

ITG News



Keeping First Nations Informed

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Southwest Edition

Message from the Director

All of us are faced with increasing burden in our jobs and in our lives. Just when we are certain we cannot absorb any more complexities in our work responsibilities, a new rule is issued, an existing procedure is complicated, or a new law changes the paradigm under which we have operated.

In response to this problem, the IRS created the office of Taxpayer Burden Reduction. This function seeks methods to streamline procedures in order to assist taxpayers in meeting their federal tax obligations by finding methods to reduce the time required to comply, decrease the number of forms or line items to be completed, or simplify letters and instructions. The creation of Form 944, the Employer's ANNUAL Federal Tax Return, resulted from work performed by the office of Taxpayer Burden Reduction. Although the number of tribal entities eligible to file this annual form is very small, the number of entities that benefit on a national basis is significant.

The office of Taxpayer Burden Reduction recently announced the overhaul of the process for correcting errors on Employment Tax returns, a problem commonly faced by tribal entities. The new process, which is scheduled to be effective on January 1, 2009 is outlined on pages 2 and 3 of this newsletter. However, as with all new procedures, I encourage tribes to contact their designated ITG Specialist if they encounter a need to avail themselves of the new correction procedures, or if they have any questions about the process.

Speaking of change, three long-time ITG Specialists have opted to make a major change in their lives by electing to retire after many years of devoted government service. My appreciation to Bill Barker from the Spokane office, Rick Ziton from the St. Paul office, and Emily Williamson from the San Diego office. As with all departures, we have reassigned the primary ITG contacts for tribes who dealt with these three individuals. An updated listing is always available on our web site under the "Contacting ITG" link on the left side of the landing page at www.irs.gov/tribes.

Christie Jacobs



*....Form 941X
will reduce
burden....*

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Form 941X to Debut

The IRS Office of Taxpayer Burden Reduction (TBR) initiated the Adjusted Employment Tax Returns (Forms 94X) Project to reduce burden associated with correcting information previously reported on various types of employment tax returns. Currently, employers and payers use one form – Form 941c, Supporting Statement to Correct Information – to correct the amounts they previously reported on Forms 941, 943, 944, and 945. Form 941c is not a stand-alone tax return. Presently, filers must attach Form 941c to their current employment tax return when making adjustments, or to Form 843 when claiming a refund of overpaid employment taxes.

Form 941c is complex and does not correspond directly to any employment tax return. Consequently, taxpayers often make mistakes completing and filing it, resulting in processing errors and delays. Additionally, because the taxpayer files Form 941c with the current employment tax return when making an adjustment, the IRS adjusts the tax for the current tax period but adjusts the wages for the calendar year being corrected. This makes it difficult for employers and the IRS to track taxpayers' account activity.

Commencing on January 1, 2009, a new set of dual-purpose forms for adjustments and refunds will reduce burden for employers, payers and the IRS. The IRS, with stakeholder input, is making the new forms as user-friendly as possible and implementing more accurate procedures for adjustments and refunds of employment taxes.

- **Forms:** Each stand-alone form will correspond to, and relate line-by-line with, the employment tax return it is correcting. For example, an employer who discovers an underpayment or overpayment error on a previously filed Form 941 will use Form 941X to make a correction. Since the Form 941X is a stand-alone form, the employer will be able to file Form 941X when an error is discovered, rather than having to wait to file it at the end of the quarter with the next employment tax return.

The new forms being developed will correspond with Form 941, Employer's QUARTERLY Federal Tax Return; Form 943, Employer's Annual Federal Tax Return for Agricultural Employees; Form 944, Employer's ANNUAL Federal Tax Return; Form 945, Annual Return of Withheld Federal Income Tax and Form CT-1, Employer's Annual Railroad Retirement Tax Return. Spanish versions of the new forms are being developed for Forms 941-PR, 944-PR, and 944(SP).

The IRS will also revise Form 941 and other employment tax returns for the 2009 tax year to eliminate prior period adjustment lines no longer needed after the implementation of the new forms. **Note:** Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, is not being revised. Employers can continue to use Form 940 to file amended returns.

- **Process:** Under the proposed regulations, Form 941X will be used to make adjustments and claim refunds. If an employer is correcting an overpayment for a Form 941, the employer will be able to either make an adjustment or claim a refund. If an adjustment is made the amount of the overpayment will be applied as a credit to the quarter in which the Form 941X is filed. Employers correcting underpayments of employment taxes that result in a balance due, can pay using EFTPS, credit card, or send a check along with Form 941X. The IRS will make both the tax and wage corrections to the actual tax period being corrected, resulting in a more accurate record.

As these new procedures are enacted, and/or you encounter the need to utilize them, we strongly encourage you to contact your designated ITG Specialist with any questions you may have.



FREQUENTLY ASKED QUESTIONS

Q. When I send in a Form 94X, do I need to attach it to anything, such as a copy of the form I filed originally?

A. No, the new forms are stand-alone forms. You should not attach them to anything.

Q. When should I file a Form 94X?

A. Complete and file the form as soon as you discover you need to adjust a previously filed employment tax return.

Q. Should I discontinue using Form 941c, *Supporting Statement to Correct Information, to make corrections?*

A. Yes, for errors discovered after Dec. 31, 2008, use the new form that corresponds to the employment tax return you are correcting.

Q. When are the new forms in the 94X series available?

A. The new forms are available starting January 2009.

Q. How will I know whether to make an adjustment or claim a refund?

A. If you have an overpayment of tax, you have two choices. Either request an adjustment and have the amount credited to the tax period in which the adjustment form is filed, or claim a refund of the amount you overpaid.

Q. What if I need to correct a previously filed Form 941 but I now file Form 944?

A. Use the adjustment form that corresponds to the return you are correcting—in this case, Form 941X because you filed a Form 941 in 2008. If you have an overpayment and request an adjustment, any credit will be applied to the tax period in which you filed the

Form 941X. For example, if you file Form 941X in 2009 and your filing requirement in 2009 is Form 944, the credit will be applied to your 2009 Form 944 account.

Q. What if my correction to the original return results in additional tax?

A. If you owe additional tax as a result of a correction, you should pay with the Form 94X. You can pay via EFTPS or check. Credit card payments will also be accepted for Forms 941X, 943X and 945X.

Q. Where can I get the new forms?

A. You can download the forms starting in January 2009 from www.irs.gov or call 800-829-3676 to request copies by mail.

Q. How can I reach the IRS if I have questions?

A. Answers to most questions are in the forms' instructions and on IRS.gov. Visit www.irs.gov/smallbiz for small business tax information, or call the Business and Specialty help line at 800-829-4933 to speak with an IRS representative.

The Adjusted Employment Tax Forms Project is an IRS initiative led by the Office of Taxpayer Burden Reduction.

For more information, visit www.irs.gov, Search TBR.

WWW.IRS.GOV



INTERNAL REVENUE SERVICE

Office of Taxpayer
Burden Reduction

EMPLOYMENT TAX
ADJUSTMENT

OR

CLAIM FOR REFUND
(FORMS 94X)



Internal
Revenue
Service

OFFICE OF TAXPAYER BURDEN REDUCTION

MAKING CORRECTIONS TO EMPLOYMENT TAX RETURNS 2009 AND BEYOND

NEW! Employment tax returns now have corresponding forms for making corrections

Beginning Jan. 1, 2009, when you need to correct a previously filed employment tax return, use its corresponding form to make the change. The new 94X series of forms makes changes easy and accurate for employers and payers.

THE NEW 94X SERIES	
Correct the return you previously filed...	...using its corresponding 94X series form
Form 941, Employer's QUARTERLY Federal Tax Return	Form 941X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund
Form 943, Employer's Annual Federal Tax Return for Agricultural Employees	Form 943X, Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund
Form 944, Employer's ANNUAL Federal Tax Return	Form 944X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund
Form 945, Annual Return of Withheld Federal Income Tax	Form 945X, Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund
Form CT-1, Employer's Annual Railroad Retirement Tax Return	Form CT-1X, Adjusted Employer's Annual Railroad Retirement Tax Return or Claim for Refund

A simpler process reduces taxpayer burden

- **Timelier filing:** Employers and payers will file the appropriate form when they discover an error instead of waiting to file it with the next employment tax return. The new forms and process apply to errors discovered after Dec. 31, 2008.
- **Easier completion:** The new forms replace Form 941c, *Supporting Statement to Correct Information*, and each relates line by line to the employment tax return being corrected.
- **More accurate tax accounts:** The IRS will make both the wage and tax corrections to the tax period in which the error occurred.
- **One form with a dual purpose:** The new 94X series is for making adjustments or claiming refunds. Employers will no longer use Form 843, *Claim for Refund and Request for Abatement*, to claim a refund for overpaid employment taxes.



Update on Customer Satisfaction Survey

Our appreciation to all those who participated in our annual Customer Satisfaction Survey. We had a record number of responses, which helps increase the validity of the data provided.

We are still in the process of tabulating the information, and will be issuing a report during the current quarter, which will be posted to our web site at www.irs.gov/tribes. In addition, we will convene a task force of ITG employees to review the feedback and determine what changes we can make to better meet the needs of our tribal customers. We will also share that information on our web site when it is available.

Consultation Listening Meetings for FY 2009

October marks the start of the new fiscal year for the federal government. Each fiscal year, ITG holds up to four Consultation Listening meeting across the country, and invites tribal leaders and representatives to dialogue with us on key federal tax issues of concern.

During the upcoming year we plan to hold meetings in December in Anchorage, in early February in Washington D.C. (in conjunction with the United South and Eastern Tribes), in the spring in Albuquerque, and in the summer in Tulsa. As we get closer to the date of each meeting, we will post a notice as the headline on our Internet landing page, issue an invitation letter to tribal leaders in the area of the meeting, and issue a Special Edition of ITG News in that area.

The Anchorage meeting will be held on December 4th at the Westmark Hotel. We hope that many individuals attending the BIA Providers Conference that week will be able to find time to attend.

All of the meetings are open to anyone, and we encourage attendance by all interested parties. Meetings held over the past three years have led to meaningful changes in IRS procedures, and also have allowed us to forward tribal concerns to other IRS functions and other federal agencies.

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, or you can make an inquiry about the program via e-mail to tege.itg.tefac@irs.gov

Want to Avoid Penalties?

Are you incurring penalties? Do you want to eliminate penalties in the future? ITG has a "Helpful Hints to Avoid Penalties" job aid that can assist you. It's available by ordering our "Tax Tools for Tribes" CD-Rom via e-mail at ITG.TaxTools@irs.gov.



FinCEN Issues Guidance on Recognizing Suspicious Activity

On August 1, 2008, the Financial Crimes Enforcement Network (FinCEN) issued guidance via FIN-2008-G007. This guidance is intended to assist casinos and card clubs with the reporting of suspected money laundering, terrorist financing and related financial crimes. This guidance contains examples of circumstances or "red flags" - based on actual reports, the observations of examiners and the experience of law enforcement - that may indicate the presence of money laundering, terrorist financing, and related financial crimes.

The four page document can be accessed on-line at www.fincen.gov . You can also obtain a copy by contacting your designated ITG Specialist.

Questions or comments regarding the contents of the guidance should be addressed to the FinCEN Regulatory Helpline at 800-949-2732.

Want Additional Training for Employment Taxes?

The Southwest Office of ITG has arranged two workshops for training on employment taxes. The classes are Free and will be conducted at the IRS office located at 5338 Montgomery NE, Albuquerque, NM 87109. The classes will be held on the following dates:

Workshop #1

December 9-10

Workshop #2

December 11-12

So, how do you get a seat in the FREE workshop? You e-mail, call, or FAX Lonneta Graham or Jim Crook via the following:

EMAIL: Lonneta.L.Graham@IRS.GOV or Jimmy.C.Crook@IRS.GOV

CALL: Lonneta at (505) 837-5536 or Jim at (505) 837-5613

FAX: Lonneta or Jim at (505) 837-5654

If you are unable to attend either of these workshops and would like to arrange a local employment tax workshop or other training in your area, then please contact your assigned ITG Specialist. The ITG Specialists are available to provide a variety of types of training or just provide the training materials to assist the tribal entities in conducting their own training.

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



Accounting For Personal Use of Tribal Vehicles

Tribal governments routinely provide tribal vehicles to employees or elected officials of the tribal government. In some cases, the tribally-owned or leased vehicles are allowed to be driven home and/or used personally by the employee or elected official. This personal usage should be included in the Form W-2, Wage Statement.

The tribal governments are required to account for the personal use of the vehicles in the employee's Form W-2 as a taxable fringe benefit. Publication 15-B, Employers Tax Guide to Fringe Benefits, provides instructions on the allowable methodologies to account for the personal use of the tribal vehicles.

Unless the vehicles are parked at the tribal office in the evening and not used for commuting home; there will be personal use of the of tribal vehicle. The three Special Automobile valuation rules for accounting for personal use of tribal vehicles are:

Automobile Lease Valuation Rule
Vehicle Cents-Per-Mile Rule
Commuting Rule

General requirements for using these special valuations:

Employer and employee must timely report personal use as a wage.
Generally, the rules apply on a vehicle-by-vehicle basis.
Employer may use different rules for different vehicles.

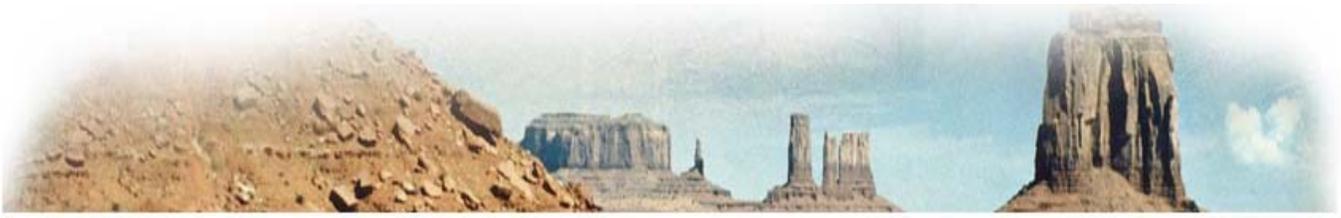
Normally for employees of the tribal government, personal use of the auto is included in the wages of the employee and is subject to income tax withholding, FICA and Medicare tax withholding. In many cases, the elected officials of the tribal government have personal use of the tribal vehicle.

In most cases, compensation and wages to elected officials are not subject to income tax withholding, FICA and Medicare taxes. The value of the tribal vehicle is still includable in the wages of the employee. The failure of the tribal government/employer to include the personal use of the vehicle in the wages of elected official or employee, does not eliminate the taxability of the personal use on the Form 1040, Individual Income Tax return of the elected official or employee of the tribal government.

Located on the ITG website at www.irs.gov/tribes, there are links to the Employment Tax desk guide, Publication 15-B and the Internal Revenue Bulletin (IRB) for the rules on computing the personal use of the vehicle. You may also contact your assigned ITG Specialist.

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 Suzanne Perry at (602) 207-8254.



Tax News For You! Individual Tribal Member Information

Per Capita Distributions Result in Personal Tax Liability—Why?

You are a hard working employee and you earn \$50,000.00 in wages. You receive a per capita distribution of \$8,000.00. It is your understanding that the tribal government is supposed to withhold income tax on the per capita distributions. However, at tax time when you file your Form 1040, Individual Income Tax Return, you owe money. Why?

The tables for withholding on per capita distributions assume the per capita distribution is based on the distribution being the only income received. A distribution in the amount of \$8,000.00 would not be subject to any income tax withholding. The 2008 tables for withholding do not begin withholding until the per capita distributions exceeds \$8,950 (\$5,450 Standard deduction for a single person + \$3,500 personal exemption). The withholding tables for 2008 can be found on Page 58 of Publication 15-A, Employer's Supplemental Tax Guide.

Per the example above, the tribal entity is not required to withhold income tax on the per capita distribution of \$8,000. Your tax liability totaled \$8,743 when you filed your 2007 Form 1040. Your employer withheld federal income tax in the amount of \$7,383 from your Form W-2. Your balance due on the Form 1040 is \$1,360 (\$8,743 - \$7,383).

How can you eliminate the balance due on your Form 1040? The following steps will eliminate your balance due:

- To determine the amount that you can expect to owe on the per capita distribution, you can complete the worksheet on the Form 1040-ES, Estimated Tax for Individuals. Completing this form will allow you to be able to make quarterly estimated tax payments based on the per capita distribution received. Or you can determine your marginal tax rate $\$8,743.00 / \$49,250$ (\$50,000 wages + \$8,000 per capita distributions—\$8,750 (2007 personal exemption and standard deduction)) 17.8%. In order to have sufficient tax to cover the estimated taxes on their capita distribution, the rate of 18% withheld ($\$8,000 \text{ per capita} * 18\% \text{ marginal tax rate} = \$1,440 \text{ tax liability}$).
- Another method to resolve the shortfall in the withholding for the per capita distribution, is to increase your withholding on the Form W-4, Employee's Withholding Allowance Certificate, from your regular wages from your employer.

If these steps are not available, you can contact your tribal entity for withholding on the per capita distributions. Don't get caught off-guard and be liable for penalties for under paying your tax liability or the estimated tax penalty. The choice is yours, do the math.



>>>> *Southwest Indian Tribal Government Specialists* <<<<

Due to recent personnel changes and realignment of tribal assignments, the current Southwest ITG Specialists are listed below with their assigned tribes and pueblos. If you have a question and your assigned Specialist is not available, please contact **Anita D. Gentry**, Southwest Group Manager, at (505) 837-5573 or e-mail her at Anita.D.Gentry@irs.gov.

Aaron Coleman

Aaron.H.Coleman@irs.gov
(602) 207-8751

Arizona: Fort McDowell Yavapai Nation, Havasupai Tribe, Hopi Tribe, Hualapai Tribe, Kaibab-Paiute Tribe, Navajo Nation-- Chinle Agency, Yavapai-Apache Nation, Yavapai-Prescott Indian Tribe

Utah: Paiute Indian Tribe of Utah & Ute Indian Tribe of Utah

Jimmy Crook

Jimmy.C.Crook@irs.gov
(505) 837-5613

New Mexico: Jemez Pueblo, Laguna Pueblo, Navajo Nation-- Eastern Agency, Santa Ana Pueblo, Santo Domingo Pueblo, Taos Pueblo, Tesuque Pueblo, Zia Pueblo

Colorado: Ute Mountain Tribe

Lonnette Graham

Lonnette.L.Graham@irs.gov
(505) 837-5536

New Mexico: Acoma Pueblo, Isleta Pueblo, Mescalero Apache, Navajo Nation-- Northern Agency, Pojoaque Pueblo, San Ildefonso Pueblo, Sandia Pueblo, Zuni Pueblo, San Juan Pueblo

Colorado: Southern Ute Tribe

Theresa Nosie

Theresa.S.Nosie@irs.gov
(480) 503-7318

Arizona: Navajo Nation--Western Agency, Salt River Pima-Maricopa Indian Community, Tonto Apache Tribe, White Mountain Apache Tribe

Utah: Skull Valley Band of Goshutes

Michelle Risk

Michelle.L.Risk@irs.gov
(520) 205-5022

Arizona: Ak-Chin Indian Community, Cocopah Indian Tribe, Colorado River Indian Tribes, Fort Mojave Indian Tribe, Fort Yuma-Quechan Indian Tribe, Gila River Indian Community, Navajo Nation-- Fort Defiance Agency, Pascua Yaqui Tribe, San Carlos Apache Tribe & Tohono O'odham Nation

Catherine St. Gregory

Catherine.M.StGregory@irs.gov
(505) 986-5260 ext. 243

New Mexico: Cochiti Pueblo, Jicarilla Apache Tribe, Nambe Pueblo, Picuris Pueblo, San Felipe Pueblo, Ohkay Ohwingey Pueblo, Santa Clara Pueblo

Texas: Ysleta Del Sur Pueblo

For a complete listing of ITG Specialists and their assigned tribes and pueblos, go to http://www.irs.gov/pub/irs-tege/itg_specialists.pdf

To add your name or e-mail address to our mailing list, please contact us via e-mail at Michelle.L.Risk@irs.gov, or call Michelle Risk at (520) 205-5022.



Federal Tax Calendar for Fourth Quarter 2008

October 2008

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 * make a deposit for 9/24-9/26	2	3 * make a deposit for 9/27-9/30	4
5	6	7	8 * make a deposit for 10/1-10/3	9	10 * make a deposit for 10/4-10/7 Employees report September tip income to employers if \$20 or more	11
12	13	14	15	16 * make a deposit for 10/8-10/10 ** make a deposit for September if under the monthly deposit rule	17 * make a deposit for 10/11-10/14	18
19	20	21	22 * make a deposit for 10/15-10/17	23	24 * make a deposit for 10/18-10/21	25
26	27	28	29 * make a deposit for	30	31 * make a deposit for	

File Form 730 for
wagers received during
September

File Form 941 the 3rd
calendar quarter of
2008

November 2008

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5 * make a deposit for 10/29-10/31	6	7 * make a deposit for 11/1-11/4	8
9	10 Employees report October tip income to employers if \$20 or more	11	12	13 * make a deposit for 11/5-11/7	14 * make a deposit for 11/8-11/11	15
16	17 ** make a deposit for October if under the monthly deposit rule	18	19 * make a deposit for 11/12-11/14	20	21 * make a deposit for 11/15-11/18	22
23	24	25	26 * make a deposit for	27	28	29
30						

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

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



December 2008

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 * make a deposit for 11/22-11/25	2	3 * make a deposit for 11/26-11/28	4	5 * make a deposit for 11/29-12/2	6
	8	9	10 * make a deposit for 12/3-12/5 Employees report November tip income to employers if \$20 or more	11	12 * make a deposit for 12/6-12/9	13
14	15 ** make a deposit for November if under the monthly deposit rule	16	17 * make a deposit for 12/10-12/12	18	19 * make a deposit for 12/13-12/16	20
21	22	23	24 * make a deposit for 12/17-12/19	25	26	27
28	29 * make a deposit for 12/20-12/23	30	31 * make a deposit for 12/24-12/26			

Form 730 for wagers
received during
October

File Form 730 for
wagers received
during November

- * = 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

October 31st

- File Form 941 for the 3rd quarter of 2008. If all deposits were paid on time and in full, file by November 10th.
- File Form 730 and pay the tax on applicable wagers accepted during September.

December 1st

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

December 31st

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