



Indian Tribal Governments

KEEPING FIRST NATIONS INFORMED

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A Message from ITG Director, Christie Jacobs

I’d like to share a couple of exciting recent events at ITG. The Advisory Committee on Tax Exempt and Government Entities (ACT) released their [2015 Report on Recommendations](#). Check out the ACT report for their recommendations to enhance ITG.

Also, ITG provided Protocol training the week of June 8 to IRS employees from Tax Exempt and Government Entities, Appeals, Chief Counsel and the Taxpayer Advocate Service. This class provided intense exposure to Indian history, culture and law. Sessions focused on the unique status surrounding federally recognized Indian Tribes and provided an overview of current tax issues affecting casino operations, gaming, income derived from the land, trust issues and fishing rights. There was also an opportunity for the class to dialogue with tribal leaders and hear their perspective on the issues.

This training is critical for IRS employees who interact with Tribes. Our goal is for this training to lead to a stronger partnership with the Tribes and provide more IRS employees with a better understanding of the specialized needs and tax issues the Tribes face.

As always, if you have questions, comments or concerns, please don't hesitate to contact your [ITG Specialist](#) or send us an [email](#).

Sincerely,

Christie Jacobs

ACA Resources

Do you need help sorting through all the information available on the Affordable Care Act? We have several publications and Web pages to assist you:

Publications:

[Publication 5208](#), *Affordable Care Act: Are you an applicable large employer?*, includes links to the new information forms, reporting requirements and the 2015 transition relief provisions.

[Publication 5196](#), *Affordable Care Act: Reporting Requirements for Applicable Large Employers*, includes information to help you understand the employer reporting requirements of the health care law, important definitions and basic information about filling out the new information forms. It explains what information you'll need to maintain for monthly tracking.

[Publication 5215](#), *Affordable Care Act: Responsibilities for Health Coverage Providers*, explains how to identify the minimum essential coverage provider, reporting that coverage to the IRS and giving the covered individuals information about the coverage to help them when filing their federal tax return.

Web resources:

Visit [ACA Tax Provisions](#) for more information, links to questions and answers, publications, forms, regulations and notices. This page is continuously updated to provide you with the most current information.

[ACA Information Returns Program \(AIR\)](#) provides information on electronic reporting for the new forms. [Draft Publication 5165](#), *Guide for Electronically Filing Affordable Care Act (ACA) Information Returns For Software Developers and Transmitters*, outlines the communication procedures, transmission formats, business rules and validation procedures for ACA information returns filed electronically. *ACA documents that are filed electronically must use the AIR system, not FIRE (Filing Information Returns Electronically).*

For recorded webinars on the Affordable Care Act, go to www.irsvideos.gov. Select one of the tabs and click on "ACA" on the left. If you select the "Governments" tab, you'll find ACA videos under both "ACA" and "Employers." These videos are sorted by date so you can see the most current webinars available on topics of interest.

Webinar Series Offered on Affordable Care Act Provisions for Employers and Coverage Providers

If you're an employer or health coverage provider, you can attend a series of educational webinars this summer to help you understand the Affordable Care Act's employer provisions and related requirements. The IRS is presenting three different webinars in July that will each be repeated in August and September.

The IRS designed these webinars for business owners, tax managers, employee benefits managers and health coverage providers. All time listed below are Eastern Daylight Time.

Employer Shared Responsibility and Information Reporting

Learn about the ACA's employer shared responsibility provisions and information reporting requirements for employers and providers of minimum essential coverage.

- July 28, 11 a.m. – 12: 30 p.m. – [Click here to register](#)
- Aug. 20, 1 – 2:30 p.m. – [Click here to register](#)
- Sept. 16, 1:30 – 3 p.m. – [Click here to register](#)

Employer-Sponsored Health Coverage Information Reporting Requirements for Applicable Large Employers

Learn about employer-sponsored health coverage information reporting requirements for applicable large employers, including who is required to report, what information the law requires you to report and how to complete the required forms.

- July 29, 1 – 2 p.m. – [Click here to register](#)
- Aug. 11, 1 – 2 p.m. – [Click here to register](#)
- Sept. 10, 11 a.m. – 12 p.m. – [Click here to register](#)

Information Reporting Requirements for Providers of Minimal Essential Coverage

Learn about the information reporting requirements for providers of minimum essential coverage, including employers that provide self-insured coverage. Learn who is required to report, what information the law requires you to report and how to complete the required forms.

- July 30, 1 – 2 p.m. – [Click here to register](#)
- Aug. 26, 1 – 2 p.m. – [Click here to register](#)
- Sept. 22, 1 – 2 p.m. – [Click here to register](#)

For more information about the Affordable Care Act and tax provisions for employers and health coverage providers, visit [IRS.gov/aca](https://www.irs.gov/aca).

Did You Receive a “Lock-in” Letter from the IRS?

Your payroll department may receive Letter 2800C, WHC Lock-in Letter to Employer, from the Withholding Compliance Unit of the Internal Revenue Service. This letter instructs employers they must begin withholding federal income tax at a specific marital status and withholding allowance for a particular employee.

Generally, tribal entities must follow the instructions in the letter. However, what happens if you receive a “Lock-in” letter for one of your Tribal Council Members? This may be confusing since Revenue Ruling 59-354 specifically states that tribal council pay is not considered wages for federal income tax withholding.

If you receive a “Lock-in” letter for a Tribal Council Member, your payroll office should contact Mr. Sanchez, Withholding Compliance Liaison, at the below telephone number. Inform him that the employee named in the “Lock-in” letter is a Tribal Council Member and request that the letter be rescinded. You need to provide the following information to Mr. Sanchez:

- 1) A letter written on the tribe’s letterhead requesting the “Lock-in” letter be rescinded. Include:
 - a) A statement that the employer is a federally recognized Indian Tribe
 - b) A statement that the employee is on the tribal council
 - c) The amount of employee’s Form W-2 wages that are for tribal council pay
 - d) The amount of employee’s Form W-2 wages that are for non-tribal council duties (other job)
 - e) The employer’s contact person and phone number (in case Mr. Sanchez needs to follow up)
- 2) Documentation showing the employee is on the tribal council
- 3) A copy of the “Lock-in” letter
- 4) A copy of the Tribal Council Member’s Form W-2

Include the following on the fax cover sheet:

Attn: Mr. Sanchez, Supervisory Examining Tax Technician
Internal Revenue Service
Compliance Services - Withholding Compliance Unit
Andover, MA
Phone: 978-684-9438

Fax the letter and coversheet to 855-202-8300.

How can you avoid receiving one of these letters for a Tribal Council Member? When you file Form W-2 for a Tribal Council Member, remember to enter “Rev Rul 59-354” in Box 14 to alert IRS of their status. Also, if the council member receives wages for a second position, issue two separate Forms W-2 - one for the Tribal Council pay and a second for the other pay.

Contact your [ITG Specialist](#) if you have questions.

ITG Webinars

ITG has scheduled three new webinars for its Tribal customers. The dates and topics are:

- August 13 – Reporting Requirements for Travel Expenses
- September 3 – Tip Agreements
- September 10 – Tribal Council Pay

Please check *News Alerts* at irs.gov/tribes for more information on the topics and how to register.

Tribes: Have You Filed your Form 11-C?

Tribes selling pull-tabs were required to file Form 11-C by July 1 for the period July 1, 2015, through June 30, 2016. Tribal governments and agents (persons who accept taxable wagers on behalf of the Tribe) should complete this form as soon as possible. For more information about Pull-tabs filing requirements, please check out the [April 2015 edition](#) of the ITG News.

Ten Things to Know about the Taxpayer Advocate Service

Did you know that the Taxpayer Advocate Service is an independent organization within the IRS and is your voice at the IRS? That’s just one of the [ten reasons](#) Indian Tribal Governments and every taxpayer, whether an individual, business, employer or other entity, need to know about the Taxpayer Advocate Service.

Outreach Successes: Pacific Northwest

ITG held a two day Basic/Advanced Employment Tax Training Workshop at Emerald Queen Casino in Fife, WA on May 19-20, 2015. A Gaming Tax Training Workshop was held on May 21, 2015. The training sessions were a success with ITG's Pacific Northwest Group tribal customers.

Approximately 50 individuals from 16 different tribes attended the three days of training and the participants gave very favorable feedback. ITG Specialists from Vancouver and Seattle IRS offices presented the workshop. They covered the following topics:

Basic/Advanced Employment Tax Training Workshop

- 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

Gaming Tax Training Workshop

- Completing Forms W-2G and 1099/1096
- Publication 3908, *Gaming Tax Law & Bank Secrecy Act Issues*
- Completing Forms 1042-S/1042
- Tip compliance programs
- Backup withholding for missing and incorrect name/TIN(s)

If you're interested in having an employment tax workshop, a Title 31 gaming seminar or other type of training session, please contact your assigned [ITG Specialist](#).

Outreach Successes: Southwestern Area

ITG held a six-hour Employment Tax Workshop on June 22, 2015, at the Navajo Nation Training Center in Window Rock, Arizona, with 34 tribal employees from various departments attending. ITG specialists from the Albuquerque IRS office covered different topics such as defining employees vs. independent contractors, payroll taxes, making federal tax deposits, due dates and avoiding penalties and accountable vs. non-accountable plans.

VITA Outreach

ITG and the office of Stakeholder Partnerships, Education and Communication (SPEC) offer a big thank you to all the volunteers who participated in the Volunteer Income Tax Assistance (VITA) program. Each year, you provide a tremendous service to tribal members, providing free tax assistance. ITG and SPEC appreciate the valuable service you provide to tribal customers.

Training Opportunities Pacific Northwest

PNW Indian Gaming Working Group Conference

ITG is excited to offer an Indian Gaming Working Group Conference in Washington State during the month of September! We'll offer a one-day conference both in Western and Eastern Washington.

- Western Washington – conference will be one day and include the planned topics shown below
- Eastern Washington – conference will follow the two-day Employment Tax Workshop that we offer every September

We plan to have presenters from the FBI, NIGC and the Washington and/or Oregon State Gaming Commission.

Planned Topics

- What is expected to be included in a Casino's Risk Analysis
- Current developments and issues related to Suspicious Activity Reports
- Recognizing fraudulent activities
- Counterfeit bill recognition
- What to expect in a National Indian Gaming Commission (NIGC) audit
- Title 31, Class III net win and State Audit information

If you would like to host one of these conferences, or if you would like more information please contact either Jing.Chin@irs.gov or Melodie.F.Gren@irs.gov for details.

It's September Training Time in the Inland Northwest!

ITG will be offering a two-day Employment Tax workshop followed by the one-day Gaming Working Group Conference in the Spokane, WA area in September. Topics that will be addressed include:

Basic Payroll Tax/Information Returns Workshop Topics

- Employment status (employee or independent contractor)
- Form W-4 and calculating employment tax liabilities
- Employee compensation and other employee taxable payments
- Employment tax deposits
- Preparation and filing forms 941, 941X and W-2
- End of year reconciliation of Forms 941 and W-2
- Social Security: E-verify & how to file W-2s electronically
- Form W-9
- Preparation and filing of Forms 945 and 1099 and related tax deposits

Advanced Payroll Tax/Information Returns Workshop Topics

- Independent contractors vs. employee
- Proper reporting of employee related payments
 - 3rd party sick pay
 - Fringe benefits
 - Expense reimbursement
- Proper reporting for non-employee payments
 - Work experience/training payments
 - Scholarships
 - Expense reimbursement
 - Foreign workers
- TIN matching
- IRS exams and information document requests
- IRS collections and notice process

Gaming Working Group Conference Topics

- What is expected to be included in a Casino's Risk Analysis
- Current developments and issues related to Suspicious Activity Reports
- Recognizing fraudulent activities
- Counterfeit bill recognition
- What to expect in a National Indian Gaming Commission (NIGC) audit
- Title 31, Class III net win and State Audit information

Entity Compliance Checks

We'll also be offering the opportunity for the attendees to meet on a confidential basis with an ITG Specialist to discuss their entity's reporting requirements, tax issues, notices or other tax related matters. Please contact us prior to the training to schedule a time for the meeting.

If you would like to host this three-day event or if you would like more information, please contact [Melodie Gren](#) for details.

Hints for Completing the Form 1042-S

There have been numerous changes to the Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. The [2015 Forms 1042-S](#) are due to the recipients and the IRS no later than **March 15, 2016**. Remember, a casino is considered a financial institution for Title 31 and Title 26, which requires the filing of information returns.

Based on the recently revised instructions for Form 1042, a financial institution is required to file the Forms 1042-S electronically **regardless** of the number of returns that need to be filed. Even if you only have three Forms 1042-S to file, you're required to electronically transmit the returns for 2015.

You can electronically file (transmit) Forms 1042-S using the IRS Filing Information Returns Electronically (FIRE) system. This is a free service! To use the [FIRE](#) system, you must have a separate Transmitter Control Code (TCC) to electronically file Form 1042-S returns.

You **cannot** use the same TCC you used to file your Forms W-2G and 1099-MISC. [Form 4419](#), *Application for Filing Information Returns Electronically*, is used to request this TCC number for the Forms 1042-S. Publication 1220, *Specifications for Electronic Filing of Form 1097, 1098, 1099, 3921, 3922, 5498 and W-2G*, indicates that it can take up to 45 days to receive this TCC number from Martinsburg.

Below is a guide to help you complete the recently revised Form 1042-S prior to electronically filing with the IRS:

Box 1 - The income code is determined on Page 17 of the draft instructions – For Gambling Winnings, the amount will be on 28. For Athletes or Artists, the Income code will be 42 or 43 based on whether there is a central withholding agreement (CWA) or not.

Box 2 – Gross income will be the of the total value jackpot or prize amount. There is no decimal point or cents reported.

Box 3 – Chapter 3: Most of the casino patrons should fall under Chapter 3. Chapter 4 income is for Foreign Account Tax Compliance Act (FATCA) payments. The casino gambling income is not a foreign account; therefore, it appears that the payments will all be Chapter 3 payments.

Box 3a – Exemption code – If not a treaty country, then input the code 00. If the payment is to a person from a treaty country, they have a passport or documentation to establish they are from the treaty country, complete a Form W-8, BEN and have an Individual Taxpayer Identification Number (ITIN), then input code 04.

Box 3b – Tax rate – For countries other than Malta, enter 30 for the tax rate. If the person is from a treaty country, enter 00 for the tax rate. (Note the instructions indicate the rate should be 30.00 but the form does not accept the decimal point.

Box 4a – Exemption code is 16 for most payees.

Box 4b – Tax rate is 00 for most payees.

Box 5 – Withholding allowance – Left blank unless the income code in Box 1 is 16,17,18,19 or 42.

Box 6 – Net Income - This is the gross income in Box 2 less the tax shown in Box 7.

Box 7 – Federal tax withheld – For most gaming transactions this will be 30% of the gross income or win. Note: There is no decimal point or cents reported; you need to round up or down.

Box 8 – Tax withheld by other agents - For gambling income, the tax paid by other agents will be left blank. In cases where there is an artist involved and the casino has been notified that withholding is required, there may be an exception for cases where the artist was hired through a brokerage company. When the casino explains to the broker that the withholding is being paid by them, the casino must obtain verification of the payment and include all of the brokerage company information.

Box 9 – Tax assumed by withholding agent – This is completed when it is identified that the casino failed to withhold the tax from the patron and the casino pays or assumes the tax on behalf of the patron.

Box 10 – Total withholding credit – Enter the combination of the amount in Boxes 7 and 8, but do not include the amount in Box 9.

Box 11 – Normally is not completed by the casino unless withheld in error.

Box 12a – Withholding agent's EIN – Enter the casino's EIN.

Box 12b – Chapter 3 status code – A casino meets the legal definition of a financial institution. The correct status code is *01 – US Withholding Agent – FI*.

Box 12c – Chapter 4 status code - A casino meets the legal definition of a financial institution. The correct status code is *01 – US Withholding Agent – FI*.

Box 12d – Withholding agent's name – the legal name of the casino that the casinos to file the Form 1042.

Box 12f – This appears to be blank – USA is not an option for the US casinos.

Box 12g – Foreign taxpayer identification number, if any – For most casinos, this will be left blank.

Box 12h – Address (number and street) – This should be the same address that is shown on the Form 1042, not the physical address of the casino.

Box 12i – City or town, state or province, country, ZIP or foreign postal code – This should be the same address that is shown on the Form 1042, not the physical address of the casino.

Box 13a – Recipient's U.S. TIN, if any – In order for the patron to file a return, this number, if provided, must be included even if the treaty benefits do not apply.

Box 13b – Chapter 3 status code – For gaming patrons, enter 19, for entertainers, enter 25. (See Page 17 of the draft instructions).

Box 13c – Chapter 4 status code – For gaming patrons and entertainers, enter 27. (See Page 18 of the draft instructions).

Box 13d – Recipient's name – Enter the patron or entertainer's name.

Box 13e – Recipient's country code – Enter the 2 digit country code from pages 24-25 of the draft instructions.

Box 13f – Address (number and street) – Enter the patron's legal address.

Box 13g – City or town, state or province, country, ZIP or foreign postal code.

Box 13h – Recipient's GIIN – This box is normally blank for the casinos.

Box 13i - Recipient's foreign tax identification number – This box is normally blank for the casinos.

Box 14a – Primary Withholding Agent's Name (if applicable) – This box is normally left blank for the casinos.

Box 14b - Primary Withholding Agent's EIN - This box is normally left blank for the casinos.

Box 15a -15i – These items are normally left blank for the casinos.

Box 16 – Recipient's account number – If the patron has a player club account, input that number.

Box 17 – Recipient's date of birth – Request the patron's date of birth. You should be able to determine this from the passport or other documents. Based on recent press releases, this may be required for Title 31 in the future.

Boxes 18 – 23 – These boxes related to the payor should remain blank. The casino is normally the same as the corporate name. If the casino has more than one location, that information can be input here.