



# ITG News

Keeping First Nations Informed



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## Message From The Director

Several major indictments have received substantial press in recent months involving alleged criminal activity that infiltrated tribal entities. One investigation involving the Kickapoo Traditional Tribe of Texas resulted in indictments of seven individuals for conspiracy, theft of tribal funds, and money laundering. Another case resulted in 17 individuals being indicted for race fixing and money laundering through tribal off-track betting operations.

While these cases are a grave concern for everyone, the alleged crimes are certainly not unique to tribal governments. Unfortunately, criminal activity can arise in all types of governments as well as in the private sector.

Some key actions that might have mitigated the problems identified in these cases include:

- > Strengthening Internal Controls - Ensure that there are adequate checks and balances in place that monitor the receipt, control, and expenditure of funds.
- > Maintaining Tribal Oversight of Gaming - While casino management firms and consultants can bring needed expertise, Tribes need to ensure that they have full oversight of all gaming activities.
- > Looking for Operating Aberrations - As with all entities, tribal enterprises have budgets that include anticipated revenue and expenses by various categories. There are also industry "norms" that can be used to determine whether the enterprise is operating properly. If someone makes a proposal that sounds too good to be true, it probably is - or - if the performance of an enterprise is not aligned with expectations, an analysis of the cause of such aberrations needs to be performed. This includes situations where the performance is better than expected as well as where it is worse than anticipated.

The Office of Indian Tribal Governments will continue to monitor and address potential abuses since they not only impact federal tax administration but also risk tribal revenues that are needed to fund programs and services for members. Although these situations are uncomfortable, we commend the tribes for their cooperation in helping to identify and remedy the problems identified to date. We are committed to partnering with tribal authorities to protect tribal assets for the benefit of tribal members. I encourage all of you to surface any concerns you may have to [tege.itg.schemes@irs.gov](mailto:tege.itg.schemes@irs.gov) or contact us at 716-686-4860.

Christie Jacobs



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## **New ITG Specialists to be Hired**

Many tribal representatives who attended our Listening meetings in 2003 expressed concern about the Service's long-term commitment to the Office of Indian Tribal Governments. As attrition occurred or new priorities arose, attendees questioned the ability to maintain the staffing required to assist tribes with federal tax administration and money laundering issues.

We are pleased to announce that the FY 2005 IRS budget will allow the Office of Indian Tribal Governments to add 13 new staff positions in our field groups. This will not only fully replace all of our attrition losses since our inception but actually increase our overall staffing by three positions. We have begun the hiring process and expect to have the 13 new Specialists selected and fully trained by late summer.

At present, we hope to add staffing in California, Alaska, the Pacific Northwest, Oklahoma, Minnesota, and the Southwest. Tribes should expect that there would be some realignment of assignments which means some tribes will have different Specialists assigned to them once we complete the hiring and training process. We will keep everyone informed of any changes as they occur. Although we realize there may be some discomfort with change, we are excited that the additional staffing will mean an increase in our ability to meet the federal tax administration needs of Tribal governments and ensure that ability is maintained for the near future.

## **Web Site Redesign Planned**

Our 2004 Customer Satisfaction Survey indicated a need for us to redesign our web site so that important information could be more readily located. We have been working with our web vendor to accomplish that need and have asked the tribal representatives on the Advisory Committee to the Tax Exempt Government Entities Commissioner to validate our approach.

We believe the new proposed layout will improve the ability of users to navigate and more quickly locate the information they need. We hope to implement the change by May and welcome any feedback you may have on further enhancements we might make to improve your ability to access information.

### **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](http://www.irs.gov/tribes).



## Form 941 Has a New Look

Form 941 (Employer's Quarterly Federal Tax Return) has been redesigned for tax periods beginning after December 31, 2004. The new two-page Form 941 is easier to understand and follow. The tax information and calculations are basically the same, but the line numbers have changed from the previous version.

The Schedule B (Form 941) has also been redesigned. You can access both of these documents and the instructions on the "Forms and Publications" page at [www.irs.gov](http://www.irs.gov). Copies of the form and instructions are also available by calling the IRS at 1-800-829-3676.

### ITG Specialists for the Pacific Northwest

<b>Judy Pearson</b>	Anchorage, AK	907-271-6949	Judy.M.Pearson@irs.gov
<b>Carol Czolowski</b>	Ogden, UT	801-620-5048	Carol.A.Czolowski@irs.gov
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<b>John Mandeville</b>	Spokane, WA	509-353-0816	John.M.Mandeville@irs.gov
<b>Bill Barker</b>	Spokane, WA	509-353-0825	William.J.Barker@irs.gov
<b>Michael Fehrenbacher</b>	Vancouver, WA	360-696-7643 ext. 227	Michael.Fehrenbacher@irs.gov
<b>Joe Kincaid, Mgr</b>	Portland, OR	503-326-3132 ext. 2	Joe.Kincaid@irs.gov

### Telephone, Internet, and Mailing Address

**Call:** Customer Account Services toll free **1-877-829-5500**  
**Visit:** Indian Tribal Governments web site at [www.irs.gov/tribes](http://www.irs.gov/tribes)  
**Write:** Internal Revenue Service  
Indian Tribal Governments SE:T:GE:ITG  
1111 Constitution Ave., NW  
Washington, DC 20224

### 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**, our Indian Tribal Governments Specialist 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.



## Cellular Phones and Pagers



Tribal governments have to consider a number of issues that arise with respect to cellular phones and pagers used by Tribal Council Members and employees. This matter is complicated by the fact that the cell phones and pagers are used both for business and personal purposes.

Employers often provide employees with cell phones and pagers for use outside of the employer's premises in the performance of their duties. Cell phones and pagers (and other items listed in IRC § 280F) are considered "listed property." Because the nature of the property lends itself to personal use, strict substantiation requirements are in place. Employees are required to account for business and personal use.



### "Listed Property"

- Business use is excludable from the wages of the employee as a working condition fringe benefit.
- Personal use is included in the wages of the employee.
- If substantiation requirements are not met, all use is included in the wages of the employee.

### Substantiation Requirements

Records of business and personal use must be kept by the employee in order to determine whether the value of any of the use is included in the employee's wages.

**Example:** An employer provides an employee with a cell phone and pays the monthly charges. The employer requires the employee to highlight personal calls on the monthly bill. The employer includes the direct charges for personal use and a pro rata share of monthly fees and services in the wages of the employee. The business use is not taxable to the employee. The personal use is included in the wages of the employee.



Generally, if the working condition fringe benefit exclusion is not met, the personal use of an employer-provided cellular phone/pager is considered wages and subject to the withholding of federal employment taxes. Social security and/or Medicare withholding depends on the applicable coverage for the employee.





## Cell Phone Examples

- A.** The tribal government provides an employee a cellular phone for business purposes. The tribe's written policy prohibits personal use of the phone. The tribe routinely audits the employee's phone billings to confirm that personal calls were not made. No personal calls were actually made by the employee. The business use of the phone is not taxable to the employee.
- B.** The tribal government provides an employee a cellular phone for business purposes. The tribe's written policy states that the phone is not intended for personal use and requires reimbursement from the employee for any personal calls. The tribe routinely audits the employee's phone billings to ascertain personal calls made. The employee reimburses the tribe for all personal calls made. The business use of the phone is not taxable to the employee.
- C.** The tribal government provides an employee a cellular phone for business purposes. The tribe's written policy prohibits personal use of the phone. The tribe does not, however, audit the employee's phone billings to confirm only business use. The Fair Market Value (FMV) of the phone (one time value) plus the monthly phone service charge (ongoing) are taxable, reportable income to the employee.
- D.** The tribal government gives an employee an electronic pager for business purposes plus pays the monthly service charge for its employee. The tribe does not audit pager billing records. The FMV of the pager (one time value) plus the monthly pager service charge (ongoing) are taxable, reportable income to the employee.
- E.** The tribal government provides an employee with a cellular phone and pays the monthly charges. The tribe requires the employee to highlight personal calls on the monthly bill. The tribe includes the direct charges for personal use and a pro rata share of monthly fees in the wages of the employee. The business use portion of the phone is not taxable to the employee.
- F.** The tribal government allows an employee to use a personally owned cellular phone for tribal business. The tribe has established a written policy on the use and manner of reimbursement for such phones. The employee submits a signed copy of the employee's cellular bill highlighting work-related calls for which the employee is requesting reimbursement. The tribe reimburses the identified work calls on a pro rata share of the monthly fees after auditing the bill. The reimbursement of business related calls is not taxable to the employee.
- G.** The tribal government allows an employee to use a personally owned cellular phone for tribal business. The tribe has established a written policy on the use and manner of reimbursement for such phones. The tribe pays a flat rate monthly allowance to the employee for the use of the phone. The tribe does not require documentation identifying the personal and business use of the phone. The entire amount of the monthly allowance is taxable, reportable income to the employee.



## **Outsourcing Payroll to Third-party Payroll Service Providers Employers' Responsibilities**

Many employers outsource some of their payroll and related tax duties to third-party payroll service providers. They can help assure filing deadlines and deposit requirements are met and greatly streamline business operations. Some of the services a third-party may provide are:

- Administering payroll and employment taxes on behalf of the employer, where the employer provides the funds initially to the third-party.
- Reporting, collecting and depositing employment taxes with state and federal authorities.

Employers who outsource some or all of their payroll responsibilities should consider the following:

- The employer is ultimately responsible for the deposit and payment of federal tax liabilities. Even though the third-party is making the deposits, the employer is the responsible party. If the third-party fails to make the federal tax payments, the IRS may assess penalties and interest on the employer's account. The employer is liable for all taxes, penalties and interest due. The employer may also be held personally liable for certain unpaid federal taxes.
- If there are any issues with an account, the IRS will contact the employer. IRS correspondence is sent to the address of record so it is strongly suggested that the address not be changed to that of the payroll service provider as it may significantly limit the employer's ability to be timely informed of tax matters involving their business.
- For the employer's protection, the payroll service provider should be asked if they have a fiduciary bond in place. This could protect the employer in the event of default.
- Employers should ask the service provider to enroll in and use EFTPS (Electronic Federal Tax Payment System), so they can confirm payments made on their behalf. EFTPS maintains a business's payment history for 16 months and can be viewed on-line after enrollment. The IRS recommends employers verify EFTPS payments as part of their bank account reconciliation process.

EFTPS is fast, safe, accurate and provides an immediate confirmation for each transaction. The service is offered free of charge and enables employers to make and verify federal tax payments electronically 24 hours a day, 7 days a week through the Internet, or by phone. For more information, employers may call 1-800-555-4477 or 1-800-945-8400, or enroll online by visiting the EFTPS Web site at [www.eftps.gov](http://www.eftps.gov).

There have been recent prosecutions of individuals and companies who have, acting under the guise of a service provider, stolen funds intended for payment of employment taxes. For more information, visit the IRS homepage at [www.irs.gov](http://www.irs.gov) and type in the key words "employment tax enforcement."

Remember, employers are ultimately responsible for the payment of income tax withheld and both the employer and employee portions of social security and Medicare taxes.

# Federal Tax Calendar for Second Quarter 2005

## April 2005

SUN	MON	TUE	WED	THU	FRI	SAT
					1 * Make a deposit for 3/26-3/29	2
3	4	5	6 * Make a deposit for 3/30-4/1	7	8 * Make a deposit for 4/2-4/5	9
10	11 Employees report March tip income to employers if \$20 or more	12	13 * Make a deposit for 4/6-4/8	14	15 * Make a deposit for 4/9-4/12 ** Make a deposit for March if under the monthly deposit rule	16
17	18	19	20 * Make a deposit for 4/13-4/15	21	22 * Make a deposit for 4/16-4/19	23
24	25	26	27 * Make a deposit for 4/20-4/22	28	29 * Make a deposit for 4/23-4/26	30

## May 2005

SUN	MON	TUE	WED	THU	FRI	SAT
1	2 Deposit FUTA taxes due through March if greater than \$100 and subject to FUTA	3	4 * Make a deposit for 4/27-4/29	5	6 * Make a deposit for 4/30-5/3	7
8	9	10 Employees report April tip income to employers if \$20 or more	11 * Make a deposit for 5/4-5/6	12	13 * Make a deposit for 5/7-5/10	14
15	16 ** Make a deposit for April if under the monthly deposit rule	17	18 * Make a deposit for 5/11-5/13	19	20 * Make a deposit for 5/14-5/17	21
22	23	24	25 * Make a deposit for 5/18-5/20	26	27 * Make a deposit for 5/21-5/24	28
29	30	31				

\* = Make a 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.

# June 2005

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2 * Make a deposit for 5/25-5/27	3 * Make a deposit for 5/28-5/31	4
5	6	7	8 * Make a deposit for 6/1-6/3	9	10 * Make a deposit for 6/4-6/7  Employees report May tip income to employers if \$20 or more	11
12	13	14	15 * Make a deposit for 6/8-6/10  ** Make a deposit for May if under the monthly deposit rule	16	17 * Make a deposit for 6/11-6/14	18
19	20	21	22 * Make a deposit for 6/15-6/17	23	24 * Make a deposit for 6/18-6/21	25
26	27	28	29 * Make a deposit for 6/22-6/24	30		

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

NOTE: Deposits made through EFTPS are due one day

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

prior to the dates listed.

## Return Filing Dates

### May 2nd

- > File Form 941 for the 1st quarter of 2005. If all deposits paid on time and in full, file by May 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during March.

### May 31st

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

### June 30th

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

### Reminder

- > Form 11-C for the Occupational Excise tax is due on July 1st