



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 7 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 or contact us at 716-686-4860.

Christie Jacobs

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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 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.

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 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

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

Accountable vs. Non-accountable Reimbursement Plans

Are your employees paying too much in taxes as a result of using a non-accountable reimbursement plan?

IRS Publication 15, Circular E, Employer's Tax Guide (Section 5), defines employee business expense reimbursements. A reimbursement or allowance arrangement is a system by which you substantiate and pay the advances, reimbursements, and charges for your employees' business expenses. How you report a reimbursement or allowance amount depends on whether you have an **accountable or a non-accountable plan**.

These rules apply to all ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee.

Accountable plan: To be an accountable plan, your reimbursement or allowance arrangement must require your employees to meet all three of the following rules.

- 1) They must have paid or incurred deductible expenses while performing services as your employees, i.e., the expenses must have a business connection.
- 2) They must adequately account to you for these expenses within a reasonable period of time.
- 3) They must return any amounts in excess of expenses within a reasonable period of time.

Amounts paid under an accountable reimbursement plan are not wages and are not subject to income tax withholding and payment of social security, Medicare and Federal unemployment (FUTA) taxes. (*Reminder: Announcement 2001-16 indicates which Indian tribes are not subject to FUTA taxes.*)

If the expenses covered by this arrangement are not substantiated (or amounts in excess of expenses are not returned within a reasonable period of time), the amount is treated as paid under a non-accountable plan. This amount is subject to income tax withholding and payment of social security, Medicare, and FUTA taxes for the first payroll period following the end of the reasonable period.

A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if your employees

- 1) Receive the advance within 30 days of the time they incur the expense,
- 2) Adequately account for the expenses within 30 days after the expenses were paid or incurred, and
- 3) Return any amounts in excess of expenses within 120 days after the expense was paid or incurred.

Also, it is considered reasonable if you give your employees a periodic statement (at least quarterly) that asks them to either return or adequately account for outstanding amounts and they do so within 120 days.

Continued on the next page

Accountable vs. Non-accountable Reimbursement Plans Continued

Non-accountable plan: Payments to your employee for travel and other necessary expenses of your business under a non-accountable plan are wages subject to income tax withholding and payment of social security, Medicare, and FUTA taxes. Your payments are treated as paid under a non-accountable plan if:

- 1) Your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation.
- 2) You advance an amount to your employee for business expenses and your employee is not required to or does not return timely any amount he or she does not use for business expenses.
- 3) You advance or pay an amount to your employee without regard for anticipated or incurred business expenses.

Non-accountable plan payments are considered supplemental wages. How you withhold on these payments depends on whether the supplemental payment is identified as a separate payment from regular wages. See Section 7 of Publication 15 for further information.

Per diem or other fixed allowance: You may reimburse your employees by travel days, miles, or some other fixed allowance. In these cases, your employee is considered to have accounted to you if the payments do not exceed rates established by the Federal Government. The 2005 standard mileage rate for auto expenses is 40.5 cents per mile for all business miles. The federal per diem rates for meals and lodging in the continental United States are listed in Publication 1542, Per Diem Rates. Other than the amount of these expenses, your employees' business expenses must be substantiated (for example, the business purpose of the travel or the number of business miles driven).

If the per diem or allowance paid exceeds the amounts specified, you must report the excess amount as wages. This excess amount is subject to income tax withholding and payment of social security and Medicare taxes. Show the amount equal to the specified amount (i.e., the nontaxable portion) in box 12 of the Form W-2 using code L.

Experience has shown some tribes call their travel advances "stipends." A stipend is defined as a fixed sum of money paid periodically for services or to defray expenses. The fact that remuneration is termed a "fee" or "stipend" rather than salary or wages is immaterial. Wages are generally subject to employment taxes and should be reported on Form W-2.

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.

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 will 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. (Note: PNW new hires were just selected - see page 9.)

Abusive Schemes

We continue to work with Tribes in identifying and addressing schemes that are surfacing in Indian country. If someone approaches you with a deal that seems "too good to be true" or if you find evidence of abuses of tribal finances by former employees or consultants, please contact us via e-mail at tege.schemes.itg@irs.gov. We want to partner with Tribes to prevent abuses and protect tribal resources and the interests of tribal members.

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.

Taxpayer Identification Number (TIN) Matching

TIN Matching is part of a suite of internet based pre-filing e-services that allow “authorized payers” the opportunity to match 1099 payee information against IRS records prior to filing information returns. An authorized payer is one who has filed information returns with the IRS in at least one of the two past tax years. Interactive TIN Matching will accept up to 25 payee TIN/Name combinations on-screen while Bulk TIN Matching will allow up to 100,000 payee TIN/Name combinations to be matched via a text file submission.

Both programs will:

- Match the payee with W-9 name and TIN with IRS records
- Decrease backup withholding and penalty notices
- Reduce the error rate in TIN validation

The TIN Matching system is accessible 24 hours a day, 7 days a week. Support services include an on-line tutorial to assist customers with the registration, application and TIN Matching process. E-services customer assistants are also available at 1-866-255-0654, 8:30 a.m. to 7:00 p.m., EST, Monday through Friday.

E-services users must register to have access to products such as TIN Matching. For more information visit www.irs.gov and type “TIN Matching” in the search feature.

Payments to Members of Boards/Commissions

Elected and Public Officials

Generally, public officials are employees for Federal Insurance Contributions Act (FICA) purposes. The following are normally public officials:

- 1) Tax collectors and assessors,
- 2) Justices of the peace, and
- 3) **Members of boards/commissions.**

Appointed Officials

Appointed officials, including personnel boards, financial boards, gaming regulators, and others are employees and the paying entity is required to withhold FICA and federal income taxes.

Tax Treatment of Elected vs. Appointed Officials

Elected and most appointed officials are defined by federal statute as employees of the public entities they service. Unless they are subject to Revenue Ruling 59-354 (tribal council member’s treatment), payments to these individuals constitute wages and are subject to FICA and federal withholding taxes.

Additional information can be found in Chapter 3 of Publication 4268, Employment Tax Desk Guide for Indian Tribal Governments.



Previous editions of the newsletter may be found at www.irs.gov/tribes

July topics include:

- Update on Abusive Schemes
- List of New ITG Employees
- Information on New Form 944 (if available)

To add your name or e-mail address to our mailing list, please contact us via e-mail at Carol.A.Czolowski@irs.gov, or call Carol Czolowski at (801) 620-5048.



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. Copies of the form and instructions are also available by calling the IRS at 1-800-829-3676.

CLIP AND SHARE WITH YOUR TRIBAL MEMBERS



CLIP



CLIP



CLIP

SHOULD I REVISE MY FORM W-4?

Did you owe tax on your 2004 tax return? If so, you may want to adjust your withholding on your current job to help cover the taxes you will owe on your tribal distributions. Adjust your withholding now by filling out a new Form W-4. Refer to your most recent pay stubs, income tax return, and the amount of your tribal distributions. Then use the "Withholding Calculator" found at www.irs.gov. Type in "withholding calculator" in the search feature. Select withholding calculator, and fill in all the information that applies to you. The final screen will summarize the results. If you use it to complete your new Form W-4, keep it for your records.

New PNW Manager and Specialists



The PNW group extends a very warm welcome to the three new members of our staff.

Joe Kincaid, PNW Manager, was born in Oklahoma and has lived in Oregon since 1963. He has worked for IRS since 1987. Before coming to ITG, he was an Estate and Gift Tax attorney. He has had numerous acting manager assignments and is looking forward to working with the tribes and villages in the Pacific Northwest.

Mary Jo Audette, Specialist, hails from Minnesota. She has lived in Anchorage since 1980 and began her IRS career in 1988. Mary Jo comes to ITG from Collection, where most of her time was spent as a Revenue Officer. She has traveled to many of the Alaska villages and is familiar with issues that affect them. Mary Jo will be a great addition to the Anchorage staff.

Melodie Gren, Specialist, is originally from Spokane. She was hired by IRS in 2001 as a Revenue Agent. Although relatively new to government service, she has experience that will suit her well in her new position. She lived and worked in South Africa for 18 months and said it was an amazing experience. Melodie will be joining the Spokane staff and will be a great asset to ITG.

FAREWELL

FAREWELL TO ACTING MANAGER

The PNW group bids farewell to Steve Bowers, Southwest Area Manager. He had added the PNW group to his responsibilities during the last five months while we awaited the selection of a new manager. We all enjoyed working with Steve and thank him for sharing his time and knowledge.

GOODBYE

GOODBYE TO SPECIALIST BILL BARKER

Although we have gained two new specialists, we say goodbye to Bill Barker in Spokane. While Bill has left our group, he remains in ITG and will be working in the ADAPT Group. We wish him well in his new position.

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Telephone, Internet, & Mailing Address

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- **Visit: Indian Tribal Governments** Web site at **www.irs.gov/tribes**
- **Write: Internal Revenue Service**

Indian Tribal Governments SE:T:GE:ITG

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