 14 0

15 Add lines 10 through 14 15 0

**Gifts to Charity**

16 Gifts by cash or check. If you made any gift of \$250 or more, see page A-8 16 0

17 Other than by cash or check. If any gift of \$250 or more, see page A-8. You must attach Form 5283 if over \$500 17 0

18 Carryover from prior year (see page A-8) 18 0

19 Add lines 16 through 18 19 0

**Casualty and Theft Losses**

20 Casualty or theft loss(es). Attach Form 4684. (See page A-10.) 20 0

**Job Expenses and Certain Miscellaneous Deductions**

21 Unreimbursed employee expenses—job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See page A-10.) 21 25,431 00

22 Tax preparation fees 22 750 00

23 Other expenses—investment, safe deposit box, etc. List type and amount 23 0

**HCM REMODELING**

24 Add lines 21 through 23 24 26,181 00

25 Enter amount from Form 1040, line 38 25 19,150 00

26 Multiply line 25 by 6% (.06) 26 1,551 00

27 Subtract line 26 from line 24. If line 26 is more than line 24, enter -0- 27 383 00

28 Other—From list on page A-11. List type and amount 28 0

**Total Itemized Deductions**

29 In Form 1040, line 38, over \$100,000 (over \$83,400 if married filing separately)?  No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40a.  Yes. Your deduction may be limited. See page A-11 for the amount to enter.  If you elect to itemize deductions even though they are less than your standard deduction, check here.

29 44,636 00

For Paperwork Reduction Act Notice, see Form 1040 instructions. Cat. No. 171450 Schedule A (Form 1040) 2009

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# Georgia Department of Revenue

## Schemes-Fraudulent Schedule C

**SCHEDULE C (Form 1040) Profit or Loss From Business**

OMB No. 1545-0074

Department of the Treasury (State Proprietorship) Attach to Form 1040, 1040NR, or 1041. See Instructions for Schedule C (Form 1040).

**AWN CARE** Your social security number

A Principal business or profession, including product or service (see page C-2 of the instructions) B Enter code from pages C-5, 10, & 11

C Business name, if no separate business name, leave blank. D Employee ID number (EIN), if any

E Business address (including suite or room no.) 25 JB LANE

F City, town or post office, state, and ZIP code KNOX, GA 37919

G Accounting method:  Cash  Accrual  Other (specify) \_\_\_\_\_

H Did you "materially participate" in the operation of this business during 2009?  Yes  No

I If you started or acquired this business during 2009, check here \_\_\_\_\_

**Gross Income**

1 This income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, or

2 You are a member of a qualified joint venture reporting only rental real estate income not subject to self-employment tax. Also see page C-3 for limit on losses.

3 Returns and allowances 1 0

4 Subtract line 2 from line 1 2 0

5 Cost of goods sold (from line 42 on page 20) 3 0

6 Gross profit. Subtract line 4 from line 3 4 0

7 Other income, including federal and state gasoline or fuel tax credit or refund (see page C-4) 5 0

8 Gross income. Add lines 6 and 7 6 0

**Expenses**. Enter expenses for business use of your home only on line 30.

9 Advertising 9 0

10 Car and truck expenses (see page C-6) 10 17,489 00

11 Contract labor (see page C-4) 11 0

12 Depreciation 12 0

13 Depreciation and section 179 expense deduction (not included in Part III) (see page C-6) 13 0

14 Employee benefit programs (other than on line 16) 14 0

15 Insurance (other than health) 15 0

16 Interest: 16 0

a Mortgage (paid to banks, etc.) 16a 0

b Other 16b 0

17 Legal and professional services 17 0

18 Office expense 18 0

19 Pension and profit-sharing plans 19 0

20 Rent or lease (see page C-6) 20 0

21 Vehicles, machinery, and equipment 21 0

22 Other business property 22 0

23 Repairs and maintenance 23 0

24 Supplies (not included in Part III) 24 0

25 Taxes and licenses 25 0

26 Travel, meals, and entertainment 26 0

27 Travel 27 0

28 Deductible meals and entertainment (see page C-6) 28a 0

28b Utilities 28b 0

29 Wages (less employment credits). Other expenses (from line 48 on page 20) 29 0

30 Total expenses before expenses for business use of home. Add lines 9 through 27 30 17,489 00

31 Tentative profit or loss. Subtract line 30 from line 6 31 -17,489 00

32 Expenses for business use of your home. Attach Form 8829

32a Net profit or loss. Subtract line 30 from line 29

32b If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13. If you checked the box on line 1, see page C-7.

32c If a loss, you must go to line 32.

32d If you have a loss, check the box that describes your investment in this activity (see page C-7).

32e If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13. If you checked the box on line 1, see the line 31 instructions on page C-7. Estates and trusts, enter on Form 1041, line 8.

32f If you checked 32b, you must attach Form 5199. Your loss may be limited.

32g  All investment is at risk.

32h  Some investment is not at risk.

For Paperwork Reduction Act Notice, see page C-9 of the instructions. Cat. No. 11234F Schedule C (Form 1040) 2009

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## Blocked Refund Statistics

2005 - 2,423 returns, totaling \$3.6 million  
2006 - 32,987 returns, totaling \$27 million  
2007 - 60,534 returns, totaling \$38 million  
2008 - 18,484 returns, totaling \$25 million  
2009 - 32,265 returns, totaling \$42 million



### 3) Assist With Investigations and Prosecutions

- Speak with taxpayers and witnesses and document in file
- Monitor cases and forward to supervisor for possible criminal investigation
- Prepare case summaries for investigations
- Calculate taxable liability
- Assist Special Agents
- Testify at trial



## Auto Crime Title Fraud

- Official Code of Georgia Annotated (O.C.G.A) Title 40, Chapter 2, Registration and Licensing of Motor Vehicles
- O.C.G.A. Title 40, Chapter 3, Certificates of Title
- Special Agents identify and prevent registration and titling of cars with fraudulent documentation and recover stolen cars accompanying said documents



## Special Investigations

Responsibilities:

- 1) Physical Security
- 2) Internal Affairs
- 3) Criminal tax investigations:
  - Fraudulent refund schemes
  - Theft of trust fund monies (sales and withholding tax)
  - Tax evasion



## Criminal Investigative Tools

- Documentary and testimonial evidence obtained in a civil audit, *prior* to referral for fraud
- Request for bank records
- Information obtained through sharing agreements with states and with the IRS
- Information from informants
- Interviews with witnesses
- Undercover assignments
- Search warrants

### Limitations

- Constitutional limits arising under the Fourth and Fifth Amendments, (Unlawful searches and seizures and Right against self incrimination, respectively)
- Accountant privilege pursuant to O.C.G.A § 43-3-32
- Territory within Georgia
- Statute of Limitations



## Major Criminal Violations of O.C.G.A.

- §48-1-5 **Unlawful conversion of funds collected for benefit of state.** (misdemeanor or felony depending on value of theft)
- §48-1-6 **Unlawful filing of false documents; omissions** (misdemeanor)
- §48-7-5 **Evasion of income tax in excess of \$3,000,** (felony/\$100,000 fine)
- §48-8-12 **Failure to furnish return, keep or allow inspection of records/books,** (misdemeanor)
- §16-8-2 **Theft,** (misdemeanor or felony depending on value of theft)
- §16-9-1 **Forgery,** (felony)
- §16-9-93 **Computer Theft, Trespass and Forgery,** (felony)
- §16-9-120 **Identity Fraud,** (felony)
- §16-10-20 **False statements and writings and documents in matters within jurisdiction of state or political subdivisions,** (felony)
- §16-10-71 **False swearing,** (felony)



## Sample of Press Releases

- 1/25/08, **“Former State Representative Indicted for Tax Evasion”**; (plead to felony on 6/19/08)
- 5/30/08, **“Arnold Gervais Sentenced to Five Years Confinement for Tax Fraud Against the State”**; (large individual fraudulent tax return)
- 6/13/08, **“Macon Woman Sentenced to 46 Days Confinement, Fined \$116,358, Placed on 25 Years Probation for Failure to Remit Sales and Withholding Taxes”**
- 5/14/09, **“DOR employee gets probation for fraud”**, (theft of money orders)
- 2/2/10, **“Former Georgia Public Broadcasting Employee Pleads Guilty to Tax Theft Charges”**, (claimed earned no wages)



## Examples of Pending Investigations

- Stolen DOR refund checks being forged and deposited into accounts with other state and federal checks; coordinate with federal, local and bank authority representatives
- Stolen identities being used to file Georgia tax returns and obtain refunds in Alabama; coordinating with federal and Alabama authorities
- Tax preparer using indigent individuals' identities to file fraudulent returns in Georgia and Hawaii
- Multiple business owners collecting sales tax and failing to remit to the state



## Civil Penalties

- O.C.G.A. §48-7-57.1 **Filing of returns which are frivolous or desire to impede the administration of state income tax laws-** penalty of \$1,000/return,
- O.C.G.A. § 48-7-86 **Penalty for failure to pay or for underpayment of taxes due to fraud-** penalty of 50% of amount of underpayment of tax,
- O.C.G.A. § 48-2-62 **Penalties for tax return preparers** (penalty of \$500/return for an undisclosed position that does not have at least a reasonable basis; disclosed positions are not subject to penalty unless the position taken is frivolous; \$5,000/return for willful attempt to understate tax liability on any return or claim for refund; \$50/return for failure to sign or failure to furnish identifying number; DOR can seek injunction prohibiting persons engaging in a pattern of such behaviors from further preparation of returns.
  - Suggestions from other states on enforcement?



## Contact Information

Staci Guest

Georgia Department of Revenue

[Staci.Guest@dor.ga.gov](mailto:Staci.Guest@dor.ga.gov)

(404) 417-2296