

ITG News
Keeping First Nations Informed

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Message from the Director

The recent Consultation Listening meeting held in February in Arlington, Virginia included a discussion on whether the Internal Revenue Service uses “cookies” to track access to www.irs.gov, the web site we use to provide all customers with ready access to federal tax information. While we reassured the attendees that there is no tracking of access and even posted a link at the bottom of the ITG landing page, the discussion made me realize that we should clearly articulate our overall concern for the privacy of Tribal tax information.

The Internal Revenue Code contains significant limitations on the accessibility of tax information. Quite simply, tax information is protected as some of the most confidential data that the federal government maintains. The IRS is prohibited from sharing information with very narrowly defined exceptions. Those exceptions generally cover court ordered releases, limited information sharing with other taxation agencies, and releases of information to Congress under federal statutes that require such information to be provided in order to enhance tax compliance.

The statutes impose severe penalties on any IRS official who releases information to a third party, whether orally or in writing, beyond those

situations where it is a legal requirement, or necessitated to obtain necessary information for tax administration requirements. Such a situation might include sharing information with IRS Counsel where necessary to obtain legal advice on a Tribal issue.

Independent of the legal requirements that protect your tax information, I want to state my firm commitment to protecting the privacy of any conversations that you may have with me or my staff. For example, those who have attended the Consultation Listening meetings held to date are aware that we do not collect names of attendees unless they wish to provide them. Where Tribes have requested one-on-one meetings to discuss individual matters, we have scheduled them in a private area and have maintained those conversations as confidential.

We will continue to respect the requirements of federal law as well as respect your rights as a sovereign entity. Your information and our discussions will not be shared with anyone except those with a “need to know.”

As always, I am available to discuss any concerns you may have by calling me at (202) 283-9736.

Christie Jacobs

New Rules Outlined for ITIN Acceptance Agents

The Internal Revenue Service has announced new rules for individuals who participate in the Individual Taxpayer Identification Number (ITIN) Acceptance Agent program.

An Acceptance Agent is an individual, business or organization (college, financial institution, accounting firm, etc.) authorized by IRS to assist individuals in obtaining ITINs. Acceptance Agents review applicants' documentation, complete a certificate of accuracy, and forward the certificate and application to the IRS for processing.

The ITIN is for taxpayers who do not qualify for a Social Security Number but who still need the nine-digit identification number used by the IRS to process a Form 1040 and other tax schedules.

Revenue Procedure 2006-10 outlines the new rules and instructions for Acceptance Agents. The four major changes are:

- Acceptance Agent applicants are required to submit to suitability checks.

- Existing Acceptance Agent agreements will expire on December 31, 2006. Acceptance Agents must reapply to retain their approved status.
- Acceptance Agent agreements must be renewed every fourth year.
- Acceptance Agents may request their names be added to a publicly available list that will be published by the IRS.

These changes are part of an on-going IRS effort to ensure that ITINs are used strictly for tax administration purposes. In recent years, the IRS has made a number of revisions to the ITIN program such as requiring the ITIN application be accompanied by a completed tax form and streamlining the number of identification documents that Acceptance Agents can use to confirm the ITIN applicant's identity.

Form 13551, Application to Participate in the IRS Acceptance Agent Program, is available for printing or downloading from the IRS web site at www.irs.gov.

Employee Tip Income Program Questions

ITG has a full-time Tip Coordinator to assist you with any questions about tip reporting agreements. If you are interested in securing a Tip Agreement, have questions concerning your existing agreement, or have received a notice about tip reporting responsibilities that is unclear, please contact Julie Reese at (303) 231-5250, ext. 236.

Publication 4268—Employment Tax Guide for Tribes

Our on-line Employment Tax Guide continues to receive a very positive response from tribal payroll and finance employees. You can download this comprehensive guide from a link on our landing page at www.irs.gov/tribes.

Common Compliance Problems Identified through Compliance Checks

Compliance Checks remain a valuable tool to assess the areas where tribes may have federal tax responsibilities and help to mitigate potential problems. Our January 2006 issue introduced the Tribal Evaluation of Filing and Accuracy Compliance (TEFAC) which was designed to allow qualifying tribes to conduct their own self Compliance Check. Information on the entire Compliance Check process, as well as useful references on common tribal tax issues, can be accessed on our web landing page by

clicking on “Enhancing Federal Tax Compliance.”

The following list shows the “Top 10” items that are surfacing via Compliance Checks and may be useful to you in assessing your own situation. If you believe you may have any of the issues outlined below, you may wish to apply to conduct a self Compliance Check through our TEFAC program. The process is also outlined on our web site at www.irs.gov/tribes.

“The Top 10”

1. FUTA – tribes still making tax deposits and/or filing Forms 940 when they are not required to pay FUTA because they participate in State unemployment.
2. Noncompliance with Revenue Ruling 59-354 - Tribal council members' pay being handled incorrectly and reported on a Form 1099 instead of a Form W-2 or being reported on a Form W-2 with FICA, Medicare and income tax withheld.
3. Form 1099 problems:
 - the forms were not prepared at all,
 - the forms were prepared incorrectly (amounts in the wrong box, etc.),
 - the forms were prepared but not submitted to IRS,
 - the incorrect copy was submitted to IRS,
 - not aware of the exception to filing on payments to corporations,
 - not aware of requirement to file 1099 for medical and legal expenses, even if the recipient is incorporated.
4. Employment tax return filing/deposit problems
 - tax returns filed but no tax deposits were made,
 - deposits were made but no return was filed,
 - deposits were made to incorrect period,
 - deposits were made using the wrong timetable (e.g. monthly deposits when should be semiweekly),
 - unaware of the "next day" deposit rule,
 - Form 941 was filed with no Schedule B attached.
5. Forms W-9 and W-4 are not being used or are not being updated when necessary.
6. Unaware of requirement to backup withhold if no TIN provided prior to payment.
7. Payments to tribal members (committee members, gaming and non-gaming per capita) not reported on information returns, reported on the wrong information return, required withholding not done, or withholding done incorrectly.
8. Amounts on Forms W-2, W-3, and 941 don't reconcile.
9. Incorrect filing requirements for the entity, or there are other tribal entities that were not identified to the IRS as belonging to the tribe.
10. Unaware of magnetic media filing requirement, and unaware of FIRE system (Filing Information Returns Electronically).

Addressing Your Feedback

Many tribes have taken the time to tell us how we can better serve their federal tax administration needs. Participation by Tribes in the annual ITG Customer Satisfaction Survey, Consultation Listening meetings, and direct contacts, has enabled us to identify areas where we can improve the products and services that we provide for tribes while still maintaining those that are valued as they currently exist.

Below are some changes that are currently being implemented as a result of your feedback. Other changes will soon follow:

- As new federal tax developments surface, we will be using our tribal e-mail distribution list to send information directly to you in a more timely manner.
- A headline area of our web site landing page will now focus on "Recent Developments" and will provide a direct link to recent court cases, new IRS Counsel rulings and opinions, updated ITG web site postings, new ITG products, and newly enacted federal tax legislation that could impact tribes.
- We will be creating a "Helpful Hints to Avoid Penalties" guide to post on the ITG web site along with a blast e-mail distribution showing a link to that new guide.
- With your assistance, we will undertake a structured canvass to identify issues that are unique to your Tribe.
- At a minimum, we will notify tribes annually of the name and telephone number of their assigned ITG Specialist.

ITG is committed to meeting your needs as they are identified. Since the annual IRS Satisfaction Survey is the primary mechanism to assist us in determining areas for improvement, we want to encourage your participation in the survey. It will be mailed to you in late-summer 2006.

Workshops for Small and Mid-sized 501(c)(3) Organizations

The Internal Revenue Service is offering one-day workshops for small and mid-sized 501(c)(3) organizations. The workshop will be presented by experienced IRS Exempt Organizations specialists, who will explain 501(c)(3) organizations, what must be done to keep their tax-exempt status and complying with tax obligations. This introductory workshop is designed for administrators or volunteers who are responsible for an organization's tax compliance.

Workshops are limited to 150 participants each day and will be filled on a first-come first-served basis. Preregistration is required. Workshops will be held in the following cities and dates:

New York, New York (April 18, 19, or 20, 2006); Oklahoma City, Oklahoma (April 25, 26, or 27, 2006); Miami, Florida (May 9, 10, or 11, 2006); Portland, Oregon (May 23, 24, or 25, 2006); Mesa, Arizona (Phoenix area) (June 20, 21, or 22, 2006); and Waukesha, Wisconsin (Milwaukee area) (June 27, 28, or 29, 2006).

For registration and location information, go on-line to www.irs.gov, Charities & Non-Profits, Calendar of Events. At the bottom of the page, click on "Click here to register."

Reporting Abuses/Schemes

We continue to work with tribes and tribal officials to address financial abuses and schemes being promoted in Indian country. Working together can help ensure the integrity of tribal finances, and eliminate the threats posed by individuals with schemes that appear "too good to be true" and often are.

If you are aware of financial impropriety or of a promoter advocating a scheme that appears highly suspect, you can contact the ITG Abuse Detection and Prevention Team at (716) 686-4860 or via e-mail at tege.itg.schemes@irs.gov.

New Rules on Suspect Form W-4s

The IRS has issued temporary regulations (regs) that eliminate a burdensome chore employers had to perform when they came across a suspect W-4 handed in by an employee. The regs also eliminated another rule that made an employer the conduit in one type of dispute between employees and the IRS, and clarified the rules for when substitute W-4s maybe used.

W-4 rules: Each employee must give his or her employer a signed withholding exemption certificate – Form W-4, on or before commencing employment. The maximum number of withholding exemptions an employee is entitled to depend on: marital and filing status; the number of dependents he or she has, and if married, the number of exemptions claimed by the employee's spouse on a W-4; estimated itemized deductions; tax credits; and certain other deductions from income.

Previous procedure for suspect W-4s: Under the previous rules, employers had to submit to the IRS copies of the following questionable Form W-4s:

-Any W-4 on which an employee claimed more than 10 withholding exemptions.

-Any W-4s on which the employee claimed a complete exemption from

withholding for the tax year, if the employer reasonably expected, when the W-4 was received, that the employee's wages would be more than \$200 per week.

Paperwork chore eliminated: Under the new temporary regs, employers are no longer required to submit to the IRS a copy of the above suspect W-4s. Instead, an employer must submit a copy of any currently effective withholding exemption certificate only if directed to do so in a written notice from the IRS or if directed to do so under any published IRS guidance. As under previous rules, the written notice may direct the employer to submit copies of Forms W-4 for certain employees. The IRS also may issue a notice to an employer specifying the maximum number of withholding exemptions permitted for a particular employee, after it determines that a W-4 submitted to the IRS contains a materially incorrect statement or after the employee fails to respond adequately to a request for verification of the statements on the certificate. The IRS may also issue such a notice after it determines an employee can't claim complete exemption from withholding or more than a specified number of withholding exemptions based on IRS records without first getting a copy of the withholding exemption certificate from the employer.

Go-between duty eliminated: After the IRS issues a notice of the maximum number of withholding exemptions permitted, an employee may dispute the notice (e.g., claim complete exemption from withholding). Under the temporary regs, he or she may do so only by submitting to the IRS a new withholding exemption certificate and a written statement to support his or her claims. To reduce burdens on employers and to more efficiently respond to the employee, the option under the previous regs to send this information to the employer for forwarding to the IRS has been removed.

Substitute W-4 forms OK'd: The new temporary regs clarify that a substitute withholding exemption certificate developed by the employer can be used instead of the official IRS Form W-4 if the employer also provides the worksheets contained in the Form W-4 in effect at that time. The temporary regs also state that employers may refuse to accept a substitute form developed by an employee and that the employee submitting such form will be treated as failing to furnish a withholding exemption certificate.

Effective date: The new temporary regs on W-4s went into effect on April 14, 2005.

IRS HAS FREE PUBLICATIONS ON EVERY TOPIC YOU NEED

The IRS has a free publication that answers any tax question you may have. Publications on a variety of tax related topics are available by phone or the Internet at www.irs.gov. Everyone can find useful information in IRS forms and

publications.

To find what you are looking for, follow any one of these easy steps:

-Access the IRS Web site. Click on the Forms and Publications resource page to find what you need. There is a search feature you can use if you know the topic but not the number of the form or publication.

-Read Publication 910. The Guide to Free Tax Services identifies the many IRS tax materials and services available. You will also find information about accessing tax materials, filing options, tax publications, tax education and assistance programs.

-Call Toll-free. If you know the name or number of the form or publication you need, call the toll-free Forms and Publication's telephone line at 1-800-TAX-FORM (1-800-829-3676) to place your order.

If you still cannot find the information you need, visit www.irs.gov, call the IRS toll-free customer service line at 1-800-829-1040, or call an IRS Indian Tribal Government Specialist.

NEW WAGE BASE FOR 2006 FICA

Effective January 1, 2006, the wage base for Federal Insurance Contribution Act (FICA) increased from \$90,000 to \$94,200. There is no limit on Medicare wages. The Social Security and Medicare withholding tax rates remain unchanged at 6.2% and 1.45%, respectively.

Federal and State Employment Tax Workshops

CALIFORNIA WORKSHOPS

The Internal Revenue Service's Small Business/Self-Employed Division and the California's Employment Development Department (EDD) are offering "Federal/State Basic Payroll Tax Seminars" for various locations in California. To attend, contact the Reservation Desk at (866) 873-6082 for the Inland Empire and Orange, San Diego, and Imperial Counties; (866) 873-6083 for East Bay, North Bay, North Coast, Sacramento, San Francisco, San Jose & Salinas Valley areas; and (866) 873-6086 for Los Angeles, San Joaquin and Tri Counties. To register on-line, visit the California's Employment Development Department web page at www.edd.ca.gov/taxsem/default.asp. To see additional dates and locations of workshops or for more information, go to www.irs.gov, Businesses, Small Business/Self-Employed, Small Business Workshop, and click on the state in which you would like to attend a workshop or access the web site directly

through www.irs.gov/businesses/small/article/0,,id=99202,00.html.

The seminars will cover:

- How to report state and federal payroll taxes
- Basic definitions of employee, wages, and employer
- How to get help

Some of the locations and dates of workshops (which are not all inclusive) are: Bakersfield (April 20, June 22, December 14, 2006); City of Industry (April 17, 2006); Diamond Bar (June 22, 2006); El Cajon (April 11, 2006); Fresno (September 21, 2006); Goleta (June 9, 2006); Irwindale (May 2, 2006); Monterey (September 20, 2006); Oakland (April 26; June 6; August 23; October 25; December 6, 2006); Oceanside (April 26, June 6, August 23, October 25, December 6, 2006); Palm Springs (September 26, 2006); Sacramento (June 6; July 13; August 3; September 7; October 5; December 7, 2006); Salinas (May 24; November 8, 2006); San Bernardino (October 24, 2006); San Diego (May 4, 2006); San Francisco (May 19; July 21; September 22; November 17, 2006); San Jose (April 18; May 16; July 18; August 15; September 19; October 17; November 21; December 19, 2006); San Luis Obispo (May 12, 2006); Santa Fe Springs (April 25; May 17; June 9, 2006); Santa Rosa (May 3, September 9, 2006); Simi Valley (June 8, 2006); Stockton (September 21, 2006); Sunnyvale (June 20, 2006); Techachapi (August 24, 2006); Van Nuys (June 23; September 22; December 8, 2006); Ventura (May 11, 2006); West Los Angeles (April 19; June 14; September 20; October 18; December 13, 2006).

NEVADA WORKSHOPS

Event: Ask The Experts Workshop

Date(s): 3rd Wednesday—Every Other Month (January, March, May, July, September, November)

Time: 12:30 p.m.—5:00 p.m.

Location: Nevada Microenterprise Initiative, 1600 East Desert Inn Road, Suite 203, Las Vegas, NV

Remarks: Please call (702) 734-3555 to register. This is a free class. Parking is available. This organization also holds additional workshops targeted to the Small Business Owner.

Sponsored By: Nevada Microenterprise Initiative

In addition to state workshops, please visit the IRS's Small Business/Self-Employed Online Classroom where you may view a streaming video of an IRS Small Business Workshop, take an IRS course, or complete an online self-directed version of a workshop taught live around the country.

Federal Tax Calendar for Second Quarter 2006

April 2006

- | | |
|---------------------|--|
| Wednesday, April 5 | - * make a deposit for 3/29-3/31 |
| Friday, April 7 | - * make a deposit for 4/1-4/4 |
| Monday, April 10 | - employees report March tip income to employers if \$20 or more |
| Wednesday, April 12 | - * make a deposit for 4/5-4/7 |
| Friday, April 14 | - * make a deposit for 4/8-4/11 |
| Monday, April 17 | - **make a deposit for March if under the monthly Deposit Rule |
| Wednesday, April 19 | - *make a deposit for 4/12-4/14 |
| Friday, April 21 | - *make a deposit for 4/15-4/18 |

May 2006

- | | |
|-------------------|--|
| Wednesday, May 3 | - *make a deposit for 4/26-4/28 |
| Friday, May 5 | - *make a deposit for 4/29-5/2 |
| Wednesday, May 10 | - *make a deposit for 5/3-5/5 |
| | - employees report April tip income to employers if \$20 or more |
| Friday, May 12 | - *make a deposit for 5/6-5/9 |
| Monday, May 15 | - **make a deposit for April if under the monthly deposit rule |
| Wednesday, May 17 | - *make a deposit for 5/10-5/12 |
| Friday, May 19 | - *make a deposit for 5/13-5/16 |
| Wednesday, May 24 | - *make a deposit for 5/17-5/19 |
| Friday, May 26 | - *make a deposit for 5/20-5/23 |

June 2006

- | | |
|--------------------|--|
| Thursday, June 1 | - *make a deposit for 5/24-5/26 |
| Friday, June 2 | - *make a deposit for 5/27-5/30 |
| Wednesday, June 7 | - *make a deposit for 5/31-6/2 |
| Friday, June 9 | - *make a deposit for 6/3-6/6 |
| Monday, June 12 | - employees report May tip income to employers if \$20 or more |
| Wednesday, June 14 | - *make a deposit for 6/7-6/9 |
| Thursday, June 15 | - **make a deposit for May if under the monthly deposit rule |
| Friday, June 16 | - *make a deposit for 6/10-6/13 |
| Wednesday, June 21 | - *make a deposit for 6/14-6/16 |
| Friday, June 23 | - *make a deposit for 6/17-6/20 |
| Wednesday, June 28 | - *make a deposit for 6/21-6/23 |
| Friday, June 30 | - *make a deposit for 6/24-6/27 |

* Make a payroll deposit if you are under the semi-weekly deposit rule.

* * Make a monthly deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS must be initiated at least one day prior to the due dates listed above in order to be timely.

Return Filing Dates

May 1st

- File Form 730 and pay the tax on applicable wagers accepted during March.
- File Form 941 for the 1st quarter of 2006. If all deposits paid on time and in full, file by May 10th.

May 31st

- File Form 730 and pay the tax on applicable wagers accepted during April.

June 30th

- File Form 730 and pay the tax on applicable wagers accepted during May.
