



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

June 02, 2023

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4.24.6, 4.24.8, 4.24.17, 4.24.23, and
4.24.24

MEMORANDUM FOR DIRECTOR, SPECIALTY EXAMINATION, CHIEF, ESTATE & GIFT/EXCISE TAX, EXCISE TERRITORY MANAGERS, GROUP MANAGERS, AND EXCISE EXAMINERS

FROM: Timothy J. Bilotta
Acting Director, Specialty Exam Policy

SUBJECT: Excise Examinations of Indian Tribal Governments

This memorandum issues interim guidance on procedures for excise examinations of Indian Tribal Governments (ITG) until IRM 4.24.1 (Introduction to Excise Taxes), IRM 4.24.2 (Form 637 Excise Tax Registrations), IRM 4.24.5 (Large Business and International (LB&I) Examination Program Procedures for Excise Employees), IRM 4.24.6 (Technical Guidance and Information Processing for Excise Tax Examination Issues), IRM 4.24.8 (Examination Guidance for Excise Claims for Refund or Abatement), IRM 4.24.17 (Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examination Procedures), IRM 4.24.23 (Operational Procedures and Responsibilities for Form 637 Excise Tax Registrations and Secure Airport Terminals (SATs)) and IRM 4.24.24 (Form 637 Registration Files: Administrative Procedures for Initial Applications and Case Reviews) are revised.

Purpose: Provide guidance to excise examiners when conducting examinations of ITGs.

Background: A [Service Level Agreement \(SLA\)](#) between SB/SE Excise Tax and Tax Exempt Government Entities (TE/GE) Office of ITG was approved in April 2022. The SLA supersedes the Memorandum of Understanding signed in January 2001 and the Addendum signed in October 2022. The SLA provides guidance for

personnel in those functions regarding notification, education, and compliance enforcement activities relating to excise taxes of ITGs.

SB/SE Excise Tax has jurisdiction and responsibility for all non-wagering excise tax compliance enforcement and or educational activities relating to ITGs, including businesses wholly owned by tribal governments. To ensure government-to-government and proper protocols are followed, ITG is the “single point of contact” for tribes. Excise tax examiners are required to contact ITG through the Specialist Referral System (SRS) before making initial contact with ITGs for any non-wagering compliance enforcement or educational activity.

ITG has jurisdiction and responsibility for all wagering tax compliance enforcement and/or educational activities relating to ITGs and will serve as the IRS “single point of contact” to authorize or make contacts with the ITG or any entity wholly owned by an ITG for wagering issues.

Procedural Change: Additional and/or modified guidance for excise examinations of ITGs is discussed below:

IRM 4.24.1.1.3, Roles and Responsibilities, adds “TE/GE Indian Tribal Government (ITG) has jurisdiction for all wagering tax issues relating to ITGs. Excise Tax has jurisdiction over all non-wagering excise tax issues related to ITGs. See IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures to follow on ITG cases.”

IRM 4.24.2.3.2, Applications Under IRC 4101, Visiting Applicants, adds “If the entity is an Indian Tribal Government (ITG), refer to IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures to follow before visiting an applicant.”

IRM 4.24.2.4.2, Applications Under IRC 4222 and IRC 4682, Visiting Applicants, adds “If the entity is an Indian Tribal Government (ITG), refer to IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures to follow before visiting an applicant.”

IRM 4.24.5.1.3, Responsibilities and Roles, adds “SB/SE Excise Tax has jurisdiction over all non-wagering excise tax issues related to Indian Tribal Governments (ITG). TE/GE ITG has jurisdiction for all wagering excise tax issues relating to ITGs. See IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures to follow on ITG cases.”

IRM 4.24.6.1.3. Responsibilities, adds “TE/GE Indian Tribal Government (ITG) has jurisdiction for all wagering excise tax issues relating to Indian Tribal Governments (ITGs). SB/SE Excise Tax has jurisdiction over all non-wagering excise tax issues related to ITGs.”

IRM 4.24.6.2(1), Procedural Guidance for Certain Types of Excise Examinations, adds the following item to the bullet list addressing unique procedural guidance relating to excise examinations: “Indian Tribal Governments (ITGs).”

IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, adds a new subsection incorporating the following seven items:

- (1) The SLA between SBSE Excise Tax and TE/GE ITGs was entered into on April 2022. The SLA provides guidance for personnel in those functions regarding notification, education, and compliance enforcement activities relating to excise taxes of ITGs.
- (2) SB/SE Excise Tax has jurisdiction and responsibility for all non-wagering excise tax (e.g., Form 637, Form 2290, Form 720 and Form 8849) compliance enforcement and/or educational activities relating to ITGs, including businesses wholly owned by ITGs.
- (3) ITG has jurisdiction and responsibility for all wagering excise tax compliance enforcement and educational activities relating to ITGs.
- (4) To ensure government-to-government and proper protocols are followed, ITG is the “single point of contact” for tribes, excise tax agents are required to contact ITGs through the Specialist Referral System (SRS) before making the initial contact with ITGs for any non-wagering compliance enforcement or educational activity. The applicable ITG group manager and/or specialist will assist the excise tax agent in addressing proper protocol for contacting (appointment letter addressee), interacting, and executing agreements with ITG officials and/or representatives.
- (5) For technical questions relating to Indian tax law matters, excise tax agents will utilize Knowledge Management Contact an Expert to contact the appropriate ITG personnel.
- (6) Fuel Compliance Officers (FCO) and Fuel Compliance Agents (FCA) conducting fuel compliance activities should refer to IRM 4.24.13, Overview of Excise Fuel Compliance Program, for procedures to follow when working an ITG case.
- (7) ITG entities are identified on IDRS command code INOLES by BOD code "TE", employment code "I," and client code "I".

IRM 4.24.8.2, Overview of Claims, adds “Refer to IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for contact procedures to follow if the claim is filed by an ITG.”

IRM 4.24.17.6, ExSTARS Information Provider Initial Contact, adds “Refer to IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures relating to examinations of ITGs.”

IRM 4.24.23.3, Initial Contact, adds “Refer to IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures to follow if the entity is an ITG.”

IRM 4.24.24.5.2, Notice CP 241 Procedures, adds “Refer to IRM 4.24.6.2.14, Excise Examinations of Indian Tribal Government (ITG) Cases, for procedures to follow if the entity is an ITG.”

Effect on Other Documents: This guidance will be incorporated into IRM 4.24.1, IRM 4.24.2, IRM 4.24.5, IRM 4.24.6, IRM 4.24.8, IRM 4.24.17, IRM 4.24.23 and IRM 4.24.24 by June 02, 2025.

Effective Date: June 2, 2023.

Contact: If you have any questions regarding this memorandum, you may contact Kellie L. McCann, Program Manager, Excise Tax Policy or Diane M. Williams, Excise Policy Analyst.

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