



ITG News



Keeping First Nations Informed

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Message from the Director

All of us are faced with increasing burden in our jobs and in our lives. Just when we are certain we cannot absorb any more complexities in our work responsibilities, a new rule is issued, an existing procedure is complicated, or a new law changes the paradigm under which we have operated.



*....Form 941X
will reduce
burden....*

In response to this problem, the IRS created the office of Taxpayer Burden Reduction. This function seeks methods to streamline procedures in order to assist taxpayers in meeting their federal tax obligations by finding methods to reduce the time required to comply, decrease the number of forms or line items to be completed, or simplify letters and instructions. The creation of Form 944, the Employer's ANNUAL Federal Tax Return, resulted from work performed by the office of Taxpayer Burden Reduction. Although the number of tribal entities eligible to file this annual form is very small, the number of entities that benefit on a national basis is significant.

The office of Taxpayer Burden Reduction recently announced the overhaul of the process for correcting errors on Employment Tax returns, a problem commonly faced by tribal entities. The new process, which is scheduled to be effective on January 1, 2009 is outlined on pages 2 and 3 of this newsletter. However, as with all new procedures, I encourage tribes to contact their designated ITG Specialist if they encounter a need to avail themselves of the new correction procedures, or if they have any questions about the process.

Speaking of change, three long-time ITG Specialists have opted to make a major change in their lives by electing to retire after many years of devoted government service. My appreciation to Bill Barker from the Spokane office, Rick Ziton from the St. Paul office, and Emily Williamson from the San Diego office. As with all departures, we have reassigned the primary ITG contacts for tribes who dealt with these three individuals. An updated listing is always available on our web site under the "Contacting ITG" link on the left side of the landing page at www.irs.gov/tribes.

Christie Jacobs

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Form 941X to Debut

The IRS Office of Taxpayer Burden Reduction (TBR) initiated the Adjusted Employment Tax Returns (Forms 94X) Project to reduce burden associated with correcting information previously reported on various types of employment tax returns. Currently, employers and payers use one form – Form 941C, *Supporting Statement to Correct Information*, to correct the amounts they previously reported on Forms 941, 943, 944, and 945. Form 941C is not a stand-alone tax return. Presently, filers must attach Form 941C to their current employment tax return when making adjustments, or to Form 843 when claiming a refund of overpaid employment taxes.

Form 941C is complex and does not correspond directly to any employment tax return. Consequently, taxpayers often make mistakes completing and filing it, resulting in processing errors and delays. Additionally, because the taxpayer files Form 941C with the current employment tax return when making an adjustment, the IRS adjusts the tax for the current tax period but adjusts the wages for the calendar year being corrected. This makes it difficult for employers and the IRS to track taxpayers' account activity.

Commencing on January 1, 2009, a new set of dual-purpose forms for adjustments and refunds will reduce burden for employers, payers and the IRS. The IRS, with stakeholder input, is making the new forms as user-friendly as possible and implementing more accurate procedures for adjustments and refunds of employment taxes.

- **Forms:** Each stand-alone form will correspond to, and relate line-by-line with, the employment tax return it is correcting. For example, an employer who discovers an underpayment or overpayment error on a previously filed Form 941 will use Form 941X to make a correction. Since the Form 941X is a stand-alone form, the employer will be able to file Form 941X when an error is discovered, rather than having to wait to file it at the end of the quarter with the next employment tax return. The new forms being developed will correspond with Form 941, Employer's QUARTERLY Federal Tax Return; Form 943, Employer's Annual Federal Tax Return for Agricultural Employees; Form 944, Employer's ANNUAL Federal Tax Return; Form 945, Annual Return of Withheld Federal Income Tax and Form CT-1, Employer's Annual Railroad Retirement Tax Return. Spanish versions of the new forms are being developed for Forms 941-PR, 944-PR, and 944 (SP).

The IRS will also revise Form 941 and other employment tax returns for the 2009 tax year to eliminate prior period adjustment lines no longer needed after the implementation of the new forms. Note: Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, is not being revised. Employers can continue to use Form 940 to file amended returns.

- **Process:** Under the proposed regulations, Form 941X will be used to make adjustments and claim refunds. If an employer is correcting an overpayment for a Form 941, the employer will be able to either make an adjustment or claim a refund. If an adjustment is made the amount of the overpayment will be applied as a credit to the quarter in which the Form 941X is filed. Employers correcting underpayments of employment taxes that result in a balance due, can pay using EFTPS, credit card, or send a check along with Form 941X. The IRS will make both the tax and wage corrections to the actual tax period being corrected, resulting in a more accurate record.

As these new procedures are enacted, and/or you encounter the need to utilize them, we strongly encourage you to contact your designated ITG Specialist with any questions you may have.



FREQUENTLY ASKED QUESTIONS

Q. When I send in a Form 94X, do I need to attach it to anything, such as a copy of the form I filed originally?

A. No, the new forms are stand-alone forms. You should not attach them to anything.

Q. When should I file a Form 94X?

A. Complete and file the form as soon as you discover you need to adjust a previously filed employment tax return.

Q. Should I discontinue using Form 941c, Supporting Statement to Correct Information, to make corrections?

A. Yes, for errors discovered after Dec. 31, 2008, use the new form that corresponds to the employment tax return you are correcting.

Q. When are the new forms in the 94X series available?

A. The new forms are available starting January 2009.

Q. How will I know whether to make an adjustment or claim a refund?

A. If you have an overpayment of tax, you have two choices. Either request an adjustment and have the amount credited to the tax period in which the adjustment form is filed, or claim a refund of the amount you overpaid.

Q. What if I need to correct a previously filed Form 941 but I now file Form 944?

A. Use the adjustment form that corresponds to the return you are correcting—in this case, Form 941X because you filed a Form 941 in 2008. If you have an overpayment and request an adjustment, any credit will be applied to the tax period in which you filed the

Form 941X. For example, if you file Form 941X in 2009 and your filing requirement in 2009 is Form 944, the credit will be applied to your 2009 Form 944 account.

Q. What if my correction to the original return results in additional tax?

A. If you owe additional tax as a result of a correction, you should pay with the Form 94X. You can pay via EFTPS or check. Credit card payments will also be accepted for Forms 941X, 943X and 945X.

Q. Where can I get the new forms?

A. You can download the forms starting in January 2009 from www.irs.gov or call 800-829-3676 to request copies by mail.

Q. How can I reach the IRS if I have questions?

A. Answers to most questions are in the forms' instructions and on IRS.gov. Visit www.irs.gov/smallbiz for small business tax information, or call the Business and Specialty help line at 800-829-4933 to speak with an IRS representative.

The Adjusted Employment Tax Forms Project is an IRS initiative led by the Office of Taxpayer Burden Reduction.

For more information, visit www.irs.gov, Search TBR.

WWW.IRS.GOV



INTERNAL REVENUE SERVICE

Office of Taxpayer Burden Reduction

EMPLOYMENT TAX ADJUSTMENT

OR

CLAIM FOR REFUND (FORMS 94X)



Internal Revenue Service

OFFICE OF TAXPAYER BURDEN REDUCTION

MAKING CORRECTIONS TO EMPLOYMENT TAX RETURNS 2009 AND BEYOND

NEW! Employment tax returns now have corresponding forms for making corrections

Beginning Jan. 1, 2009, when you need to correct a previously filed employment tax return, use its corresponding form to make the change. The new 94X series of forms makes changes easy and accurate for employers and payers.

THE NEW 94X SERIES	
Correct the return you previously filed...	...using its corresponding 94X series form
Form 941, Employer's QUARTERLY Federal Tax Return	Form 941X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund
Form 943, Employer's Annual Federal Tax Return for Agricultural Employees	Form 943X, Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund
Form 944, Employer's ANNUAL Federal Tax Return	Form 944X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund
Form 945, Annual Return of Withheld Federal Income Tax	Form 945X, Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund
Form CT-1, Employer's Annual Railroad Retirement Tax Return	Form CT-1X, Adjusted Employer's Annual Railroad Retirement Tax Return or Claim for Refund

A simpler process reduces taxpayer burden

- **Timelier filing:** Employers and payers will file the appropriate form when they discover an error instead of waiting to file it with the next employment tax return. The new forms and process apply to errors discovered after Dec. 31, 2008
- **Easier completion:** The new forms replace Form 941c, *Supporting Statement to Correct Information*, and each relates line by line to the employment tax return being corrected
- **More accurate tax accounts:** The IRS will make both the wage and tax corrections to the tax period in which the error occurred
- **One form with a dual purpose:** The new 94X series is for making adjustments or claiming refunds. Employers will no longer use Form 843, *Claim for Refund and Request for Abatement*, to claim a refund for overpaid employment taxes



Update on Customer Satisfaction Survey

Our appreciation to all those who participated in our annual Customer Satisfaction Survey. We had a record number of responses, which helps increase the validity of the data provided.

We are still in the process of tabulating the information, and will be issuing a report during the current quarter, which will be posted to our web site at www.irs.gov/tribes. In addition, we will convene a task force of ITG employees to review the feedback and determine what changes we can make to better meet the needs of our tribal customers. We will also share that information on our web site when it is available.

Tax Tools for Tribes

You can order our comprehensive reference CD-ROM containing Publication 4268 (Employment Tax Guide for Tribes), Publication 3908 (Gaming Tax Law for Indian Tribal Government), 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, a "primer" for federal tax issues affecting individual Native Americans, and a guide on "Helpful Hints to Avoid Penalties".

E-Mail us at ITG.TaxTools@irs.gov and provide your mailing address and the number of CD-ROM copies you would like to receive.

Consultation Listening Meetings for FY 2009

October marks the start of the new fiscal year for the federal government. Each fiscal year, ITG holds up to four Consultation Listening meeting across the country, and invites tribal leaders and representatives to dialogue with us on key federal tax issues of concern.

During the upcoming year we plan to hold meetings in December in Anchorage, in early February in Washington D.C. (in conjunction with the United South and Eastern Tribes), in the spring in Albuquerque, and in the summer in Tulsa. As we get closer to the date of each meeting, we will post a notice as the headline on our Internet landing page, issue an invitation letter to tribal leaders in the area of the meeting, and issue a Special Edition of ITG News in that area.

The Anchorage meeting will be held on December 4th at the Westmark Hotel. We hope that many individuals attending the BIA Providers Conference that week will be able to find time to attend.

All of the meetings are open to anyone, and we encourage attendance by all interested parties. Meetings held over the past three years have led to meaningful changes in IRS procedures, and also have allowed us to forward tribal concerns to other IRS functions and other federal agencies.

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.



FinCEN Issues Guidance on Recognizing Suspicious Activity

On August 1, 2008, the Financial Crimes Enforcement Network (FinCEN) issued guidance via FIN-2008-G007. This guidance is intended to assist casinos and card clubs with the reporting of suspected money laundering, terrorist financing and related financial crimes. This guidance contains examples of circumstances or "red flags" - based on actual reports, the observations of examiners and the experience of law enforcement - that may indicate the presence of money laundering, terrorist financing, and related financial crimes.

The four page document can be accessed on-line at www.fincen.gov. You can also obtain a copy by contacting your designated ITG Specialist.

Questions or comments regarding the contents of the guidance should be addressed to the FinCEN Regulatory Helpline at 800-949-2732.

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

Revised CTR Form for Casinos and Card Clubs

Important Reminder: Effective September 1, 2008, casinos and card clubs are required to file Currency Transaction Reports using the revised form. FinCEN announced in April that it was revising FinCEN Form 103, the Currency Transaction Report for Casinos and Card Clubs (CTR-C). This revision incorporates regulatory changes and accommodates database-programming requirements.

Additionally, FinCEN has issued revised specifications for casino and card clubs who with to electronically file (E-file) the revised form.

Questions regarding the revised form may be directed to the FinCEN Regulatory Helpline at 1-800-949-2732. Casinos and card clubs with questions regarding E-Filing of the new form should call the Bank Secrecy Act (BSA) E-Filing Helpline at 1-888-827-2778.

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



Prize Aggregation for 1099-MISC

According to *The American Heritage Dictionary*, aggregate means, “gathered together into a mass so as to constitute a whole; total.” Aggregating has the same meaning for the IRS. You could miss filing and providing required Forms 1099-MISC if you do not aggregate payments made to individuals throughout the calendar year.

Failure to file and failure to provide information returns may result in not only an assessment of civil penalty of \$100 for each missing Form 1099-MISC, but also in a substantial underpayment of backup withholding at the rate of 28% of the amount paid for tax years after 2002. For example, if a tribal casino or entity has failed to issue 20 Forms 1099-MISC for payments totaling \$30,000 in tax year 2007, the total potential assessment would be \$10,400 consisting of \$2,000 in civil penalties and \$8,400 in backup withholding taxes.

We have seen a trend where casinos are not aggregating payments to individuals for prizes and/or awards given to them. Prizes and/or awards consist of cash or merchandise given to an individual who did not wager any money to receive the prize or award, for example; Hot Seat Giveaways, Hourly Cash Drawings or any other promotional giveaways.

Publication 3908, *Gaming Tax Law and Bank Secrecy Act Issues*, gives the following examples of prizes on page 24.

- **Example 1:** The casino has an hourly cash giveaway for their poker players. In the largest drawing the winner receives a ticket to the World Series of Poker. All these funds are a portion of the bets placed by the poker players. When a poker player makes bets, the bets are divided out three ways: the casino keeps a portion as a fee, a portion is saved for promotional giveaways, and the remaining portion is given to winners. The casino does NOT add any additional funds. The giveaway is not a wagering transaction. The payer doesn't put up money, but could be a prize winner. Therefore, the casino issues a Form 1099-MISC for their cash giveaway drawings.
- **Example 2:** The casino has a 4th of July drawing for an R.V. Players that put at least \$1,000 cash-in into slot machines, receive a raffle ticket. Also, any table game player that buys-in with \$100 or more will receive a raffle ticket. All the raffle tickets are dropped into a secure box and held until the day of the drawing. On the 4th of July, a raffle ticket is drawn, and the winner receives the R.V. The casino issues a Form 1099-MISC to the winner.
- **Example 3:** Jim wins a television with a fair market value of \$800.00 in a drawing on January 17, 2005. On October 16, 2005, Jim wins a cash door prize of \$300.00. A Form 1099-MISC would be issued to Jim for \$1,100.00 for 2005.

Information return reporting is required by law and you already have the necessary data to comply with the law. Most casinos have Player Tracking Systems, why not use that system to track any Hot Seat Giveaways, Hourly Cash Drawings or promotional giveaways? Many drawings require the winner to be a Player's Club member. Player Tracking System data used for marketing purposes is easily adapted for use to aggregate prizes for individuals. The accounting department could obtain the information from marketing to determine if a Form 1099-MISC is required.

Questions regarding aggregations can be directed to your assigned ITG Specialist. To find out who your specialist is go to our web site, www.irs.gov/tribes, and click the “Contacting ITG” link on the left side of the landing page.



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."

ITG Area Contacts

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Tax News For You!

Individual Tribal Member Information

Saver's Credit for Retirement Savings Contributions

One way for low and moderate income Americans to save on taxes is by saving for retirement. If you make voluntary contributions to an employer-sponsored retirement plan or to an individual retirement arrangement, you may be able to take a tax credit.

Formally known as the "Retirement Savings Contributions Credit," the Saver's Credit applies to:

- Married individuals filing separately and single with incomes up to \$26,500 for 2008
- Married couples, filing jointly, with incomes up to \$53,000 for 2008
- Head of Household with incomes up to \$39,750 for 2008

To be eligible for the credit you must be at least age 18, not be a full-time student, and cannot be claimed as a dependent on another person's return. You may be able to take a credit of up to \$1,000 (up to \$2,000 if filing jointly) if you make eligible contributions to a qualified IRA, 401(k) and certain other retirement plans. The amount of the credit is determined by your filing status, your adjusted gross income, and your other retirement contributions.

The credit is a percentage of the qualifying contribution amount, with the highest rate for taxpayers with the least income.

When figuring this credit, you generally must subtract the amount of distributions you have received from your retirement plans from the contributions you have made. This rule applies for distributions starting two years before the year the credit is claimed and ending with the filing deadline of that tax return.

The Saver's Credit is in addition to other tax benefits which may result from the retirement contributions. For example, most workers at these income levels may deduct all or part of their contributions to a traditional IRA. Contributions to a regular 401(d) plan are not subject to income tax until withdrawn from the plan.

For more information, review IRS Publication 590, *Individual Retirement Arrangements*, and Form 8880, *Credit for Qualified Retirement Savings Contributions*, which include the instructions. The publication and form can be downloaded at www.irs.gov or ordered by calling 800-TAX-FORM (800-820-3676).


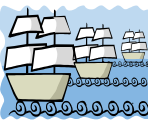
Employee Tip Income Program Questions

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.



Federal Tax Calendar for Fourth Quarter 2008





October 2008

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

File Form 730 for
wagers received during
September

File Form 941 the 3rd
calendar quarter of
2008

November 2008

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

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

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



December 2008

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

* = 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

October 31st

- > File Form 941 for the 3rd quarter of 2008. If all deposits were paid on time and in full, file by November 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during September.

December 1st

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

December 31st

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

To add your name or e-mail address to our mailing list, please contact us via e-mail at Carole.M.Oller@irs.gov or call Carole Oller at (605) 787-5650