



## Message from the Director

We recently completed our fifth annual Customer Satisfaction Survey and are currently analyzing the feedback that we received from tribes. The results from the 2007 survey will be summarized in the January 2008 edition of ITG News. The annual survey has proven to be a valuable tool in assessing our operations and determining opportunities for improvement. Each year we have assembled a team to review the results and recommend new products and services.

We have just created a new product that we developed from the feedback in last year's survey - "Tax Tools for Tribes", a CD-Rom that can be ordered through our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes). This product contains current electronic versions of:

- Publication 4268 (Employment Tax Guide for Tribes)
- Publication 3908 (Gaming and Bank Secrecy Act Law for Tribes)
- Publication 15 (Employer's Tax Guide)
- Publication 15-A (Employer's Supplemental Tax Guide)
- ITG News issuance for your area for the last 8 quarters
- An Excel file for calculating withholding on per capita gaming distributions
- A "primer" for federal tax issues affecting individual Native Americans
- A guide on "Helpful Hints to Avoid Penalties"

Many tribes had expressed frustration in trying to easily obtain copies of these items. The size of the files made them difficult to download from our web site, and some tribes have very limited Internet access as well. Since most tribes indicated they have ready access to CD-Rom drives, we created the "Tax Tools for Tribes" as a composite of the documents most relevant to tribal tax officials.

We are pleased to be able to offer this product to you. Tribes can order as many copies as they wish for use by tribal finance and payroll staff, or within casino operations.

As we develop additional products, we will add them to the CD-Rom. In the interim, I welcome your feedback and suggestions on new or existing products you would like added.

*Christie Jacobs*



*...the survey is a  
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## New Annual Electronic Filing Requirement for Small Tax-Exempt Organizations e-Postcard (Form 990-N)

Beginning in 2008, small tax-exempt organizations that previously were not required to file returns may be required to file an annual electronic notice, Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ*. This filing requirement applies to tax periods beginning after December 31, 2006. Organizations that do not file the notice will lose their tax-exempt status.

Small tax-exempt organizations, whose gross receipts are normally \$25,000 or less, are not required to file Form 990, *Return of Organization Exempt From Income Tax*, or Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*. With the enactment of the Pension Protection Act of 2006 (PPA), these small tax-exempt organizations will now be required to file electronically Form 990-N, also known as the e-Postcard, with the IRS annually. Exceptions to this requirement include organizations that are included in a group return, private foundations required to file Form 990-PF, and section 509(a)(3) supporting organizations required to file Form 990 or Form 990-EZ. In addition, this filing requirement does not apply to churches, their integrated auxiliaries, and conventions or associations of churches.

The IRS started mailing educational letters in July 2007 notifying small tax-exempt organizations that they may be required to file the e-Postcard. The IRS is developing an electronic filing system (there will be no paper form) for the e-Postcard and will publicize filing procedures when the system is completed and ready for use.

The PPA requires the IRS to revoke the tax-exempt status of any organization that fails to meet its annual filing requirement for three consecutive years. Therefore, organizations that do not file the e-Postcard (Form 990-N), or an information return Form 990 or 990-EZ for three consecutive years, will have their tax-exempt status revoked as of the filing due date of the third year.

If you would like additional information about this new filing requirement, including notification when the filing system is ready, or information about other new developments, you can subscribe to Exempt Organization's EO Update, a regular e-mail newsletter that highlights new information, through a link posted on the Charities pages of [www.irs.gov](http://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 Suzanne Perry at (602) 207-8254.



## Transition Relief Period Extended on Pension Changes

Section 414(d) of the Code provides that a "governmental plan" includes a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Certain plans of Indian tribal governments (ITG) are also governmental plans under § 414(d). Specifically, section 906(a)(1) of the Pension Protection Act of 2006 (PPA '06) amended § 414(d) with respect to ITG plans to provide that the term 'governmental plan' includes a plan which is established and maintained by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).

The provisions of section 906 of PPA '06 apply to plan years beginning on or after August 17, 2006 (PPA's date of enactment). For example, an ITG plan with an October 1 to September 30 plan year is a governmental plan under § 414(d) as amended by PPA '06 only if it satisfies this definition in operation beginning on October 1, 2006. Notice 2006-89 provides that the Service and Treasury anticipate issuing guidance on §414(d) as amended and that, until such guidance is issued, an ITG plan will be treated as satisfying the requirements to be a governmental plan under § 414(d) if it complies with those requirements based on a reasonable and good faith interpretation of the amendment made by section 906(a)(1) of PPA '06. Section III.B. of the notice provides certain approaches that, if taken by September 30, 2007, permit separate plans to be established for commercial ITG employees and for other ITG employees who perform essential governmental functions (governmental ITG employees) under the reasonable and good faith compliance standard. Section III.E. indicated that the relief provided in Section III applied pending the issuance of further guidance relating to § 414(d), including the amendment made by section 906(a)(1) of PPA '06. The notice also invited comments from the public on whether additional transition issues need to be addressed.

Since the issuance of Notice 2006-89, the Service and Treasury have continued to consult with Indian tribal government representatives. Based on those consultations and the comments received in response to Notice 2006-89, and until future guidance is issued, the transition relief provided under Notice 2006-89 has been revised so that the date "September 30, 2007" in Section III.B. of Notice 2006-89 was replaced with "the date that is six months after guidance is issued under § 414(d) of the Code, as amended by section 906 of the Pension Protection Act of 2006, on the determination of whether a retirement plan maintained by an ITG is a governmental plan with the meaning of §414 (d)."

This extension is conditioned on the plans involved not being amended, for periods before the extended date, to reduce benefits unless the reduction: (i) does not vary based upon whether the participant is a governmental ITG employee or a commercial ITG employee, or (ii) is made to the plan for commercial ITG employees and is the minimum reduction necessary to satisfy the requirements of the Code. If a reduction occurs that does not meet either of these conditions, the extension provided under this notice ends on the date the reduction goes into effect.

We will continue to post updates on this important issue on the "Recent Developments" page of our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes).



## Protecting Tribes and Tribal Members from Schemes

The Internal Revenue Service continues to aggressively pursue individuals who offer “tax planning” services that promote activities which violate federal tax law. Where necessary, we will work in concert with the United States Department of Justice to secure court injunctions that require the promoter to cease activity. An example of one such injunction that involved a scheme being marketed to tribes and tribal members, was one issued by the United States District Court in Los Angeles in December 2006 against an entity known as Benecorp, and its two principals, Stephen Drake and Kenneth Sorenson.

In order to secure an injunction, the government must establish that the scheme being promoted:

- is contrary to federal tax law,
- enriches the promoter, and
- harms the U.S. Treasury

Unfortunately these requirements often mean that we must allow the scheme to operate for a time in order to establish that federal tax revenues have not been legally paid as a result of the scheme. Thus, a tribe or tribal member(s) can suffer harm through the loss of funds to the scheme and/or subsequent federal tax liabilities that may be assessed through an examination done by the IRS.

There are several ways that tribes and tribal members can protect themselves:

- Contact the IRS if you are approached by someone offering a “plan” to save on your taxes when the plan appears “too good to be true”. You can contact the ITG Abuse Detection and Prevention Team at (716) 686-4860, or via e-mail at [tege.itg.schemes@irs.gov](mailto:tege.itg.schemes@irs.gov).
- Beware of any promoter who has been the subject of prior injunctive action for similar tax schemes.
- Talk with legal counsel and ensure that the plan being promoted is in conformance with federal tax law, and has acceptable risk to you.

The office of Indian Tribal Governments wants to work with you to ensure that the assets of tribes and tribal members are not subjected to needless risk by promoters of schemes whose principal motivation may be their personal enrichment. If you are approached by such individuals, please feel free to contact us, or at a minimum, proceed very cautiously. Clever marketing can trap even those who are normally very careful. Don’t get caught up in something that seems too good to be true - it usually is.

## 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](mailto:tege.itg.schemes@irs.gov)



## **Poker Tournament Guidance Issued**

Beginning March 4, 2008, the IRS will require casinos and other sponsors of poker tournaments to report winnings in excess of \$5,000, both to the winners and to the IRS. Details are in Revenue Procedure 2007-57. Of course, all tournament winners must report their winnings on their federal income tax returns regardless of the amount and regardless of whether the winner receives a Form W-2G or any other reporting form. This is true for 2007 and earlier years, and will continue to be the law after the Revenue Procedure goes into effect.

Some casinos and players, however, have been confused over whether poker tournament sponsors who hold the money for participants in a poker tournament are required to report the winnings to the IRS and withhold tax on the winnings. For tournaments completed during 2007 and before March 4, 2008, the IRS will not require casinos and other sponsors of poker tournaments to report the winnings to the IRS or withhold tax on the winnings. Beginning March 4, 2008, the IRS will require all tournament sponsors to report tournament winnings of more than \$5,000, usually on an IRS Form W-2G.

Tournament sponsors who comply with this reporting requirement will not need to withhold federal income tax at the end of a tournament. If any tournament sponsor does not report the tournament winnings, the IRS will enforce the reporting requirement by also requiring the sponsor to pay any tax that should have been withheld from the winner. The withholding amount is normally 25 percent of any amounts that should have been reported. So that tournament sponsors can comply with this requirement, tournament winners must provide their taxpayer identification number, usually a social security number, to the tournament sponsor. If a winner fails to provide their identification number, the tournament sponsor must withhold federal income tax at the rate of 28 percent.

If you have further questions, you may contact your ITG Specialist.

## **An Ounce of Prevention**

During the past seven years, Indian Tribal Government (ITG) Specialists have spent considerable time educating, providing outreach and customer service to the Tribal Governments about their federal tax matters.

The Specialists have enjoyed working with the Tribal employees over this period of time. These efforts have included informing the Tribes about the Employer's responsibilities in regards to:

Payroll tax returns, Information returns, Gaming Excise Taxes returns, Fuel and Communication Excise Taxes, and Bank Security Activity.

These are just a few of the responsibilities of a Tribe's accounting department. These issues tend to be complex with each one of them, containing very specific deposit and filing requirements. In addition, there are penalties that are associated with filing late, under reporting and/or under paying and so on. These penalties can become substantial in their dollar amount.

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## **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](http://www.irs.gov/tribes), or you can make an inquiry about the program via e-mail to [tege.itg.tefac@irs.gov](mailto:tege.itg.tefac@irs.gov)



Many accounting department staffs do not remain constant over a period of years. Because of this fluctuation in accounting and bookkeeping personnel, it is imperative that each accounting and bookkeeping department have a written set of policies and procedures in place. When a new employee is hired, that employee should know right away when the due date of the next tax deposit is, what method of payment is used for federal tax deposits and how the deposits are accomplished.

Penalties associated with missing tax deposit deadlines or the filing and issuing of information returns can amount to considerable money that can always be better spent addressing the needs of the Tribe. It is imperative to have policies and procedures in place so that replacement personnel can meet the various deposit and filing deadlines without incurring penalties for failure to do so.

In addition to having a set of policies and procedures in place, it would also be helpful to obtain a publication 3959 EFTPS CD that explains the Electronic Tax Payment System (EFTPS). By having current publications of 15, 15A & 15B, current and future employees will have employment tax information, tables for withholding on distributions of Indian Gaming Profits to Tribal members and a guide on the taxability of fringe benefits readily available. So remember "An Ounce of Prevention" – **Thank You.**

## **Bank Secrecy Act and the Jackpot Exemption**

The Financial Crimes Enforcement Network (FinCEN) recently announced a final rule that exempts casinos from the requirement to file Currency Transaction Reports (CTRs) on jackpots from slot machines and video terminals. The final rule also exempts reportable transactions in currency, under certain conditions, involving certain money plays and bills inserted into electronic gaming devices. This final regulation, which amends the Bank Secrecy Act regulations, does not change the regulation requiring casinos to report all other transactions in currency that are greater than \$10,000.

A majority of the CTRs filed by casinos are the result of jackpots from slot machines and video lottery terminals. Absent from fraud or abuse of the slot machine or video terminal, a customer who wins more than \$10,000 in jackpots will have won those funds solely because of the workings of the random number generator in the slot machine or in a central computer that is networked with the video lottery terminal.

FinCEN has concluded that these jackpots are not likely to form part of a scheme to launder funds through the casino. Part of their reasoning also included the fact that casinos have to file with the Internal Revenue Service a Form W-2G on jackpots of \$1,200 or more. With both a CTR and a Form W-2G being filed on the same transaction there is a redundancy of information.

A question that has come up is whether or not jackpots that are less than \$1,200 are also exempt? In this case a Form W-2G is not required to be filed since the amount is less than \$1,200. These jackpots are **not exempt** and they should be tracked and aggregated during the gaming day as a cash out transaction.

Thus, the final rule amends 103.22(b)(2)(iii)(E) by removing the reference to "slot jackpots" from the examples of cash out transactions, and adding paragraph 103.22(b)(2)(iii)(D), which exempts jackpots from slot machines and video lottery terminals as reportable cash out transactions. This final rule became effective when it was published in the Federal Register on June 26, 2007. The complete text of this final rule can be viewed or downloaded from the FinCEN website at [http://www.fincen.gov/reg\\_bsaregulations.htm](http://www.fincen.gov/reg_bsaregulations.htm) . If you have any questions relating to this change, please contact your designated ITG Specialist.



# Federal Tax Calendar for Fourth Quarter 2007

## October 2007

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

## November 2007

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

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

7 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 2007

December 2007						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5 * Make a deposit for 11/28-11/30	6	7 * Make a deposit for 12/1-12/4	8
9	10 Employees report November tip income to employers if \$20 or more	11	12 * Make a deposit for 12/5-12/7	13	14 * Make a deposit for 12/8-12/11	15
16	17 ** Make a deposit for November if under the monthly deposit rule	18	19 * Make a deposit for 12/12-12/14	20	21 * Make a deposit for 12/15-12/18	22
23	24	25	26	27 * Make a deposit for 12/19-12/21	28 * Make a deposit for 12/22-12/25	29
30	31					

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

### Return Filing Dates

**October 1st**  
 > File Form 730 and pay the tax on applicable wagers accepted during August.

**October 31st**  
 > File Form 941 for the 3rd quarter of 2006. If all deposits paid on time and in full, file by November 13th.  
 > File Form 730 and pay the tax on applicable wagers accepted during September.

**November 30th**  
 > File Form 730 and pay the tax on applicable wagers accepted during October.

**Decemebr 31st**  
 > File Form 730 and pay the tax on applicable wagers accepted during November.