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Keeping First Nations Informed

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Message from the Director

As I travel throughout Indian Country and meet with many tribal representatives, I am asked about the current focus on Bank Secrecy Act (BSA) compliance. Many of these concerns are arising from the recent significant fine assessed by the Financial Crimes Enforcement Network (FinCEN) against a tribal casino in Oklahoma along with publicity that was generated by several FBI cases that were connected to that action. In addition, the number of BSA civil examinations has increased as the federal government directs more resources to this area.

While much of the impetus behind the creation of the Bank Secrecy Act was initially focused on combating the ability of organized crime to launder proceeds of illegal activities, the events of September 11, 2001 brought a renewed emphasis on this area by highlighting the need to track the movement of money that might be used to finance terrorism. The post 9/11 world brought an entire series of new laws and regulations designed to tighten the reporting requirements and ensure that all levels of government have access to vital information to combat crime and terrorism. The Patriot Act is the best example of these changes, but the extension of Suspicious Activity Reporting to tribal casinos in March 2003 is another example.

Hopefully, all governments share a common objective of minimizing the opportunity for individuals to launder funds and/or move money that might be

used to harm ourselves, our children, and our neighbors. The recent tribal money laundering case in Oklahoma, as well as other reports filed by tribal entities, has shown that organized crime and terrorists have discovered tribal entities and are making attempts to use them for money laundering.

We are grateful that many tribes have instituted strong Bank Secrecy Act Compliance Programs and are using various tools to alert law enforcement to suspected or potential illegal activities. The filing of FinCEN Forms 102 and 103 by tribal casinos are one example, but we have also had numerous telephone calls from tribal officials to the Money Laundering Hotline. Many Tribes have shown that they want to be full partners in this area. Despite the burden and cost associated with the BSA Compliance Program, there is a keen recognition that we all need to work together to minimize the possibility of money laundering.

However, we are also aware that there are Tribes that lack fully effective BSA programs; ITG stands ready to assist them in making enhancements. ITG Specialists are available to provide training for your staff, copies of pertinent federal regulations, or to assist in reviewing your BSA Compliance Program for your entity. I encourage you to take advantage of our resources and partner with ITG to ensure that Indian Country is a leader in Bank Secrecy Act compliance.

Christie Jacobs

Helpful Hints to Avoid Penalties

One of the areas that surfaced as a concern in Tribal responses to the 2005 Customer Satisfaction Survey is the need for additional assistance in mitigating penalties. While your assigned ITG Specialist is always available to assist you, the best way to avoid penalties is to have an in-depth understanding of what can be done to reduce or eliminate them before they are ever assessed.

In an effort to assist, ITG has created a "Helpful Hints to Avoid Penalties" guide, which is now available on the ITG web site under the Employment Tax page. Hopefully, the suggestions outlined in that guide will reduce penalty assessments, but if a penalty is asserted, the guide also outlines the steps required to address it.

Penalty notices arise from various situations such as failure to deposit payroll taxes timely and late filing or non-filing of various returns. The two most important things to do are:

Determine, through a review of your records, if the notice is correct, AND

Respond to the notice on or before the date required.

Failure to respond timely can lead to the assessment of further penalties and interest. Failure to review records to ensure the correctness of the notice can lead to payment of unnecessary penalties. If the notice is determined to be correct and additional tax, penalties, and interest are due; payment should be made within the time frame shown in the notice.

Your Indian Tribal Government Specialist and other IRS personnel are ready to assist you in understanding the notices and determining their accuracy. Our Customer Account Services staff can be contacted toll-free at 1-877-829-5500. This call center is open from 8:00 am to 4:30 pm eastern time.

Your ITG Specialist is also available to assist when a timely response to an incorrect notice does not achieve a satisfactory resolution to the situation. The ITG Specialist can review your response and help you file the proper forms to resolve the issue or ensure the case is routed to the proper office for resolution.

We hope that the guide, coupled with Publication 4268, our on-line Employment Tax Guide for Indian Tribal Governments, will help Tribes to meet federal tax administration requirements with a minimum risk of penalties.

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.

A Primer on Published Guidance

For anyone not familiar with the inner workings of tax administration, the array of IRS guidance may seem, well, a little puzzling at first glance. To take a little of the mystery away, here's a brief look at seven of the most common forms of guidance. In its role in administering the tax laws enacted by the Congress, the IRS must take the specifics of these laws and translate them into detailed regulations, rules and procedures. The Office of Chief Counsel fills this crucial role by producing several different kinds of documents and publications that provide guidance to taxpayers, firms and charitable groups. As we begin to upload substantial content to the "Published Guidance" section of the ITG web site, we thought it might be useful to explain the various types of issuances that can be located there.

Regulation. A regulation is issued by the Internal Revenue Service and Treasury Department to provide guidance for new legislation or to address issues that arise with respect to existing Internal Revenue Code sections. Regulations interpret and give directions on complying with the law. Regulations are published in the Federal Register. Generally, regulations are first published in proposed form in a Notice of Proposed Rulemaking (NPRM). After public input is fully considered through written comments and even a public hearing, a final regulation or a temporary regulation is published as a Treasury Decision (TD), again, in the Federal Register.

Revenue Ruling. A revenue ruling is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties and regulations. It is the conclusion of the IRS on how the law is applied to a specific set of facts. Revenue rulings are published in the Internal Revenue Bulletin for the information of and guidance to taxpayers, IRS personnel and tax professionals. For example, a revenue ruling may hold that taxpayers can deduct certain automobile expenses.

Revenue Procedure. A revenue procedure is an official statement of a procedure that affects the rights or duties of taxpayers or other members of the public under the Internal Revenue Code, related statutes, tax treaties and regulations and that should be a matter of public knowledge. It is also published in the Internal Revenue Bulletin. While a revenue ruling generally states an IRS position, a revenue procedure provides return filing or other instructions concerning an IRS position. For example, a revenue procedure might specify how those entitled to deduct certain automobile expenses should compute them by applying a certain mileage rate in lieu of calculating actual operating expenses.

Private Letter Ruling. A private letter ruling, or PLR, is a written statement issued to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. A PLR is issued to establish with certainty the federal tax consequences of a particular transaction before the transaction is consummated or before the taxpayer's return is filed. A PLR is issued in response to a written request submitted by a taxpayer and is binding on the IRS if the taxpayer fully and accurately described the proposed transaction in the request and carries out the transaction as described. A PLR may not be relied on as precedent by other taxpayers or IRS personnel. PLRs are generally made public after all information has been removed that could identify the taxpayer to whom it was issued.

Technical Advice Memorandum. A technical advice memorandum, or TAM, is guidance furnished by the Office of Chief Counsel upon the request of an IRS director or an area director, appeals, in response to technical or procedural questions that develop during a proceeding. A request for a TAM generally stems from an examination of a taxpayer's return, a consideration of a taxpayer's claim for a refund or credit, or any other matter involving a specific

taxpayer under the jurisdiction of the territory manager or the area director, appeals. Technical Advice Memoranda are issued only on closed transactions and provide the interpretation of proper application of tax laws, tax treaties, regulations, revenue rulings or other precedents. The advice rendered represents a final determination of the position of the IRS, but only with respect to the specific issue in the specific case in which the advice is issued. Technical Advice Memoranda are generally made public after all information has been removed that could identify the taxpayer whose circumstances triggered a specific memorandum.

Notice. A notice is a public pronouncement that may contain guidance that involves substantive interpretations of the Internal Revenue Code or other provisions of the law. For example, notices can be used to relate what regulations will say in situations where the regulations may not be published in the immediate future.

Announcement. An announcement is a public pronouncement that has only immediate or short-term value. For example, announcements can be used to summarize the law or regulations without making any substantive interpretation; to state what regulations will say when they are certain to be published in the immediate future; or to notify taxpayers of the existence of an approaching deadline.

IRS to Accept Facsimile Signatures on Employment Tax Returns

The Internal Revenue Service has issued new rules allowing corporate officers or duly authorized agents to sign employment tax forms by facsimile, including alternative signature methods such as computer software programs or mechanical devices.

The rules, outlined in Revenue Procedure 2005-39, will reduce burden on business taxpayers by simplifying employment tax filing and lowering the number of returns rejected by the IRS because of signature issues.

Rev. Proc. 2005-39 applies to the following forms:

Form 940, Employer's Annual Federal Unemployment Tax Return (FUTA);

Form 941, Employer's Quarterly Federal Tax Return;

Form 943, Employer's Annual Federal Tax Return for Agricultural Employees;

Form 945, Annual Return of Withholding Federal Income Tax;

Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons;

Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips; and

Any variant of these forms, such as

Form 941-C, Statement to Correct Information;
Form 941-SS, Employer's Quarterly Federal Tax Return.

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.

What if My Name Changed?

Question: I need to change or correct the name on my Social Security card. How do I do this?

Answer: If you legally change your name because of marriage, divorce, court order or any other reason, tell the Social Security Administration (SSA) so that you can get a corrected card. If you are working, also tell your employer. If you do not tell SSA when your name changes, it may: delay your tax refund; and prevent your wages from being posted correctly to your Social Security record, which may lower the amount of your future Social Security benefits.

To change your name on your Social Security card:

Complete an Application for a Social Security Card (Form SS-5);
Show SSA proof of your: U.S. citizenship (if you have not previously established your citizenship with us) or immigration status; Legal name change; and Identity.
Take (or mail) your completed application and documents to your local Social Security Office.

Documents for a name change. If you need to change your name on your Social Security card, you must show proof of your legal name change. Documents Social Security may accept to prove a legal name change are your:

Marriage document:

Divorce decree specifically stating you may change your name;
Certificate of Naturalization showing a new name; or

Court order for a name change.

If documents you provide for a legal name change do not give enough information to identify you (date of birth or age), then you also must show two identity documents:

One document with your old name; and
A second document with your new legal name.

In addition to your name, these documents must contain identifying information (date of birth or age) or a recent photograph.

All documents must be either originals or copies certified by the issuing agency. SSA cannot accept photocopies or notarized copies of documents.

For more information, see <http://www.ssa.gov/ssnumber>.

SSA will mail your number and card as soon as they have all of your information and have verified your documents.

Keep your Social Security card in a safe place. Do not carry it with you.

Notice of Levy on Wages, Salary, and Other Income

If you receive a Notice of Levy on Wages, Salary, and Other Income (Forms 668-W(c) or 668-W(c)(DO)), you must withhold amounts as described in the instructions for these forms. Publication 1494, Table for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income (Forms 668-W(c), 668-W(c)(DO), and 668-W(ICS)) 2006, shows the exempt amount. If a levy issued in a prior year is still in effect and the taxpayer submits a new Statement of Exemptions and Filing Status, use the current year Publication 1494 to compute the exempt amount.

An individual's wages, salary, and other income can be levied. Wages, salary, and other income include payment for personal services in a work relationship.

Sometimes an employer threatens to fire an employee to avoid handling a levy. This might be a violation of 15 USC 1674. If the employer fires the taxpayer because of this, the employer might be fined \$1000. There may also be a one year prison term. The Wage and Hour Division of the Department of Labor (DOL), not the IRS, must decide if the employer violated the law.

Continuous Effect of Levy on Salary and Wages

Unlike other levies, a levy on a taxpayer's wages and salary has a continuous effect. It attaches future paychecks until the levy is released. Wages and salary include fees, bonuses, and commissions. All other levies only attach property and rights to property that exist when the levy is served.

Example: If a bank account is levied, it only reaches money in the account when the levy is served. It does not affect money deposited later.

When other income is levied, the levy only reaches money the taxpayer has a fixed and determinable right to.

Example: A levy is served to take an author's royalties. The author has a fixed and determinable right to royalties for books that have already been published. The levy reaches royalties for sales of those books in the future. The levy does not reach royalties for books that are written and published later. A new levy must be served to take those royalties.

Exempt Amount

Part of the taxpayer's wages, salary, and other income is exempt from levy.

The weekly exempt amount is:

The total of the taxpayer's standard deduction and the amount deductible for exemptions on an income tax return for the year the levy is served.

Then, this total is divided by 52.

Income that is not paid weekly is prorated, so the same amount is exempt.

In addition, the amount the taxpayer needs to pay court ordered child support is exempt. However, the order must be before the date of the levy. If court ordered child support is applicable, the same child cannot be claimed as an exemption for figuring the exemptions amount.

Claiming the Exempt Amount

The Notice of Levy on Wages, Salary, and Other Income includes a Statement of Exemptions and Filing Status. The employer gives this to the taxpayer to complete and return within three days. If it is not received by then, the amount is figured as if the taxpayer is married filing separate with one exemption. The taxpayer can give the statement to the employer later to change the exempt amount.

Note: The employer needs to use this Statement rather than the employee's W-4, Employee's Withholding Certificate. Taxpayers may claim different exemptions for withholding from those claimed on their return.

Publication 1494, Table for Figuring Amount Exempt From Levy on Wages,

Salary, and Other Income, is sent with the levy to help figure the exempt amount. The taxpayer can give a new Publication 1494 to the employer later to have the exempt amount recomputed. Example A: The taxpayer's filing status or personal exemptions may change. Example B: There may be a change in exempt rates in a new year.

The statement is completed under penalty of perjury. Generally, the information on the statement is accepted by the IRS unless there is reason to question it. If it is disallowed, IRS will notify the employer and the taxpayer in writing. The taxpayer can provide evidence that the statement is right and request managerial review.

Taxpayer's Payroll Deductions

A levy legally attaches the taxpayer's gross income minus the exempt amount; however, a levy only attaches the taxpayer's usual take home pay.

Exception: Voluntary deductions can be disallowed if they are so large they defeat the levy.

Generally, the taxpayer is allowed to maintain deductions they already have when the levy is served. The IRS will notify the employer and the taxpayer of deductions that must stop while the levy is in effect. The taxpayer can request managerial review. Example: The taxpayer has a deduction used to buy shares in a mutual fund. The IRS may notify the employer to stop this deduction while the levy is in effect.

Generally, employers should not allow new voluntary deductions after receiving the levy. Exceptions can be allowed on a case by case basis, with IRS approval. Example: The taxpayer cannot join the company insurance plan until on the job for six months. The levy is served before then. The amount of the premium is not unreasonable. The IRS may allow this new voluntary deduction.

The method that the taxpayer is paid is not relevant to take home pay. Direct deposit is not a payroll deduction.

New ITG Specialist for Alaska

Diane Nesvick:

- was born in Anchorage
- has lived in Alaska for most of her life
- started with the IRS in 1977
- has held a variety of positions, including 15 years as a Tax Auditor
- has traveled to many places in Alaska
- works out of Anchorage office

-is really looking forward to meeting and working with all of our Alaska customers

New ITG Specialist for Washington

James McCabe

-from the Pacific Northwest

-started with the IRS in 1987

-has held positions of Examiner and computer support

-works out of Vancouver, WA

W-2 News — a Free Electronic Newsletter

If you submit Forms W-2, Wage and Tax Statement, to Social Security for your business, you can sign up to receive the W-2 News. The free newsletter is only issued when important wage reporting information becomes available, such as when:

Changes occur in W-2 reporting requirements;

Changes occur in Paper and Electronic Filing instructions;

The new Magnetic Media Reporting and Electronic Filing (MMREF) and AccuWage become available; or

The Business Services Online Web site opens for business.

In 2007, Social Security will no longer print and mail paper copies of the MMREF to employers. Registering for W-2 News will alert you as to when the publication is available online.

To sign up, just go to: <http://www.socialsecurity.gov/employer/w2news>, provide your email address and select Submit.

Self-Assess Your Federal Tax Compliance Risks

Tribal entities can now self-assess their federal tax compliance and work with ITG to address any problems they uncover. Entities electing to participate receive a fillable template from ITG and are provided with the name of a local ITG Specialist who will serve as their resource during the process.

Information on the program, as well as an on-line request form, is available through the "Enhancing Federal Tax Compliance" link on the right-hand of the ITG web site landing page at www.irs.gov/tribes. You can also make an inquiry about the program via e-mail to tege.itg.tefac@irs.gov.

Federal Tax Calendar for Third Quarter 2006

July 2006

Monday, July 3rd - Pull Tabs Annual Form 11-C due for tribe and all agents
Thursday, July 6th - Make a deposit for 6/28-6/30*
Friday, July 7th - Make a deposit for 7/1-7/4*
Monday, July 10th - Employees report June tip income to employers if \$20 or more
Wednesday, July 12th - Make a deposit for 7/5-7/7*
Friday, July 14th - Make a deposit for 7/8-7/11*
Monday, July 17th - Make a deposit for June if under the monthly deposit rule**
Wednesday, July 19th - Make a deposit for 7/12-7/14*
Friday, July 21st - Make a deposit for 7/15-7/18*
Wednesday, July 26th - Make a deposit for 7/19-7/21*
Friday, July 28th - Make a deposit for 7/22-7/25*

August 2006

Wednesday, August 2nd - Make a deposit for 7/26-7/28*
Friday, August 4th - Make a deposit for 7/29-8/1*
Wednesday, August 9th - Make a deposit for 8/2-8/4*
Thursday, August 10th - Employees report July tip income to employers if \$20 or more
Friday, August 11th - Make a deposit for 8/5-8/8*
Tuesday, August 15th - Make a deposit for July if under the monthly deposit rule**
Wednesday, August 16th - Make a deposit for 8/9-8/11*
Friday, August 18th - Make a deposit for 8/12-8/15*
Wednesday, August 23rd - Make a deposit for 8/16-8/18*
Friday, August 25th - Make a deposit for 8/19-8/22*
Wednesday, August 30th - Make a deposit for 8/23-8/25*

September 2006

Friday, September 1st - Make a deposit for 8/26-8/29*
Thursday, September 7th - Make a deposit for 8/30-9/1*
Friday, September 8th - Make a deposit for 9/2-9/5*
Monday, September 11th - Employees report August tip income to employers if \$20 or more
Wednesday, September 13th - Make a deposit for 9/6-9/8*
Friday, September 15th - Make a deposit for 9/9-9/12*
Make a deposit for August if under the monthly deposit rule**
Wednesday, September 20th - Make a deposit for 9/13-9/15*

Friday, September 22nd – Make a deposit for 9/16-9/19*
Wednesday, September 27th – Make a deposit for 9/20-9/22*
Friday, September 29th – Make a deposit for 9/23-9/26*

*= Make a Payroll Deposit if you are under the semiweekly deposit rule.

**= Make a Payroll 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

July 3rd

- File Form 11-C (Occupational Tax) to register and pay the annual tax if you are in the business of taking wagers.

July 31st

- File Form 941 for the 2nd quarter of 2006. If all deposits paid on time and in full, file by August 10th.

- File Form 730 (Monthly Tax Return for Wagers) and pay the tax on applicable wagers accepted during June.

August 31st

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

October 2nd

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

Remember, if your tribe sells pull tabs, you must file Forms 11-C for the tribe and any agent(s) who sells pull tabs for the tribe by July 3rd.

Form 730 must also be filed each month.

ITG Area Contacts

Alaska, Idaho, Oregon, Washington

SPECIALISTS

Mary Jo Audette

Anchorage, AK

907 271-6874

MaryJo.Audette@irs.gov

Carol Czolowski

Ogden, UT

801 620-5048

Carol.A.Czolowski@irs.gov

Michael Fehrenbacher
Vancouver, WA
360 696-7643 x 227
Michael.Fehrenbacher@irs.gov

Melodie Gren
Spokane, WA
509 353-0824
Melodie.F.Gren@irs.gov

John Mandeville
Spokane, WA
509 353-0816
John.M.Mandeville@irs.gov

Judy Pearson
Anchorage, AK
907 271-6949
Judy.M.Pearson@irs.gov

Connie Perkins
Salem, OR
503 399-5623 x 251
Connie.K.Perkins@irs.gov

Joe W. Kincaid, Manager
Portland, OR
503 326-2381
Joe.Kincaid@irs.gov

Diane Nesvick
Anchorage, AK
907 271-6917
Diane.M.Nesvick@irs.gov

James McCabe
Vancouver, WA
360 696-7643 x 228
James.McCabe@irs.gov

Toll-free Pager Number

In response to your feedback, we want to make it easier for you to contact us. You can contact Judy Pearson, one of our Indian Tribal Governments Specialists in Alaska, by calling her toll-free pager at 1-888-733-6502 and leaving a callback telephone number. Judy will return your call as soon as possible.

Telephone, Internet, & Mailing Address

Call: Customer Account Services toll free 877-829-5500
Visit: Indian Tribal Governments Web site at www.irs.gov/tribes
Write: Internal Revenue Service
Indian Tribal Governments SE:T:GE:ITG
1111 Constitution Ave., NW
Washington, DC 20224
