



DAVE YOST

OHIO ATTORNEY GENERAL

Administration
Office 614-728-5458
Fax 614-466-5087

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The Honorable Rob Portman
United States Senate
448 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Portman,

Many of our constituents are facing a crisis in which they are not at fault, and a government action is about to make the situation worse. I write to you today seeking your help in federal law.

Among the many claims for unemployment during the pandemic were numerous fraudulent claims made in the name of a taxpayer without their knowledge. The federal practice of “pay and chase” – meaning that the government emphasizes expediting the payment of benefits without the traditional safeguards of eligibility verification, exacerbated this problem.

It is evident that fraudsters were active in Ohio. Even our own Governor and Lieutenant Governor have had claims falsely made in their names. The Ohio Department of Job and Family Services projects that roughly 1.7 million 1099-G tax forms will be mailed to Ohioans throughout the remainder of this month. Shockingly, ODJFS suspects that tens of thousands of those claims were filed fraudulently. For many Ohioans, it is the first notice they may have that someone has stolen their identity and that they owe taxes for benefits paid in their name that they never received.

This problem is not limited solely to our state. Many states have seen a significant uptick in this specialized type of identity theft. Last fall, the U.S. Department of Labor announced an “unprecedented increase” in fraudulent claims made nationwide. The Department of Labor also mandated states to enact additional identity verification programs in connection with unemployment compensation fraud. These needed protections are a good plan going forward but will not assist people who have already had benefits falsely claimed in their name.

Because of the multitude of claims made in 2020, unraveling bogus claims will take time. I am asking you to consider sponsoring bi-partisan federal legislation to collectively create a federal safe harbor for these individuals. There are likely many ways to create such protections. Conceptually, the safe harbor provisions would do the following:

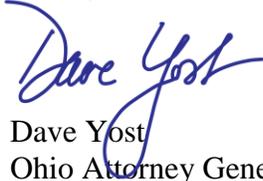
- For any taxpayer who reports to the issuing agency that they have received a form 1099-G from a state unemployment compensation program for unemployment benefits fraudulently paid in 2020 or 2021, the IRS shall do the following:

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- Exclude the amount from the income for the taxpayer in the given year until a final determination is made by the state unemployment compensation administrator that the amount is valid.
 - Once an amount is determined to be valid, the IRS shall apply the amount to the tax year in which it was determined to be valid without any penalties or interest.
 - If an amount certified to the IRS is determined to be invalid, the unemployment compensation administrator shall indicate to the IRS that the 1099-G was issued in error, and assist the taxpayer with any correction the taxpayer is required to make to modify their reported income to the IRS.

If desired, perhaps some indicia of fraud could also be required to qualify for the safe harbor protections. Examples could include that the payment was sent to an address different than the taxpayer's mailing address, or the payment went to a bank where the taxpayer conducts no other business.

Ohioans have endured a lot over the last year. Receiving a tax document for income that was never received will be another significant hardship for many. I hope we can work together to help protect those who have been victimized by fraudulent claims being made in their names during the height of the COVID-19 pandemic.

Yours,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive, flowing style.

Dave Yost
Ohio Attorney General