



Message from the Director

All of us share a common concern for the current world economy, whether as individuals or government officials. The rising unemployment rates, declining stock markets, job layoffs, tight credit markets, and business failures, are issues that are affecting every government in the world, and certainly tribal governments are not immune from these problems.

Tribes face an immediate impact from a number of sources, including decreased business for tribal enterprises, decreased capital to expand existing enterprises or start new ones, decreased availability of grants, and a lack of additional federal resources needed for basic tribal programs or infrastructure.

In order to mitigate the impact of the current economic decline, all levels of government must work together, and ITG is committed to working with tribes to minimize any federal tax problems during this period. Our approach will be based on data, and we will use it to quickly determine trends and problems before they might become significant.

We will be renewing and expanding our outreach efforts. This will include regional seminars to assist tribal employees in staying current on tribal employment tax issues. We will also seek to identify tribes that have incurred significant penalties for failure-to-deposit withholding taxes and social security for their employees. While this has been a historic problem for some tribes, the current economic situation will likely create additional pressures in this area. Our objective is to proactively identify problems, assist tribes in determining remedies, and reduce unnecessary interest and penalty assessments that redirect tribal revenue from program areas.

I welcome your ideas on other tax-related steps we might take to assist tribes through this challenging economic period. As always, I can be contacted at christie.jacobs@irs.gov, or by telephone at 202-283-9800.

Christie Jacobs



..we want to proactively identify problems, and help tribes determine remedies...

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Customer Satisfaction Survey Results Published

The Office of Indian Tribal Governments recently completed its sixth annual customer survey. The survey gave us feedback from our customers that allows us to measure customer satisfaction with our products and services and determine areas where we need to effect operational changes.

We want to thank everyone who participated. We received 197 responses, which was the highest total of any survey. We are pleased that the overall level of satisfaction has remained steady, although it decreased slightly from 77% to 76%. There were a number of issues surfaced where we are undertaking actions to address concerns raised in the survey. This includes, but is not limited to:

- Utilize the regional Consultation Listening meetings (four per year are scheduled in differing BIA regions) to explore concerns about horizontal equity
- Continue to implement innovative alternative approaches for delivering products/services to tribes located in Alaska and the Navajo Chapters
- Seek opportunities to do annual outreach/education seminars on Employment Tax issues on a regional basis
- Further studying the causes of dissatisfaction in the Pacific Northwest
- Monitoring work processes to improve responsiveness to tribal inquiries by ITG staff

This is the second survey where we have asked specific questions in regard to Compliance Checks and Examination interactions with ITG. Since examinations represent a significant percentage of the work done by ITG, we will focus extra efforts in regard to that specific feedback. One area where we will seek to affect remedies is in the area of "timely actions". This was an overall concern by tribes, and the most significant concern in regard to examinations.

One of the outcomes of the 2007 survey was the initiation of significant outreach/education efforts for the Navajo Chapters, in conjunction with the Navajo Nation. This was a direct response to dissatisfaction in that area. ITG organized and conducted major payroll and information reporting educational seminars for tribal employees, modeled on the success of similar efforts in Alaska in 2007 which were repeated in 2008. The survey shows the positive results of these efforts. The customers in the Navajo Chapters showed a marked increase in customer satisfaction, with the rate increasing from 50% to 64%. The Alaska tribes increased from 75% to 82%, and are now more satisfied than the rest of the United States. ITG will seek to apply best practices used in Alaska in a focused effort to better assist the Navajo Chapters.

In addition to the overall measures, we also looked at satisfaction by geographic area and by common themes within the survey. The table on the following page shows that analysis, and compares the responses this year with the survey responses from the prior year.

A more complete report on the survey is posted to our web site at www.irs.gov/tribes. We look forward to input at the ongoing Consultation Listening meetings to further assist in determining improvement opportunities. Future issues of ITG News will detail operational changes that we effect in response to the survey feedback.



Customer Satisfaction Survey Scores - by ITG Area

	Eastern		North Central		Southwest		Western		Pacific Northwest		Alaska		Navajo Chapters	
	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008
Burden/ Delivery of Information														
Satisfied	85%	80%	71%	83%	80%	79%	83%	84%	55%	58%	71%	68%	46%	60%
Neutral	11%	16%	16%	13%	14%	10%	10%	11%	40%	27%	19%	21%	21%	18%
Dissatisfied	4%	4%	13%	4%	6%	10%	7%	6%	5%	15%	10%	11%	33%	21%
Collaborate														
Satisfied	72%	60%	65%	70%	79%	63%	68%	79%	39%	39%	62%	63%	45%	52%
Neutral	24%	26%	24%	27%	12%	28%	18%	12%	48%	48%	29%	24%	31%	20%
Dissatisfied	4%	14%	11%	3%	9%	10%	14%	8%	12%	13%	8%	13%	24%	28%
Recognition														
Satisfied	84%	78%	70%	90%	72%	63%	77%	75%	50%	48%	69%	70%	51%	59%
Neutral	14%	12%	23%	5%	28%	24%	13%	20%	36%	33%	24%	19%	39%	25%
Dissatisfied	2%	10%	7%	5%	0%	13%	9%	5%	14%	18%	7%	11%	11%	16%
Protocol/ Horizontal Equity														
Satisfied	82%	74%	90%	87%	75%	78%	83%	83%	57%	54%	72%	75%	60%	70%
Neutral	14%	24%	9%	6%	20%	19%	12%	15%	31%	38%	23%	20%	31%	22%
Dissatisfied	5%	2%	1%	7%	5%	3%	5%	2%	12%	8%	5%	5%	9%	8%
Accuracy/ Timeliness/ Honesty														
Satisfied	69%	64%	65%	69%	60%	55%	74%	70%	47%	28%	61%	59%	45%	55%
Neutral	25%	27%	27%	28%	37%	30%	10%	22%	41%	55%	32%	31%	31%	27%
Dissatisfied	6%	9%	8%	3%	3%	16%	16%	8%	13%	17%	8%	10%	24%	18%
Overall Satisfaction														
Satisfied	90%	77%	76%	76%	75%	83%	86%	88%	56%	44%	75%	82%	50%	64%
Neutral	10%	18%	12%	24%	25%	8%	5%	6%	33%	31%	23%	13%	36%	29%
Dissatisfied	0%	5%	12%	0%	0%	8%	8%	6%	11%	25%	2%	4%	14%	7%
Compliance Action - Overall Satisfaction														
Satisfied	67%	52%	80%	79%	100%	75%	78%	79%	43%	58%	70%	86%	67%	84%
Neutral	17%	14%	7%	11%	0%	25%	9%	16%	33%	26%	22%	14%	0%	9%
Dissatisfied	17%	33%	13%	11%	0%	0%	13%	5%	24%	16%	7%	0%	33%	7%
Compliance Action - Initial Meeting														
Satisfied	78%	79%	95%	83%	94%	81%	90%	95%	71%	88%	87%	100%	87%	90%
Neutral	10%	18%	3%	17%	6%	6%	1%	5%	25%	8%	12%	0%	12%	10%
Dissatisfied	13%	4%	3%	0%	0%	13%	8%	0%	4%	4%	0%	0%	0%	0%
Compliance Action - Subsequent Interactions														
Satisfied	74%	67%	70%	88%	100%	75%	84%	94%	56%	35%	89%	100%	60%	91%
Neutral	17%	22%	13%	6%	0%	17%	4%	6%	36%	55%	11%	0%	0%	7%
Dissatisfied	9%	11%	17%	6%	0%	8%	13%	0%	8%	10%	0%	0%	40%	2%
Compliance Action - Final Resolution														
Satisfied	68%	87%	67%	67%	78%	50%	92%	87%	43%	67%	71%	100%	50%	72%
Neutral	12%	7%	25%	27%	11%	42%	8%	10%	43%	33%	19%	0%	0%	18%
Dissatisfied	20%	7%	8%	7%	11%	8%	0%	3%	14%	0%	10%	0%	50%	10%



ITG Releases Revised Gaming Publication

The office of Indian Tribal Governments has updated Publication 3908, Gaming Tax Law and Bank Secrecy Act Issues for Indian Tribal Governments. The new release contains the notation "Revised 8-2008", and is available in quantity from the IRS Forms Distribution Center.

The revised publication contains updated withholding information, clarifies the Federal Unemployment Tax rules for tribal entities, adds content on information reporting to vendors, explains rules relating to foreign patrons and vendors, and clarifies federal tax deposit rules.

In addition to ordering hard copies, an on-line version can be accessed and downloaded from the ITG web site at www.irs.gov/tribes.

ITG to Mail Updated Tax Tools CD-Rom

The office of Indian Tribal Governments will be mailing an updated copy of "Tax Tools for Tribes" in early 2009. This issuance will go to each tribe, and will contain copies of updated IRS forms and publications, per capita withholding spreadsheets, Publication 3908 (gaming and BSA laws for tribes), Publication 4268 (employment taxes for tribes), and our "Helpful Hints to Reduce Penalties" job aid.

Tribes can request additional copies through the ITG web site, or by contacting their 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.

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 "Self Assess Tribal 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



Outsourcing Payroll Duties

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 they 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 the 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 send correspondence to the employer at the address of record. The IRS strongly suggests that the employer does not change their address of record to that of the payroll service provider as it may significantly limit the employer's ability to be informed of tax matters involving their business.
- For the employer's protection, employers should ask the payroll service provider if they have a fiduciary bond in place. This could protect the employer in the event of default.
- Employers should ensure that their service providers are using EFTPS (Electronic Federal Tax Payment System) so the employer can confirm payments made on their behalf. Everyone should use EFTPS and Treasury regulations require electronic payment for payroll taxes over \$200,000 in a calendar year. 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.

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 web site at www.irs.gov and type in the key words "employment tax investigations."

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.

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



What is a Nontaxable General Welfare Payment?

One of the most common issues we encounter is the question of taxability of support programs offered by tribes to their members. This issue has become increasingly common as tribes have developed economic enterprises that provide them with funds necessary to create these programs. Common examples are housing assistance, scholarships, medical care, transportation, and nutrition. As these programs are developed, it is important to determine the potential tax consequence to the recipients. Unfortunately there is a general lack of understanding of what constitutes a nontaxable general welfare payment.

As a starting point, it is important to realize that there is no statutory exemption of welfare payments from federal taxation. The Internal Revenue Service, with tacit approval from Congress and the courts, has administratively created a concept known as the General Welfare Doctrine. This doctrine has been used to exempt from federal income taxation any payments made to, or for the benefit, of individuals that are based on "need". This can be financial need, health need, economic need, educational need, etc., but the program must define the need and the criteria employed to determine the eligibility of recipients.

It is insufficient to simply designate a program as being "need-based", or to fund it from the percentage of net gaming revenue designated for general welfare under an approved Revenue Allocation Plan, and assume that will make it nontaxable. The Internal Revenue Service is the sole governmental agency that can rule on the federal tax consequence of support programs.

How to Determine a Nontaxable General Welfare Payment

In creating these programs, there are several factors that should be employed to properly determine the potential federal tax impact on recipients:

1. What is the "need" that will be met by the program?
2. Is the "need" one that routinely would be considered by various levels of government to be a necessary item that the public would support for funding from a public source?
3. Does the program have clear qualifying criteria, as well as screening and evaluative mechanisms to ensure that recipients meet the criteria?
4. Is there an existing ruling from the Internal Revenue Service that addresses the federal tax consequence of an essentially similar program?
5. Has the responsible tribal governing body officially enacted the program?

Numerous Private Letter Rulings that address various governmental programs are available for review on our web site under the Published Guidance page at www.irs.gov/tribes. If so desired, a Tribe can request its own Private Letter Ruling on its particular program.

Remember, the General Welfare Doctrine is an administrative creation of the Internal Revenue Service. In order for a support program to qualify for exemption from federal taxation, a Tribe needs to ensure it has fully addressed the issue of "need". Use of the term "general welfare", or the fact that the program is funded by the "general welfare" component of a Revenue Allocation Plan, is insufficient to make the payments nontaxable.



Tax News For You!

Individual Tribal Member Information

Do You Qualify for the Earned Income Tax Credit (EITC)?

Each year, numerous Tribes' Members are eligible for the Earned Income Tax Credit (EITC) but don't realize they qualify or don't know how to claim it. They may be missing an opportunity to pay less federal income tax, pay no tax, or receive a refund.

The EITC, a tax credit available to low-income workers and families, is a valuable tool for taxpayers who work but don't earn high incomes and struggle to make ends meet. The EITC can be as much as \$4,824 depending on your income and family situation. If you are eligible for the EITC, you can receive a refund even if you owe no tax at all.

The rules governing who can claim the EITC can be complicated. This article describes some of the basic eligibility requirements. Claimants must have a valid Social Security number. In addition, taxpayers must meet certain residency and filing criteria.

Investment income cannot be more than \$2,950. A taxpayer's total income from work must be at least \$1, and earned income and adjusted gross income (AGI) must both be less than:

- \$12,880 with no qualifying child (\$15,880 if married filing jointly)
- \$33,995 with one qualifying child (\$36,995 if married filing jointly)
- \$38,646 with more than one qualifying child (\$41,646 if married filing jointly)

It is not necessary for families to have children when claiming the credit, but, if they do claim a child for EITC qualification purposes, the qualifying child must:

- Be a son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them. (An adopted child is treated as the taxpayer's biological child. A foster child is any child placed with the taxpayer by an authorized placement agency, including a tribal court.)
- Be under age 19 or under age 24 and a full time student at the end of the year. (A qualifying child may be any age if he or she is permanently and totally disabled.)
- Have lived with the taxpayer in the United States for more than half of the year 2008.

Only one person may claim a qualifying child for the EITC. Further details regarding the rules and guidelines for a qualifying child can be found in IRS Publication 596, Earned Income Credit. If claimants think they might qualify for EITC and would like assistance, they can call 1-800-829-1040 or go to www.irs.gov/eitc and select "EITC Assistant."

Year End Reconciliation Process

Did you know, as the Social Security Administration (SSA) processes employer wage reports, it maintains a record of total Social Security and Medicare wages and tips processed for each employer? Did you know these totals are then compared with the totals for Internal Revenue Service (IRS) employment tax records filed by the employer with IRS on Form 941 returns? Guess what... employers whose reports to IRS and SSA do not balance are contacted for an explanation of the discrepancy and asked for additional wage evidence. Another fact that should not come as a surprise to you...failure to resolve these discrepancies may result in IRS assessment of penalties for filing incorrect reports.

Now that you know the SSA and IRS balance these reports, why not beat them to the punch. Save yourself from that dreaded letter. You should balance or reconcile your Form 941 reports to your Form W-3 for the year. This will help you identify and resolve errors in your records which could lead to the filing of erroneous reports. You should balance cumulative quarterly Forms 941 for the tax year to the Form W-2/W-3 information in your records at the end of the tax year.

Compare the amounts you reported to SSA on Forms W-2 to the sum of the amounts you reported to IRS on Forms 941 for the tax year. The amounts shown in the table on the left, should match on the SSA and IRS reports. If these amounts do not match, recheck records and identify necessary adjustments.

After identifying any over or under reporting of income or wages, adjust any overpayment or underpayment of taxes on the Form 941-X, *Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund*. For example, a 2008 reporting error discovered during February 2009 would be an adjustment on Form 941-X. Form 941-X is a stand-alone form and must be filed separately from Form 941.

Items	W-2/W-3 Box #	941 Line #
Compensation/Wages	Box 1	Line 2
Federal Income Tax Withheld	Box 2	Line 3
Social Security Wages	Box 3	Line 5a Column 1
Social Security Tips	Box 7	Line 5b Column 1
Social Security Tax	Box 4	Line 5a + 5b Column 2
Comparison computation		divided by 2
Medicare Wages	Box 5	Line 5c Column 1
Medicare Tax	Box 6	Line 5c Column 2
Comparison computation		divided by 2

Federal Tax Calendar for First Quarter 2009

January 2009

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

February 2009

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 Issue W-2s, W-2Gs, and 1099s to recipients	3	4 * Make a deposit for 1/28-1/30	5	6 * Make a deposit for 1/31-2/3	7
8	9 File Form 730 for wagers received during December	10 File Form 941 for the 4th calendar quarter of 2008	11 * Make a deposit for 2/4-2/6	12	13 * Make a deposit for 2/7-2/10	14
15	16	17 ** Make a deposit for January if under the monthly deposit rule	18	19 * Make a deposit for 2/11-2/13	20 * Make a deposit for 2/14-2/17	21
22	23	24	25 * Make a deposit for 2/18-2/20	26	27 * Make a deposit for 2/21-2/24	28

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

March 2009

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 <i>File W-2s with SSA and 1099s with IRS</i> <i>Form 730 for wagers received during January</i>	3	4 * Make a deposit for 2/25-2/27	5	6 * Make a deposit for 2/28-3/3	7
8	9	10 Employees report February tip income to employers if \$20 or more	11 * Make a deposit for 3/4-3/6	12	13 * Make a deposit for 3/7-3/10	14
15	16 ** Make a deposit for February if under the monthly deposit rule	17	18 * Make a deposit for 3/11-3/13	19	20 * Make a deposit for 3/14-3/17	21
22	23	24	25 * Make a deposit for 3/18-3/20	26	27 * Make a deposit for 3/21-3/24	28
29	30	31 <i>File Form 730 for wagers received during February</i>				

* = 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

February 2nd

- > File Form 941 for the 4th quarter of 2008. If all deposits are paid on time and in full, file by February 10th.
- > If pre-qualified for simplified payroll filing, file Form 944. If all deposits are fully paid on time, file by February 10th.
- > File Form 940 for 2008 if liable for Federal Unemployment Tax (not participating or current with state unemployment tax). If all deposits are paid on time and in full, file by February 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during December 2008.
- > File Form 944 for 2008 if required in lieu of Form 941. If all deposits are paid on time and in full, file by February 10th.
- > File Form 945 for 2008. If all deposits are paid on time and in full, file by February 10th.
- > File Form 943 for 2008 (agricultural entities). If all deposits are paid on time and in full, file by February 10th.

March 2nd

- > File information returns for all payments reported to recipients on Forms 1099, 1098, 5498, and W-2G, using Form 1096 as a transmittal. If filing these forms electronically, file by March 31st.
- > File Form W-3, along with copy A of Forms W-2 you issued for 2008. File by March 31st if filing electronically.
- > File Form 730 and pay the tax on applicable wagers accepted during January 2009.
- > File Form 8027 if you are a large food and beverage establishment. File by March 31st if filing electronically.

March 31st

- > File Form 730 and pay the tax on applicable wagers accepted during February 2009.