



Highlights of [GAO-04-712](#), a report to Chairman of the Subcommittee on Immigration, Border Security and Claims, Committee on the Judiciary, House of Representatives

## Why GAO Did This Study

Inaccurate social security numbers (SSN) on wage statements contribute to growth in the Social Security Administration's (SSA) Earnings Suspense File, increase the Internal Revenue Service's (IRS) workload to ensure that wages are properly identified for those earning them, and burden individuals who must work with SSA and IRS to resolve disputes that may affect their social security benefits and tax obligations. IRS's ability to penalize employers for submitting inaccurate SSNs on wage statements is intended to promote SSN accuracy. Items GAO was asked to describe included:

- the statutory provisions authorizing IRS to penalize employers who file wage statements with inaccurate SSNs;
- IRS's program to penalize such employers; and
- the extent IRS's program meets legislative requirements, the likelihood of any penalties, and any program changes being considered.

## What GAO Recommends

GAO recommends that IRS consider options for revising the reasonable cause waiver and consult with other agencies that could be affected by such a change prior to issuing any proposed regulations. IRS agreed with our recommendations and said that IRS must proactively work with other potentially affected agencies on possible changes.

[www.gao.gov/cgi-bin/getrpt?GAO-04-712](http://www.gao.gov/cgi-bin/getrpt?GAO-04-712).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Michael Brostek at (202) 512-9110 or [brostekm@gao.gov](mailto:brostekm@gao.gov).

## TAX ADMINISTRATION

# IRS Needs to Consider Options for Revising Regulations to Increase the Accuracy of Social Security Numbers on Wage Statements

## What GAO Found

IRS is authorized to penalize employers who fail to file information returns or fail to include complete and correct information on them. Prior to 1986, IRS was authorized to assess penalties for failure to file information returns. The Tax Reform Act of 1986 added penalties for failure to include complete and correct information, established penalty amounts, and had two provisions limiting those penalties—the “reasonable cause waiver” and a maximum of \$20,000 in penalties per filer per calendar year. The Omnibus Budget Reconciliation Act (OBRA) of 1989 increased the penalty amounts and the maximum total penalty amounts, ranging from \$25,000 to \$250,000 per filer per calendar year and added a third limit—a “de minimis provision” limiting the number of penalties that can be assessed. These statutes apply to employers who submit wage statements with inaccurate SSNs. Both acts authorize penalties as a tool to help ensure that information returns include complete and accurate information.

According to IRS officials, IRS has the capability to identify employers who file wage statements with inaccurate SSNs but does not have a dedicated compliance program for penalizing them. Currently employers may be penalized based on an employment tax examination. IRS regulations define the steps an employer needs to take to demonstrate that any filing of wage statements with inaccurate SSNs was due to reasonable cause. If reasonable cause exists, any potential penalty will be waived. To qualify for the reasonable cause waiver, employers must be able to demonstrate they solicited an SSN from each employee one to three times, depending on the circumstances, and that they used this information to complete the wage statements. Employers are not responsible for verifying the accuracy of an SSN. IRS is conducting a review of 100 “egregious” employers who filed large numbers or percentages of wage statements with inaccurate SSNs to determine whether and how to implement a penalty program.

IRS's regulations that implement the penalty provisions meet the statutory requirements; however, the criteria for meeting the reasonable cause waiver is such that few if any employers are likely to be penalized for filing inaccurate SSNs. IRS has no record of ever penalizing an employer, including the employers who were contacted during IRS's review of “egregious” employers.

IRS officials said they would consider changes, including requiring employers to verify SSNs provided by employees, as part of the “egregious” employer study. Requiring SSN verification, however, may affect employers and other federal agencies with roles related to federal immigration policy since some portion of inaccurate SSNs on wage statements is attributable to illegal aliens using invalid SSNs. IRS officials said they would likely take the views of other agencies into account after drafting regulations.