



# Indian Tribal Governments

**ITG NEWS**

Keeping First Nations Informed

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## Director's message

It's been a busy year! We've issued some very important rulings and announcements. ITG specialists are working hard to give you the support you need. We participated in many outreach events throughout the country, including the Bureau of Indian Affairs Providers Conference in Alaska this past November.

Wrapping up the year, the President again hosted the White House Tribal Nations Conference. And with the Department of Treasury, we announced general welfare guidance that will benefit Indian country. See page 2 for more information.

All these events, announcements and guidance share a common theme: we're here to help you. We believe in strong relationships supported by action.

We hope this edition provides you with some helpful information to prepare for the upcoming tax season. As always, we welcome your questions and suggestions. You can always contact your [ITG specialist](#) or send us an e-mail at [tege.ask.itg@irs.gov](mailto:tege.ask.itg@irs.gov).

Thank you for continuing to work with us, and we wish you a Happy New Year!

Sincerely,

Christie Jacobs, Director

## Treasury and the IRS release Tribal General Welfare Guidance

The Department of the Treasury [announced key economic development initiatives](#) that address the unique set of challenges faced by the Native American community. As part of these initiatives, [Notice 2012-75, Application of the General Welfare Exclusion to Indian Tribal Government Programs That Provide Benefits to Tribal Members](#), sets forth general welfare exclusion principles and specifies a wide range of benefits that qualify for exclusion.

### ***General Welfare Exclusion Principles***

Payments to tribal members by Indian tribal governments qualify for the general welfare exclusion if the payments are (1) made pursuant to a governmental program of the tribe; (2) for the promotion of general welfare (that is, based on individual or family need, and, uniquely in the case of programs of Indian tribal governments, to help establish Indian-owned businesses on or near the reservation); and (3) not compensation for services.

Payments under Indian tribal governmental programs meeting these requirements qualify for the general welfare exclusion whether the revenues that the Indian tribal government uses to fund the programs derive from levies, taxes, service fees, or revenues from tribally-owned businesses. For example, general welfare programs may be funded from casino revenues. However, per capita payments to tribal members of tribal gaming revenues that are subject to the Indian Gaming Regulatory Act are gross income under § 61, are subject to the information reporting and withholding requirements of §§ 6041 and 3402(r), and are not excludable from gross income under the general welfare exclusion or this revenue procedure.

### ***Benefits Where Need is Presumed***

If an Indian tribal government provides a benefit (whether in cash or in kind) meeting the criteria specified in section 5.02(1) of the notice and described in section 5.02(2) of the notice, the Service will presume that individual need is met for each tribal member, spouse, or dependent of a tribal member receiving the benefit, eliminating the need element is a significant change from the general principles. The benefits qualify for exclusion under the notice if all the following requirements are satisfied:

- the benefit is provided pursuant to a specific Indian tribal government program;
- the program has written guidelines that specify how individuals may qualify for the benefit;
- the benefit is available to any tribal member who satisfies the program guidelines;
- the distribution of the benefits from the program does not discriminate in favor of members of the governing body;
- the benefit is not compensation for services; and
- the benefit is not lavish or extravagant.

In addition, [Notice 2012-75](#) specifies a wide range of benefits that qualify for exclusion, including in the areas of housing, education, elder and disabled, cultural and religious, and other emergency circumstances.

The notice also provides that items of cultural significance or nominal cash honoraria provided to medicine men or women, shamans or similar religious or spiritual officials to recognize their participation in cultural, religious or social events will not be compensation for services.

Lastly, [Notice 2012-75](#) requests comments on the notice be submitted in writing within 180 days of publication.

## Hurricane Sandy relief – retirement plan loans & distributions

The IRS has streamlined rules that apply to loans and hardship distributions from employer-sponsored retirement plans to help victims of Hurricane Sandy and their families ([Announcement 2012-44](#)). Benefit practitioners, plan sponsors and employers are encouraged to inform plan participants of these streamlined rules.

### ***Eligibility***

Who	An employee or former employee whose: <ul style="list-style-type: none"> <li>• principal residence,</li> <li>• parent, grandparent, child or grandchild’s principal residence,</li> <li>• place of employment, or</li> <li>• parent, grandparent, child or grandchild’s place of employment</li> </ul> was located in the Hurricane Sandy disaster area.
Disaster area	Areas in Connecticut, New Jersey, New York or Rhode Island declared federal disaster areas. See <a href="#">Tax Relief in Disaster Situations</a> for a list of eligible localities.
Date measured	Employee or relative’s residence or place of employment must have been in the disaster area on October 26, 2012.
Dates affected	The streamlined rules apply to loans and hardship distributions made October 26, 2012 - February 1, 2013.
Verification	Plan administrators may rely on an employee’s representation as to the need for and amount of a hardship distribution unless they have actual knowledge to the contrary.

### ***Loans***

Amount	Maximum <a href="#">amount of plan loans</a> .
Eligible plans	Any qualified plan, 403(b) or governmental 457(b) plan that: <ul style="list-style-type: none"> <li>• can make plan loans, or</li> <li>• could make plan <a href="#">loans</a> but plan document doesn’t have plan loan provisions.</li> </ul>
No loan provision in plan	A plan that does not currently provide loans may allow Sandy-related loans.
Plan amendment dates	If plan sponsors make a Sandy-related plan loan when the loan wasn’t permitted by the terms of the plan, they must amend their plans to allow plan loan provisions by the end of the first plan year beginning after December 31, 2012.
Documentation	The plan administrator may temporarily disregard procedural requirements that otherwise apply to plan loans, but should obtain any required documentation for the loan as soon as practical.
Spousal consent	Spousal consent rules apply. However, plan administrators don’t have to obtain a death certificate prior to making the loan if they make reasonable attempts to obtain it as soon as practical.

## Hardship distributions

Amount	Any amount eligible for a <a href="#">hardship distribution</a> .
Eligible hardship	Any Sandy-related need is an immediate and heavy financial need (or an unforeseeable emergency for 457(b) plans) eligible for a hardship distribution.
6-month ban on contributions	No need to stop elective deferral contributions for six months after receiving a Sandy-related hardship distribution even if required by the plan's terms.
Eligible plans	Any qualified plan, 403(b) or 457(b) plan that could make <a href="#">hardship distributions</a> if the plan document contained hardship distribution provisions. Defined benefit or money purchase plans are generally ineligible.
No hardship provision in plan	A plan that does not currently provide hardship distributions may allow Sandy-related distributions.
Plan amendment dates	If plan sponsors make a Sandy-related hardship distribution when it wasn't permitted by the terms of the plan, they must amend their plans to add hardship distribution provisions by the end of the first plan year beginning after December 31, 2012.
Documentation	The plan administrator may temporarily disregard procedural requirements, but should attempt to gather any documentation required by the plan's terms as soon as practical.
Spousal consent	Spousal consent rules apply. Plan administrators may overlook a requirement to obtain a death certificate if they make reasonable attempts to obtain it as soon as practical.
Tax treatment	Generally, hardship distributions are subject to income taxes and a <a href="#">10% additional tax on early distributions</a> .

### Related resources:

- Retirement Topics - [Loans](#)
- Retirement Topics - [Hardship Distributions](#)
- [Disaster Relief for Retirement Plans and IRAs](#)
- [Retirement Plans Can Make Loans, Hardship Distributions to Sandy Victims](#)
- [FAQs](#) - Hurricane Sandy Relief - Retirement Plan Loans & Distributions

## Cobell settlement finalized

The settlement in the *Cobell v. Salazar* litigation became final on November 24, 2012. It includes a \$1.5 billion fund to be distributed to class members for accounting and potential trust fund and asset mismanagement claims. A claims administrator will now begin overseeing disbursement of the \$1.5 billion to nearly 500,000 class members.

If you are an individual Indian class member and you receive any lump sum amounts or payments due to the settlement, you should not include this as taxable income.

For more information please read the [article](#) on the Department of the Interior's website.

## Revenue Ruling 2012-18: new tip guidance

[Rev. Rul. 2012-18](#) provides clarification on the following:

- Distinguishing between tips and service charges
- Rules for reporting the employer share of Federal Insurance Contributions Act (FICA) under the notice and demand provisions of Sec. 3121(q)

The revenue ruling also provides guidance for employers and employees in a [question and answer format](#).

### **Main Points**

- When a business adds service charges to customers' bills (such as "auto-gratuities") and distributes those charges to its employees, the business should characterize the distributed service charges as social security wages, not as social security tips.
- Payments must meet the following criteria to be considered as tips:
  - The customer must freely determine the payment.
  - The customer must be able to determine the amount without restriction.
  - The payment cannot be determined by negotiations between the customer and employer, or dictated by the employer.
  - The customer should generally have the right to decide who receives the payment.
- If any of the above factors are missing, the payment may not be a tip. The ruling provides specific examples on how to apply these factors.
- The facts and circumstances, not the employer's or employee's characterization, determines how a payment should be treated.
- Common examples of service charges or auto-gratuities in service industries include:
  - Large Party Charge (restaurant)
  - Bottle Service Charge (restaurant and night-club)
  - Room Service Charge (hotel and resort)
  - Contracted Luggage Assistance Charge (hotel and resort)
  - Mandated Delivery Charge (pizza or other retail deliveries)
- With limited exceptions outlined in [Announcement 2012-25](#), you should apply the ruling retroactively.
- It supersedes the guidance in Rev. Rul. 95-7, 1995-1 C.B. 185.
- [Internal Revenue Bulletin 2012-26](#), contains more information regarding the revenue ruling.

## Withholding on payments made to foreign persons

When you make a payment to a foreign person (a *nonresident alien or a foreign entity*), you must withhold 30% of the gross amount of the payment unless a reduction or exemption applies in a treaty between the U.S. and the country where the resident lives. As the withholding agent, you request documentation from a payee to determine if withholding is required on the payments. This is known as nonresident alien withholding.

A foreign person must submit a [Form W-8BEN](#), *Certificate of Foreign Status of Beneficial Owner for U.S. Tax Withholding* for the following reasons:

- Establish that the foreign person is not a U.S. person
- Claim that the foreign person is the beneficial owner of the income
- Claim a reduction or exemption from withholding based on a tax treaty provision
- Claim an exception for reporting certain types of income

When should you request a Form W-8BEN, and how does this affect future payments to the payee?

Withholding rules for payments to foreign persons apply only after they document their status. That is when you request the Form W-8BEN (see the ITG News [October 2011 edition](#)).

Specific rules for requesting documentation apply to payments to a customer or to a vendor:

- A casino or other tribal entity generally requests *vendor* documentation
  - prior to the issuance of the first payment; or
  - at a minimum, when reportable payments reach \$600.
- A casino normally requests *customer* documentation
  - when the customer first wins a reportable jackpot or prize; or
  - at the time a customer joins its reward club.

Once the vendor or customer provides the documentation that identifies the payee as a foreign person, the casino or other tribal entity must withhold on all payments to them. Payees claiming a reduction or exemption from withholding must include their U.S. Taxpayer Identification Number on Form W-8BEN, line 5. An exemption from withholding does not eliminate the [Form 1042-S](#) filing requirement.

The withholding rules for U.S. citizens and foreign persons are different. For example, a bingo win paid to a U.S. citizen is not subject to gambling withholding. However, a Canadian citizen is subject to 30% withholding on any bingo win, regardless of amount.

IRS regulations specifically exclude certain games from nonresident alien withholding:

- Traditional blackjack
- Baccarat
- Craps
- Roulette
- Big-6 wheel games

*(Withholding on payments, continued)*

A Form W-8BEN provided without a U.S. taxpayer identification number (TIN) will remain in effect for 3 calendar years, unless a change in circumstances makes any information on the form incorrect. If the provided form has a U.S. TIN, it will remain in effect until a change in circumstances makes any information on the form incorrect, and as long as the casino or tribal entity reports on Form 1042-S at least one annual payment to the payee.

If you fail to obtain the necessary documentation or fail to withhold properly on payments to foreign persons, the IRS can make an assessment against you (the withholding agent) for the required withholding.

You can find more information about the Form W-8BEN in the [October 2011 edition](#) of the ITG Newsletter, [Publication 515](#), and the [Form W-8BEN instructions](#).

## **Online video tax presentations**

The [IRS Video portal](#) contains tax-related video and audio presentations for governments, small businesses, individuals and tax professionals. You will find video clips of tax topics, archived versions of live panel discussions and webinars.

Select the appropriate tab and topic matter on the left side to bring up a list of videos and phone forums.

The [small business](#) and [governments tabs](#) will have the most relevant topics for tribal entities. Here are some highlights you should consider:

- [Hiring People Who Live in the U.S. But Are Not U.S. Citizens](#)
- [Backup Withholding](#)
- [Reporting Tips](#)
- [Common Employment Tax Issues](#)
- [Proper Worker Classification](#)
- [Tribal Council Member Pay, Travel Expenses and Tip Agreements](#)
- [The DOs and DON'Ts of Reporting Requirements for Indian Tribal Governments](#)
- [Avoiding Information Reporting Problems for Government Entities](#)

## Reporting Tribal (per capita) distributions on your 2012 tax return

If you are a member of a federally recognized tribe, you may receive taxable distributions from your tribe. The tribe must report these distributions to the IRS - and to you on Form 1099-MISC.

When you file your 2012 federal tax return, you must include information from your Form 1099-MISC. Below is some important information you must use when filing your 2012 federal income tax return:

- Use Form 1040; not Form 1040A or Form 1040EZ.
- Enter tribal distributions from Form 1099-MISC, Box 3 on Line 21, Form 1040.
- Include a description of the income in the space provided on Line 21.
- The correct description will allow the return to process as quickly as possible! For paper or e-file returns, please enter one of the following descriptions on Line 21:
  - Indian Gaming Proceeds
  - Indian Tribal Distributions
  - Native American Distributions
  - Indian Tribal Income
  - Alaska Permanent Fund
  - Class III Gaming Proceeds
- On Line 62, *Federal income tax withheld from Forms W-2 and 1099*, enter the amount reported in Box 4 of your Form 1099-MISC.

In recent years, despite everyone's best efforts, there were some problems processing tax returns that included per capita distributions and withholding. The individuals who prepared their returns according to these guidelines were able to quickly resolve those problems and receive their tax refunds with minimal delay.

***Important Note:*** The United States entered into settlement agreements with many federally recognized Indian tribes earlier this year (see ITG News, October 2012). These agreements settled litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources held in trust for the benefit of the tribes. As reported in IRS [Notice 2012-60](#), these payments are not taxable to the individual tribal member receiving a distribution from these funds. If you received a Form 1099-MISC that reports these payments as taxable income to you, it may be incorrect. Please refer all questions regarding the reporting of these types of payments to the tribal department that issued the Form 1099.

If you are a tax return preparer or tribal member liaison and think you are seeing systemic processing issues, please contact your [local ITG Specialist](#) for assistance.

## The benefits of having a tip agreement

The IRS offers a voluntary tip reporting program that provides benefits for Indian Tribal casinos and their employees. Participation in the program involves creating a tip agreement between the casino and the IRS.

A tip agreement is a voluntary written agreement between the IRS and a casino that sets tip rates for all tipped occupational categories in the casino. The tip rates can be actual, % of sales, \$ per hour, or any other accurate basis of measurement. "Actual" tip rates require strong internal controls ensuring that all tips are reported. An Indian Tribal Governments (ITG) specialist assists and guides the casino with setting the tip rates.

The IRS offers two types of tip agreements:

- Gaming Industry Tip Compliance Agreement (GITCA)
- Tip Rate Determination Agreement for the Gaming Industry (TRDA)

Although some differences exist between the two, they both ensure that tips received by casino employees are reported to both the casino and the IRS.

Some of the benefits include the following:

- The IRS agrees that it will not conduct a tip audit of the casino for the period the tip agreement is in effect.
- There will be no contingent liabilities based on unreported employee tips for any participating employees.
- The agreement minimizes the burdens on the casino resulting from traditional IRS tip compliance programs.
- The tip program increases the tip data accuracy which provides the employer with enhanced employee compliance and customer satisfaction information.

There are also advantages for the casino employees:

- The IRS will not conduct a tip audit of a participating employee.
- With more accurate tip reporting, employees will have increased financing approval for securing personal loans.
- Tips increase wages considered for a 401(k) pension plan, resulting in increased employer matching contributions to the pension plan.
- Additional tip reporting will increase any benefit linked to income such as social security and Medicare, disability, workman's compensation, unemployment compensation, lost wage claims, or any other benefit linked to income.

If you are interested in entering into a tip agreement for your casino, contact your [ITG Specialist](#). You may also contact us by [e-mail](#) or call 202-283-9800.

## Is a Limited Liability Company a corporation?

The answer is, "sometimes." LLC means "Limited Liability Company." LLC does not mean "Limited Liability Corporation." Confused? You are not alone. There is a lot of confusion about limited liability companies.

Tribal governments frequently make payments to vendors that are limited liability companies.

A limited liability company may be one of the following:

- C Corporation
- S Corporation
- Partnership
- Sole proprietorship

When a Tribal government makes payments that are \$600 or more to sole proprietorships and partnerships - and, in some cases, to corporations - they must report these amounts on Form 1099.

Below are some examples:

- Rents
- Services
- Prizes or awards
- Medical or health care payments
- Gross proceeds to an attorney

The best method to determine whether a limited liability company is a corporation, a partnership, or a sole proprietorship is to obtain a Form W-9 from the vendor to determine their status. You should refer your vendor to the specific instructions on page 2 of Form W-9 for information on how to enter their name on the form.

If the vendor is unsure whether they are a corporation, partnership, or sole proprietorship, they should review their Articles of Organization and Operating Agreement. These are the governing instruments for a limited liability company.

## 2013 standard mileage rates increased

The rate for business miles driven during 2013 has increased 1 cent from the 2012 rate. The new mileage rates listed below are effective January 1, 2013.

<b>Standard Mileage Rates</b>	
Purpose	Rate
Business use	56.5 cents per mile
Charitable use	14 cents per mile
Medical care	24 cents per mile

## Governmental plans can elect second Cycle E

[Revenue Procedure 2012-50](#) allows sponsors of individually designed [governmental plans](#) to elect Cycle E (instead of Cycle C) as their second remedial amendment cycle.

### ***Cycle E election***

Sponsors can elect Cycle E as their second remedial amendment cycle by filing a determination letter application for their plan between February 1, 2015 and January 31, 2016, instead of the second Cycle C submission period (February 1, 2013 - January 31, 2014). Sponsors don't need to notify the IRS of their intent to make this election.

Sponsors who elect Cycle E must:

- amend their plans for all applicable items on the second Cycle E Cumulative List, and
- timely adopt any interim amendments required for governmental plans during the second Cycles C and D.

Sponsors electing Cycle E as their second remedial amendment cycle will have their plans':

- subsequent remedial amendment cycles revert to Cycle C (for example, the plan's third remedial amendment cycle will be the third Cycle C), and
- second cycle determination letter expire at the end of the third Cycle C submission period (January 31, 2019).

### ***Prior determination letter***

Determination letters for individually designed governmental plans issued after the initial remedial amendment cycle expire on January 31, 2014 (at the end of the second Cycle C), even if the sponsor [elected the first Cycle E](#) as the plan's initial cycle. However, the IRS will extend the expiration dates on these letters to January 31, 2016 (the end of second Cycle E), if the sponsor elects Cycle E as the plan's second remedial amendment cycle.

## Updated ITIN procedure changes

The IRS updated procedures to strengthen the Individual Taxpayer Identification Number (ITIN) program requirements. During the last several months, the IRS gathered feedback from stakeholders and interested groups on how to best safeguard the integrity of and improve the ITIN application process. The updated ITIN procedures build on the changes announced in the summer and fall of 2012.

ITINs play a critical role in the tax administration process and assist with the collection of taxes from foreign nationals, resident and nonresident aliens and others who have filing or payment obligations under U.S. law. Designed specifically for tax administration purposes, ITINs are only issued to people who are not eligible to obtain a Social Security Number.

The IRS will maintain its new, stronger standard for issuing ITINs. Listed below are some key points:

ITIN applications will continue to require original documentation or copies certified by the issuing agency. The IRS finalized its earlier decision to no longer accept notarized copies of documents for ITINs. Most of the previously released interim guidelines have been made permanent.

For the first time, new ITINs will expire after five years. This change will help ensure ITINs are being used for legitimate tax purposes. Taxpayers who still need an ITIN will be able to reapply at the end of the expiration period.

There will be more options and flexibility for people applying for an ITIN. While original documents or copies certified by the issuing agency are still required for most applicants, there will be more options and flexibility for people applying for an ITIN. These options provide alternatives to mailing in passports and other original documents.

Certifying Acceptance Agents (CAAs) will be required to certify to the IRS that they have verified the authenticity of the documents supporting the ITIN application. As an important intermediary in the ITIN application process CAAs will be able to engage in the ITIN process by reviewing original documents or copies certified by the issuing agency, but will be subject to new safeguards.

The finalized procedures are effective Jan. 1, 2013. Please visit [www.irs.gov](http://www.irs.gov) for more information:

- [Individual Taxpayer Identification Number \(ITIN\)](#)
- [FS-2012-11](#), Updated ITIN Procedure Changes Announced

## Helpful hints for year-end reconciliation of Forms W-2 & 941

Before you give your employees their Form W-2s and before you file your 4th quarter Form 941, you should reconcile of the amounts reported on these forms.

First, figure the total annual wages paid and the total federal tax withheld from all four quarters of Form 941. Next, compute the total wages and total tax withheld from all Form W-2s. Compare the respective amounts.

You can use the worksheet below to help you reconcile your Forms 941s and W-2s at year end:

- Annual amounts from payroll records should match the total amounts reported on all Forms 941 for the year.
- Total amounts reported on all Forms 941 for the year should match sum of same data fields shown in W-2/W-3 totals.
- If these amounts do no match, recheck records and identify necessary adjustments.

<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>e</b>	<b>f</b>	<b>(c-e)</b>
Comparison Area	941 Line #	Form 941 all 4 quarters	W-2 W-3 Box	W-2s total of all forms	Amount on W-3	Difference columns c minus e
Compensation	Line 2		1			
Federal Income Tax	Line 3		2			
Social Security Wages	Line 5a Column 1		3			
Social Security Tips	Line 5b Column 1		7			
Social Security Tax	Line 5a + 5b Column 2					
Social Security Tax Comparison Computation	Line 5a + 5b x (4.2/10.4)		4			
Medicare Wages	Line 5c Column 1		5			
Medicare Tax	Line 5c Column 2					
Medicare Tax Comparison Computation	Line 5c divided by 2		6			

If you find a discrepancy, you should review your payroll records and identify the necessary adjustments to the Forms W-2s, 941s, or both.

Here are a few scenarios to consider when you find that your W-2s and 941s don't reconcile.

If the wages are higher on Forms 941:

- Are you missing one or more Form W-2s?
- Did you manually change any payroll items for one or more employees on your payroll software? If so, the payroll software may not have properly computed final wages.

If the wages are higher on Forms W-2:

- Did you forget to include the tribal council member stipends on the Form 941s?
- Did you manually change any payroll items for one or more employees on your payroll software? If so, the payroll software may not have properly computed final wages.
- Did one or more employees' wages not get reported on the Form 941 for any particular payday during the year?

If the wages match but the taxes don't, check each employee's Form W-2 for the following:

- Social security tax (box 4) is 4.2% of the social security wages (box 3).
- Medicare tax (box 6) is 1.45% of the Medicare wages (box 5).
- Federal income tax has obvious errors such as more tax than wages or zero withholdings when you believe federal income tax was withheld.

If you still cannot find the error(s):

- Go through the payroll records of the employees who had one of the following:
  - The highest probability of errors
  - The highest wages
  - Payroll changes or manipulations during the year
- If you had a temporary bookkeeper processing payroll, go through those pay period records to find possible errors.
- If necessary, go through all payroll records, quarter by quarter, until you find the error on the Forms W-2s, Forms 941 or both.

## Mailing Forms W-2, W-3, W-2c and W-3c

How and where you mail these forms depends on your delivery method:

What	How	Where
W-2/W-3	U. S. Postal Service	Social Security Administration Data Operations Center Wilkes-Barre, PA 18769-0001  (for Certified Mail Use ZIP code 18769-0002)
	Private Delivery Service (FedEx, UPS, etc.)	Social Security Administration Data Operations Center Attn: W-2 Process 1150 E. Mountain Drive Wilkes-Barre, PA 18702-7997
W-2c Correction Forms	U.S. Postal Service	Social Security Administration Data Operations Center P.O. Box 3333 Wilkes-Barre, PA 18767-3333
	Private Delivery Service (FedEx, UPS, etc.) and Certified Mail Delivery	Social Security Administration Data Operations Center Attn: W-2c Process 1150 E. Mountain Drive Wilkes-Barre, PA 18702-7997

If you are mailing Forms W-2/W-3 and/or W-2c/W-3c due to an examination, use the following address:

Internal Revenue Service  
Attn: Tricia Wilson-Kester  
1973 N. Rulon White Blvd. MS: 7700  
Ogden, UT 84404

Remember, you must *e-file* if you are required to file 250 or more Forms W-2 or W-2c. If you are required to *e-file* but fail to do so, you may incur a penalty.

## **FSA: a new free way to file your income tax return**

In addition to traditional face-to-face tax preparation offered by the [Volunteer Income Tax Assistance \(VITA\) Program](#), the IRS is launching a Facilitated Self-Assistance (FSA) Service at selected VITA locations.

The FSA site will be perfect for you if you have a simple income tax return. Software programs can be a little intimidating at first. These sites are for those individuals who just need a little help or do not have access to a computer or the necessary software. Many individuals are computer savvy, but do not have access to a computer or the software necessary to file their individual income tax return. You can visit one of the participating tax preparation sites where an IRS-certified volunteer will guide you through the process of inputting and filing your tax return electronically.

Taxpayers can choose from a variety of online software options for FSA, based on the taxpayer's age, adjusted gross income, place/state of filing, and other factors. If a taxpayer qualifies for a software company's FSA offer, they will receive free federal and state e-filing services if they have an adjusted gross income less than \$57,000.

If your Tribal office, casino, or other Tribal entity is interested in establishing an FSA site, please contact your [ITG Specialist](#).

### ***The VITA Program***

If you need a little more assistance or are not that comfortable with using a computer, the VITA Program offers free tax help to people who make less than \$51,000. IRS-certified volunteers provide free basic income tax return preparation to qualified individuals in local communities. They can inform taxpayers about special tax credits for which they may qualify such as the Earned Income Tax Credit, Child Tax Credit, and Credit for the Elderly or the Disabled. VITA sites are generally located at community and neighborhood centers, libraries, schools, shopping malls, and other convenient locations. Most locations also offer free electronic filing. You can [search online](#) to find a VITA site near you or call 1-800-906-9887.

The [Tax Counseling for the Elderly \(TCE\) Program](#) offers free tax help for all with priority assistance to people who are 60 years of age and older, specializing in questions about pensions and retirement issues unique to seniors. IRS-Certified volunteers who provide tax counseling are often retired individuals associated with non-profit organizations that receive grants from the IRS. To find an AARP Tax-Aide site near you call 888-687-2277 or 1-888-227-7669 for more information on TCE sites.

Before you seek help, visit the [VITA website](#) to find out what documents you'd need to bring.

## **Go Direct – get federal tax payments via Direct Deposit**

The Treasury Department is phasing out paper check payments and requiring federal benefit recipients to get their money electronically. You can choose to get your payments by direct deposit to a bank or credit union account or to a Direct Express Debit MasterCard card account.

***Already getting federal benefit payments by paper check?*** Switch today!

You must switch to electronic payments by March 1, 2013. If you are going to receive a federal tax refund, you'll receive it at least a week sooner if you choose to use your direct deposit.

***Retiring or applying for federal benefits soon?*** Be ready. You will get your money electronically from day one. Be ready to choose direct deposit or the Direct Express card when you fill out your application.

If you do not choose an electronic payment option by March 1, 2013, you will receive your payments via the Direct Express® card so you will not experience any interruption in payment.

If you are already receiving your federal benefit payments electronically, this change will not affect you.

For more information visit the Go Direct website at [www.godirect.org](http://www.godirect.org).

## **Filing deadlines for Forms W-2 and 1099**

The New Year brings resolutions and aspirations – and tax filing deadlines. Indian tribal governments can have many tax filing responsibilities, including filing and furnishing Forms W-2 and 1099.

If you withhold any income tax, social security tax, or Medicare tax from an employee, you must file a Form W-2 regardless of the amount. You must also give the employee a copy. For employees with no withholding, you must file a Form W-2 and give the employee a copy when you pay \$600 or more. You must file a paper copy (Copy A) and a Form W-3 with the Social Security Administration (SSA) by February 28, 2013. Those filing an electronic copy of Form W-2, which includes employers required to file 250 or more, have until April 1, 2013, to file with SSA.

You must also provide Copies B and C of Form W-2 to your employees by January 31, 2013.

Additionally, if you pay a non-employee \$600 or more per year for services, you must file a Form 1099. Like the Form W-2, you must file a Form 1099 paper copy (Copy A), along with a Form 1096, by February 28<sup>th</sup>. For electronic copies, including those required to file 250 or more, the deadline to file is April 1<sup>st</sup>. Finally, you must provide a copy of the Form 1099 (Copy B) to the payee by January 31<sup>st</sup>.

## Don't fall for phony IRS websites

The Internal Revenue Service is issuing a warning about a new tax scam that uses a website that mimics the IRS e-Services online registration page.

The actual IRS e-Services page offers web-based products for tax preparers and payers, not the general public. The phony web page looks almost identical to the real one.

The IRS gets many reports of fake websites like this. Criminals use these sites to lure people into providing personal and financial information that may be used to steal the victim's money or identity.

The address of the official IRS website is [www.irs.gov](http://www.irs.gov). Don't be misled by sites claiming to be the IRS but ending in *.com*, *.net*, *.org* or designations other than *.gov*.

If you find a suspicious website that claims to be the IRS, send the site's URL by email to [phishing@irs.gov](mailto:phishing@irs.gov). Use the subject line, 'Suspicious website'.

Please note that the IRS does not initiate contact with taxpayers by email to request personal or financial information. This includes any type of electronic communication, such as text messages and social media channels.

If you get an unsolicited email that appears to be from the IRS, report it by sending it to [phishing@irs.gov](mailto:phishing@irs.gov).

You can watch this [IRS YouTube video](#), or listen to an [IRS podcast](#) about phishing.

The IRS has more information available on its website. We've listed some highlights for you below:

- [Suspicious e-Mails and Identity Theft](#)
- [Reporting Phishing](#)
- [Identity Theft resource page](#)
- [Publication 4523, Beware of Phishing Schemes](#)

## Outreach successes

### ***Pacific Northwest - Anchorage, Alaska***

ITG held an *Advanced Payroll Topics Workshop* at the IRS Anchorage office from October 22-26. Twenty nine representatives from twenty six tribal governments attended. Other presenters included the state of Alaska Department of Labor and Workforce Development. They provided a guest speaker from Wage and Hour Administration who discussed labor laws dealing with the payment of wages to workers. Another guest speaker from the Alaska State Troopers discussed fraud awareness. The workshop covered topics that included scholarships, loans to members, fringe benefits, and more.

ITG also manned a booth and presented three 1.5 hour presentations on the following topics during the Bureau of Indian Affairs (BIA) Providers Conference held November 27-29 at the Dena'ina Civic and Convention Center in Anchorage, AK:

- Year-end filing requirements (91 attended)
- Forms 1099 and 1096 (86 attended)
- Travel reimbursements (64 attended)

We are available upon invite to present similar training throughout Alaska as long as

- our audience consists of a sufficient number of tribal governments to justify our time and travel costs;
- a space is available (free of charge) for us to hold the training; and
- we have a travel budget for training.

### ***Southwest – Tucson, Arizona and Winterhaven, California***

The Southwest group held successful workshops during the fall, including Basic and Advanced Employment Tax trainings, and a Title 31 seminar.

Thirty-two individuals attended a Basic Employment Tax workshop held in Tucson, Ariz. ITG specialists from the Tucson covered topics such as defining employees vs. independent contractors, computing the correct taxes for payroll, and making federal tax deposits.

Also held in Tucson, an Advanced Employment Tax workshop offered topics such as detecting fraud, foreign workers, IRS collections and notices, and money service businesses. ITG specialists offered the training to 18 individuals representing tribal entities.

An ITG specialist from the Tucson office presented Title 31 tax training at the Quechan Casino resort in Winterhaven, Calif. and the Paradise Casino in Yuma, Ariz. Over 200 attended the training sessions. Covered topics included historical background, suspicious activities and money laundering, and recordkeeping requirements.

Encourage your local tribal entities to sponsor a workshop. For more information, contact your [local ITG specialist](#).

## Upcoming Alaska training opportunities

The Central Council of Tlingit and Haida Indian Tribes of Alaska (CCTHITA) is sponsoring the following workshops, which will be held at the Vocational Training & Resource Center, 3239 Hospital Drive, Juneau:

### ***Basic Employment Tax Workshop***

February 12 - 14, 2013; 8:30 a.m. - 4:30 p.m.

#### ***Topics:***

- Defining employees vs. independent contractors
- Computing the correct taxes for payroll
- Completing Form 941, *Quarterly Employment Tax Return*
- Making federal tax deposits
- Due dates on tax returns
- Completing Forms W-2/W-3 and 1099/1096
- Reconciling Forms 941 and W-2 at year end
- Avoiding penalties
- Meeting rules for an Accountable Plan for per diem & travel reimbursements
- Alaska Department of Labor Quarterly Contribution Report - guest speaker

### ***Pull Tab/Gaming Workshop (held in conjunction with the above)***

February 11, 2013; 8:30 a.m. - 4:30 p.m.

#### ***Topics:***

- IRS Forms 730 & 11-C
- IRS information return reporting requirements for gaming
- State of Alaska speaker – charitable gaming overview

Please contact [Judy Pearson](#) by January 15<sup>th</sup> for additional information and to register.

The following workshops will be held at the IRS office located at 949 East 36th Avenue, Anchorage:

***Basic Employment Tax Workshop – offered three different weeks!***

- March 19 - 22, 2013; 8:30 a.m. - 4:30 p.m.
- March 26 - 29, 2013; 8:30 a.m. - 4:30 p.m.
- To be determined; 8:30 a.m. - 4:30 p.m.

***Topics:***

- Defining employees vs. independent contractors
- Computing the correct taxes for payroll
- Completing Form 941, *Employer's Quarterly Employment Tax Return*
- Making federal tax deposits
- Due dates on tax returns
- Completing Forms W-2/W-3 and 1099/1096
- Reconciling Forms 941 and W-2 at year end
- Avoiding penalties
- Meeting rules for an Accountable Plan for per diem & travel reimbursements
- Alaska Department of Labor Quarterly Contribution Report - guest speaker

***Pull Tab/Gaming Workshop – offered three different weeks!***

- March 18, 2013; 8:30 a.m. - 4:30 p.m.
- March 25, 2013; 8:30 a.m. - 4:30 p.m.
- To be determined; 8:30 a.m. - 4:30 p.m.

***Topics:***

- IRS Forms 730 & 11-C
- IRS information return reporting requirements for gaming
- State of Alaska speaker – charitable gaming overview

Space is limited; we can accept up to 30 reservations for each session. Please contact [Judy Pearson](#) by February 15<sup>th</sup> for additional information and to register.

## Upcoming Arizona training opportunities

The following workshops will be held at the IRS office located at 300 West Congress Street in Tucson: Conference Room B.

### ***Gaming Issues and Reporting Workshop – offered three times!***

- March 12, 2013; 9:00 a.m. - 4:00 p.m.
- April 25, 2013; 9:00 a.m. - 4:00 p.m.
- July 31, 2013; 9:00 a.m. - 4:00 p.m.

#### ***Topics:***

- Required tax reporting for gaming-related payments/activities
- U.S. residents – W-2Gs, Forms 1099-MISC, 1096, and 5754
- Foreign persons – Forms 1042, 1042-S and T, W-7, W-8BEN, and Pub 515
- Tax deposit schedules
- Avoiding penalties and interest
- End of year reconciliation of Forms 945 to W-2G and 1099-MISC and the various 1042 forms
- TIP compliance – Form 8027, TRDA and GITCA Tip Agreements
- Other topics

### ***Mini-Advanced Employment Tax Workshop – offered twice!***

- May 7-9, 2013; 9:00 a.m. - 4:00 p.m.
- September 17-19, 2013; 9:00 a.m. - 4:00 p.m.

#### ***Topics:***

- Defining employees vs. independent contractors
- Computing the correct taxes for payroll
- Completing Form 941, *Employer's Quarterly Federal Tax Return*
- Making federal tax deposits
- Due dates on tax returns
- Completing Forms W-2/W-3 and 1099/1096
- Reconciling Forms 941 and W-2 at year end
- Avoiding penalties
- Meeting rules for an Accountable Plan for per diem & travel reimbursements
- The IRS collection process
- Fringe benefits general welfare payments including job training payments/compensation & scholarships
- Loans to Tribal members
- Loans to employees
- Election workers
- Elected officials

Space is limited; only 30 reservations will be accepted for each session. Please contact [Tricia Miller](#) for additional information or to register.