

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.

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Christie Jacobs



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.

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.

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 "Enhancing Federal 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

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.



What Has ITG Done For ME Lately?

Well, we sent out flyers announcing the next round of FREE Employment Tax Workshops for the Chapters of the Navajo Nation.

Last year, FREE Employment Tax Workshops were presented in Farmington, Gallup, Flagstaff, and Albuquerque. Most of the Chapters were able to attend one of the workshops. This year we would like to help as many Chapters as possible. Our focus is on new Office Specialists and Community Service Coordinators. Also, we would like to invite the Chapter Office Specialists and Coordinators that could not come to a workshop last year.

In **November**, we are offering FOUR ,Two-Day, FREE Employment Tax Workshops at the IRS Offices (near Montgomery and San Mateo Northeast) in Albuquerque. About 25 attendees will fit into each class. Like last year, we will go over your Chapter's employment tax filing history and try to resolve any Notices you have received from the IRS or Social Security. Oh yeah! Representatives from the NM Department of Workforce Solution (Formerly the Dept. of Labor) and from the Social Security Administration will make presentations and be on hand to help resolve any issues you have with their agencies.

I hope you just read the previous two pages that talk about the **NEW** Form 941X. This form will be covered in the workshop.

So, how do you get a seat in the FREE workshop? You Email, Call, or FAX Lonneta Graham or Jim Crook at the following:

EMAIL: Lonneta.L.Graham@IRS.GOV or Jimmy.C.Crook@IRS.GOV

CALL: Lonneta at (505) 837-5536 or Jim at (505) 837-5613

FAX: Lonneta or Jim at (505) 837-5654

Operators are standing by to take your order. So, order TODAY! The Workshops are FREE!

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



Your Indian Tribal Governments Specialists

Sometimes you just need a little help and other times you need more. ITG has assigned a Specialist to each of the Navajo Nation Agencies and Chapters. The following Specialists are your first-line IRS contacts:

Eastern Agency	Jim Crook	(505) 837-5613	Fax (505) 837-5654
	Email: Jimmy.C.Crook@IRS.GOV		
Northern Agency	Lonnette Graham	(505) 837-5536	Fax (505) 837-5654
	Email: Lonnette.L.Graham@IRS.GOV		
Western Agency	Theresa Nosie	(480) 503-7318	Fax (480) 503-7320
	Email: Theresa.S.Nosie@IRS.GOV		
Chinle Agency	Aaron Coleman	(602) 207-8751	Fax (602) 207-8002
	Email: Aaron.H.Coleman@IRS.GOV		
Ft. Defiance Agency	Michelle Risk	(520) 205-5022	Fax (520) 670-4661
	Email: Michelle.L.Risk@IRS.GOV		

Feel free to contact any or all of them if you need assistance. If you can't get a hold of any of the Specialists, just call our Manager: Anita Gentry at (505) 837-5573, Fax (505) 837-5654, or Email: Anita.D.Gentry@IRS.GOV.

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.



Tax News For You!

Individual Tribal Member Information—What's Taxable?

Type of Income	Taxability	Where Reported	Reference
Wages received as an employee, Form W-2	Yes	Appropriate "wages" line on Form 1040EZ, 1040A, or 1040	Rev. Rul. 67-284, 1967- 2 C.B. 55 www.irs.gov/pub/irs-tege/rr67_284.pdf
Tips from casinos and other sources – Reported to the employer	Yes	Appropriate "wages, salaries, and tips" line on Form 1040EZ, 1040A, or 1040	Refer to ITG Website – FAQs regarding Tip Income www.irs.gov/govt/tribes/article/0,,id=102427,00.html
Tips from casinos and other sources – which have Not been reported to the employer	Yes	Must file Form 4137, Social Security & Medicare Tax on Unreported Tip Income, and attach to Form 1040	Form 4137 MUST be filed if cash and charge tips of \$20 or more in a calendar month were not reported to the employer. Also must file if Form W-2, box 8 shows allocated tips that must be reported as income.
Amounts paid to Indian Tribal Council Members	Yes	Appropriate "wages" line on Form 1040EZ, 1040A, or 1040	Income is listed on the individual's W-2. Although includible in gross income, these amounts do not constitute "wages" for the purposes of FICA, FUTA, and federal income tax withheld. Rev. Rul. 59-354, 1959-2 C. B. 24. http://www.irs.gov/pub/irs-tege/rr59_354.pdf
In business for yourself; Self-employed	Yes	Schedule C plus Schedule SE	Publication 334 Tax Guide for Small Business (For Individuals Who Use Schedule C)
Reinvested "exempt" income	Yes	Applicable return and line based on the character of the investment	<u>Superintendent of Five Civilized Tribes v. Commissioner</u> , 295 U.S. 418(1935)
Income from trust land which has been leased from the tribe (example, cattle ranching on tribal trust land used under grazing permits)	Yes	Applicable return and line based on the character of the income	Has been held taxable on the ground that the individual Indian has no present or potential ownership interest. <u>Holt v. Commissioner</u> , 364 F.2d 38 (8 th Cir. 1966), cert. denied, 386 U.S. 931 (1967)
Income from allotted land which has been removed from trust	Yes	Applicable return and line based on the character of the income	Income earned from the land, or gains derived from sale of the land, is fully taxable once the allotted land is removed from trust.
Income from logging operations on reservation lands	Yes	Applicable return and line	<u>Fry v. U.S.</u> , 557 F.2d 646 (9 th Cir. 1977), cert. denied, 434 U.S. 1011 (1978)



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
wages 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.



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	22	23	24 * make a deposit for 12/17-12/19	25	26	27
28	29 * make a deposit for 12/20-12/23	30	31 * make a deposit for 12/24-12/26			

Form 730 for wagers
received during
October

File Form 730 for
wagers received
during November

* = 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.