



ITG News

Keeping First Nations Informed



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Message From The Director



October marks the start of FY 2006 for the federal government and with it another annual Work Plan for the office of Indian Tribal Governments. As in past years, our Work Plan outlines the areas where we will place an emphasis for the upcoming 12 month period and is based on an analysis of customer input, employee input, and data.

Several areas of focus will continue from this past year. This includes issues such as tip reporting by employees of tribal enterprises and employment tax examinations. In addition to these issues, we will be placing an increased emphasis on two other significant areas:

- *Bank Secrecy Act* - the federal government continues to focus on combating money laundering. Due to the potential use of tribal enterprises (particularly tribal casinos) as vehicles for money laundering, we will seek to work closely with tribes to ensure that they have effective BSA Compliance Plans.
- *Information Reporting* - as tribal economies continue to grow, we will focus resources on ensuring that tribes are in compliance with both information reporting and withholding requirements on payments to vendors and individuals.

FY 2006 will also mark the rollout of an initiative to allow tribal entities to perform their own Compliance Checks. Detailed information on that program is available on page 2 of this newsletter.

As always, a copy of the ITG Annual Work Plan will be posted on our web site at www.irs.gov/tribes and I welcome any questions or feedback you may have on our operations by contacting me at (202) 283-9800, or via e-mail at christie.jacobs@irs.gov.

Christie Jacobs

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ITG to Implement Self-Compliance Check Program

One of the cornerstones of our interactions with tribal entities has been “Compliance Checks”. While participation in Compliance Checks is voluntary on the part of tribal entities, many of them have found it to be a useful tool in determining potential weaknesses in their federal tax administration responsibilities. These have often led to additional activities such as educational seminars by ITG for tribal staff, assistance by ITG in filing returns, and adjustments to tax accounts. During the past 3 years, ITG has performed over 700 Compliance Checks, which in turn have led to nearly 800 actions to assist tribes in improving tax compliance.

We are pleased to announce that we will be implementing an initiative to permit certain tribal entities to perform their own Compliance Checks if they so choose. Tribal entities must be current in the filing of all required federal tax returns and must have fully paid all federal tax liabilities in order to qualify. They will be able to apply to perform a “Self-Compliance Check”, by submitting a request through a special link on the landing page of the ITG web site, or by notifying ITG in response to a contact we might initiate.

A special template with fill-in-the blank responses has been created and is currently being tested by three tribes that volunteered to assist with this process. We also are creating a special web page with linkages to reference material that will assist tribes in both understanding the process, as well as in completing their own Compliance Check.

As part of this process, tribal entities performing their own Compliance Check will have the opportunity to effect any corrective actions. An ITG Specialist will assist in that process, and will mitigate any penalties wherever possible. For example, if a tribal entity discovered during a self-Compliance Check that they had not filed required Forms 1099, the entity could make a self correction without risk of penalty.

We worked with several tribes during the development of this initiative, and we believe that there are several advantages that a tribe might realize through this process. Among them are:

- *Existing tribal finance staff might gain added insights into key federal tax administration issues that impact their positions and the tribal entity.*
- *A new tribal finance officer could utilize a self-Compliance Check to establish a baseline of current federal tax compliance. It would improve their knowledge of the tax issues within the specific entity, and allow them to remedy any problems that might pre-date their assumption of tax responsibilities.*
- *A tribal entity might identify a potential area of noncompliance that they wish to surface to ITG and remedy with minimal risk or cost.*

We will be posting information to our main landing page at www.irs.gov/tribes as soon as this initiative is ready to launch nationwide and a Special Edition of ITG News will be issued as well. We plan to be ready by mid-November, and sincerely hope that this initiative will empower tribes to self-assess federal tax compliance and effect improvements. We thank those who have been involved in its design and testing, and look forward to active participation of tribal entities who believe they might benefit.

Consultation Policy Update

We continue to progress with the issuance of an IRS/Tribal Consultation Policy. While we continue to work through the clearance process internally and with the Treasury Department, we plan to begin to implement the section of the policy that will direct a minimum of four annual listening meetings. Our web site will contain the latest news as we move forward to finalize the policy, as well as schedule the initial meetings.



Annual Customer Satisfaction Survey Update

As we announced in the July issue of ITG News, we undertook our annual customer satisfaction survey of all 564 federally-recognized tribes during August and September, in order to secure feedback on our operations. As noted in the “Message From The Director” in this issue, feedback from tribes is one component we use in formulating our annual Work Plan.

We are just beginning to analyze the responses, and as in past years, we will publish the results on our web site at www.irs.gov/tribes. Our report, which we plan to complete and post by November 15th, will contain a summary of any actions we will undertake to effect improvements based on the feedback provided by tribes. Improvements made as a result of past surveys include staffing increases, creation of new educational products, and the redesign of the ITG web site. Equally important is survey feedback on areas where we are meeting the federal tax administration needs of tribes, so that we can continue to reinforce our activities in those areas.

We want to thank all of you who took the time to respond. While we welcome your feedback at any time, your survey input is valuable in our decision-making processes. We look forward to your continuing participation in this important process.

Effective Internal Controls Can Mitigate Risk in the Contracting Process

Several tribes have surfaced concerns with losses they incurred from contractors who failed to perform services as required. Subsequent discussions revealed that in many cases the tribes did not have adequate controls in place to properly award or monitor the contracts. While tribes enact their own operating procedures for contracting with vendors, many have developed internal controls that help ensure the contracting process has four keys steps – solicitation of bids for statements of work, a formal award of the contract by a duly designated tribal body, a validation of work performed, and a documented formal payment process. Generally the award and monitoring of performance is done by a different party than the one that makes payment. A certification is used to validate that the work is completed and to request issuance of payment.

While there is no guarantee that losses can be avoided, the creation of internal checks and balances within the process by the tribe can help ensure that work is performed as required and that payment is not made until the tribe is satisfied that the contract has been fully performed.

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

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.



Costly Oversight Failure to File Forms 1099-MISC

Failure to file information returns Forms 1099-MISC *Miscellaneous Income* may result in not only an assessment of civil penalties of \$100 for each missing Form 1099-MISC but also in a substantial assessment of backup withholding at the rate of 28% of the amount paid for tax years after 2002. For example, if a tribal entity has failed to issue 20 Forms 1099-MISC for payments totaling \$200,000 in tax year 2003, the total potential assessment would be **\$58,000** consisting of **\$2,000 in civil penalties and \$56,000 in backup withholding**.

More entities may face this potentially costly issue in FY 2006 since Indian Tribal Government resources will focus on ensuring that tribes are in compliance with both information reporting and withholding requirements on payments to vendors and individuals. Knowledge of the law and a few simple steps will ensure compliance with the law for current and future years. Basic information and steps to follow on the most commonly encountered situations in making payments to non-employees are explained below.

Reportable Payments Requiring Forms 1099-MISC (IRC sections 6041 & 6041A)

- **In general all payments** made by persons engaged in a trade or business and making payment in the course of such trade or business to another person in rents, services (including parts and materials), prizes and awards, other income payments, medical and health care payments, and legal payments of **\$600 or more in any taxable year require a Form 1099-MISC for each recipient**. These payments made by government agencies are also reportable.
- **Payments to corporations are not reportable unless** they are for legal services or medical and health payments.
- **Forms 1099-MISC must be issued to the recipients by January 31st** of the year following payment and to the IRS by the last day of February (March 31st if the returns are filed electronically) of the year following the payment.

Secure Form W-9 Request for Taxpayer Identification Number and Certification

- **Before making any reportable payment to an individual or business entity secure Form W-9** from that individual or entity. Note that as soon as the total payments to that individual or entity equal \$600 or more in a calendar year, the tribal entity has reached the threshold requiring that all payments made to that individual or entity during the year must be reported on Form 1099-MISC at the end of the year.
- **Keep all Forms W-9 in a central filing system**, such as loose leaf binders, in alphabetical order. Please note that Form W-9 is only valid for U.S. citizens or residents or companies created in the United States. The Form W-9 is not valid for nonresident aliens and foreign entities.
- **Upon receipt and review of the Forms W-9**, code all accounts that are going to require a Form 1099-MISC at year end.



Backup Withholding (IRC section 3406)

- If the payee fails to provide a *Taxpayer Identification Number* (Social Security Number, Employer Identification Number, or Individual Taxpayer Identification Number) the tribal entity must withhold 28% backup withholding from the payment.
- Backup withholding is reported on Form 945 *Annual Return of Withheld Income Tax*. Generally the deposit rules that apply to Form 941 *Employer's Quarterly Tax Return* also apply to the Form 945.
- If the tribal entity does not secure the TIN and does not withhold the 28% backup withholding, the tribal entity becomes responsible for the backup withholding.

Failure to File Forms 1099-MISC

- A civil penalty of \$50 is assessed for each failure to file Form 1099-MISC under IRC section 6721.
- A civil penalty of \$50 is assessed for each failure to furnish Form-1099MISC under IRC section 6722.
- Backup withholding of 28% of the total unreported payments is assessed against the tribal entity. (The ITG Specialist will provide the tribal entity with Forms 4669 *Statement of Payments Received* for each payee and Form 4670 *Request for Relief from Payment of Income Tax Withholding*. The payees must provide all required information on Form 4669 in order for the tribal entity to secure relief from backup withholding under IRC section 3402(d).)

Actions to Assist in Compliance

- Provide clear written procedures designed to insure compliance with the reporting requirements. Implement internal controls to make sure the procedures are followed.
- Internal and/or external auditors should review all potentially reportable payments annually to insure all reportable payments are coded and reported appropriately.
- Consider performing a *Self-Compliance Check* which will give the tribal entity the opportunity to effect any necessary actions and mitigate any penalties whenever possible. (See page 2 for further information on this option.)

Mileage Rates Increase

In response to the recent gasoline price increases, the IRS and Treasury Department announced an increase in the optional standard mileage rates for the final four months of 2005. The rate will increase to **48.5 cents a mile** for all business miles driven from Sept.1 through Dec. 31, 2005. This is an increase of 8 cents a mile from the 40.5 cent rate in effect for the first eight months of 2005, as set forth in Revenue Procedure 2004-64.

The new four month rate for computing medical and moving expenses will be 22 cents a mile, up from 15 cents a mile. The rate for providing services for charitable organizations is set by statute at 14 cents a mile.



Southwest ITG Specialist Retires

Anna Crowder, New Mexico ITG Specialist, recently retired from the Internal Revenue Service after a distinguished career spanning 27 years. Anna's hard work and efforts were recognized upon her retirement by the presentation of the prestigious Gallatin Award. This award is only presented to the most deserving employees upon their retirement.

Following a long career as a Revenue Agent, in September 2000 Anna became one of the original employees of the newly formed Office of Indian Tribal Governments. Innovative and always ready to help, Anna will be missed by both her coworkers and her customers. We wish her a very long and enjoyable retirement.

>>>> Southwest Indian Tribal Governments Specialists <<<<

The current Southwest ITG Specialists are listed below. If you have a question and your assigned Specialist is not available, or you do not know your assigned Specialist, please contact Southwest ITG Group Manager Steve Bowers at (714) 347-9430 or e-mail him at Steve.D.Bowers@irs.gov.

<i>Arizona & Utah ITG Specialists</i>	<i>Colorado, New Mexico, & Texas ITG Specialists</i>
Aaron Coleman Aaron.H.Coleman@irs.gov (602) 207-8751	Anita Gentry Anita.D.Gentry@irs.gov (505) 837-5573
Theresa Nosie Theresa.S.Nosie@irs.gov (602) 207-8734	Lonnette Graham Lonnette.L.Graham@irs.gov (505) 837-5536
Suzanne Perry Suzanne.V.Perry@irs.gov (602) 207-8254	Catherine St. Gregory Catherine.M.StGregory@irs.gov (505) 986-5260 ext. 243
Michelle Risk Michelle.L.Risk@irs.gov (520) 205-5022	

To add your name or e-mail address to our mailing list, please contact us via e-mail at Suzanne.V.Perry@irs.gov or call Suzanne Perry at (602) 207-8254

Account or Tax Questions???
Call Customer Account Services at *1-877-829-5500* or Contact your assigned ITG Specialist

Federal Tax Calendar for Fourth Quarter 2005

October 2005

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5 * make a deposit for 9/28-9/30	6	7 * make a deposit for 10/1-10/4	8
9	10	11 Employees earning tips in excess of \$20 in September must report amount to employer	12	13 * make a deposit for 10/5-10/7	14 * make a deposit for 10/8-10/11	15
16	17 ** Make a deposit for September if a monthly depositor	18	19 * make a deposit for 10/12-10/14	20	21 * make a deposit for 10/15-10/18	22
23	24	25	26 * make a deposit for 10/19-10/21	27	28 * make a deposit for 10/22-10/25	29
30	31					

November 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * make a deposit for 10/26-10/28	3	4 * make a deposit for 10/29-11/1	5
6	7	8	9 * make a deposit for 11/2-11/4	10 Employees earning tips in excess of \$20 in October must report amount to employer	11	12
13	14 * make a deposit for 11/5-11/8	15 ** Make a deposit for October if a monthly depositor	16 * make a deposit for 11/9-11/11	17	18 * make a deposit for 11/12-11/15	19
20	21	22	23 * make a deposit for 11/16-11/18	24	25	26
27	28 * make a deposit for 11/19-11/22	29	30 * make a deposit for 11/23-11/25			

* = 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 are due one day prior to the dates listed.



December 2005

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2 * make a deposit for 11/26-11/29	3
4	5	6	7 * make a deposit for 11/30-12/2	8	9 * make a deposit for 12/3-12/6	10
11	12 Employees earning tips in excess of \$20 in November must report amount to employer	13	14 * make a deposit for 12/7-12/9	15 ** Make a deposit for November if a monthly depositor	16 * make a deposit for 12/10-12/13	17
18	19	20	21 * make a deposit for 12/14-12/16	22	23 * make a deposit for 12/17-12/20	24
25	26	27	28	29 * make a deposit for 12/21-12/23	30 * make a deposit for 12/24-12/27	31

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule. **NOTE:** Deposits made through EFTPS are due one day prior to the dates listed.
 ** = Make a Monthly Deposit if you qualify under that rule.

Return Filing Dates

October 31st

- > File Form 941 for the 3rd quarter of 2005. If all deposits paid on time and in full, file by November 10th.
- > 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.

January 3, 2006

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