



# ITG News

Keeping First Nations Informed



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## Message From The Director

October marks the start of FY 2006 for the federal government and, with it, another annual Work Plan for the office of Indian Tribal Governments. As in past years, our Work Plan outlines the areas where we will place an emphasis for the upcoming 12 month period and is based on an analysis of customer input, employee input, and data.

Several areas of focus will continue from this past year. This includes issues such as tip reporting by employees of tribal enterprises and employment tax examinations. In addition to these issues, we will be placing an increased emphasis on two other significant areas:

- Bank Secrecy Act - the federal government continues to focus on combating money laundering. Due to the potential use of tribal enterprises (particularly tribal casinos) as vehicles for money laundering, we will seek to work closely with tribes to ensure that they have effective BSA Compliance Plans.
- Information Reporting - as tribal economies continue to grow, we will focus resources on ensuring that tribes are in compliance with both information reporting and withholding requirements on payments to vendors and individuals.

FY 2006 will also mark the rollout of an initiative to allow tribal entities to perform their own Compliance Checks. Detailed information on that program is available on page 4 of this newsletter.

As always, a copy of the ITG Annual Work Plan will be posted on our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes). I welcome any questions or feedback you may have on our operations by contacting me at (202) 283-9800 or via e-mail at [christie.jacobs@irs.gov](mailto:christie.jacobs@irs.gov).

*Christie Jacobs*



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# Federal Tax Calendar for Fourth Quarter 2005

## October 2005

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5 * make a deposit for 9/28-9/30	6	7 * make a deposit for 10/1-10/4	8
9	10	11 Employees earning tips in excess of \$20 in September must report amount to employer	12	13 * make a deposit for 10/5-10/7	14 * make a deposit for 10/8-10/11	15
16	17 ** Make a deposit for September if a monthly depositor	18	19 * make a deposit for 10/12-10/14	20	21 * make a deposit for 10/15-10/18	22
23	24	25	26 * make a deposit for 10/19-10/21	27	28 * make a deposit for 10/22-10/25	29
30	31					

## November 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * make a deposit for 10/26-10/28	3	4 * make a deposit for 10/29-11/1	5
6	7	8	9 * make a deposit for 11/2-11/4	10 Employees earning tips in excess of \$20 in October must report amount to employer	11	12
13	14 * make a deposit for 11/5-11/8	15 ** Make a deposit for October if a monthly depositor	16 * make a deposit for 11/9-11/11	17	18 * make a deposit for 11/12-11/15	19
20	21	22	23 * make a deposit for 11/16-11/18	24	25	26
27	28 * make a deposit for 11/19-11/22	29	30 * make a deposit for 11/23-11/25			

\* = 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.

## December 2005

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2 * make a deposit for 11/26-11/29	3
4	5	6	7 * make a deposit for 11/30-12/2	8	9 * make a deposit for 12/3-12/6	10
11	12 Employees earning tips in excess of \$20 in November must report amount to employer	13	14 * make a deposit for 12/7-12/9	15 ** Make a deposit for November if a monthly depositor	16 * make a deposit for 12/10-12/13	17
18	19	20	21 * make a deposit for 12/14-12/16	22	23 * make a deposit for 12/17-12/20	24
25	26	27	28	29 * make a deposit for 12/21-12/23	30 * make a deposit for 12/24-12/27	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

### Return Filing Dates

**October 31st**

- > File Form 941 for the 3rd quarter of 2005. If all deposits paid on time and in full, file by November 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during September.

**November 30th**

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

**January 3, 2006**

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

## ITG to Implement Self-Compliance Check Program

One of the cornerstones of our interactions with tribal entities has been “Compliance Checks.” While participation in Compliance Checks is voluntary on the part of tribal entities, many of them have found it to be a useful tool in determining potential weaknesses in their federal tax administration responsibilities. These have often led to additional activities such as educational seminars by ITG for tribal staff, assistance from ITG in filing returns, and adjustments to tax accounts. During the past three years, ITG has performed over 700 Compliance Checks which, in turn, have led to nearly 800 actions to assist tribes in improving tax compliance.

We are pleased to announce that we will be implementing an initiative to permit certain tribal entities to perform their own Compliance Checks if they so choose. Tribal entities must be current in the filing of all required federal tax returns and must have fully paid all federal tax liabilities in order to qualify. They can apply to perform a “self-Compliance Check” by submitting a request through a special link on the landing page of the ITG web site or by notifying ITG in response to a contact we might initiate.

A special template with fill-in-the blank responses has been created and is currently being tested by three tribes that volunteered to assist with this process. We also are creating a special web page with links to reference material that will assist tribes in both understanding the process and in completing their own Compliance Check.

As part of this process, tribal entities performing their own Compliance Check will have the opportunity to effect any corrective actions. An ITG Specialist will assist in that process and will mitigate any penalties wherever possible. For example, if a tribal entity discovered during a self-Compliance Check that they had not filed required Forms 1099, the entity could make a self correction without risk of penalty.

We worked with several tribes during the development of this initiative, and we believe that there are several advantages that a tribe might realize through this process. Among them are:

- Existing tribal finance staff might gain added insights into key federal tax administration issues that impact their positions and the tribal entity.
- A new tribal finance officer could utilize a self-Compliance Check to establish a baseline of current federal tax compliance. It would improve their knowledge of the tax issues within the specific entity and allow them to remedy any problems that might pre-date their assumption of tax responsibilities.
- A tribal entity might identify a potential area of noncompliance that they wish to surface to ITG and remedy with minimal risk or cost.

We will be posting information to our main landing page at [www.irs.gov/tribes](http://www.irs.gov/tribes) as soon as this initiative is ready to launch nationwide, and a Special Edition of ITG News will be issued as well. We plan to be ready by mid-November and sincerely hope that this initiative will empower tribes to self-assess federal tax compliance and effect improvements. Thanks to those who have been involved in its design and testing, and we look forward to active participation of tribal entities who believe they might benefit.

### Publication 4268 - Employment Tax Guide for Tribes

**Our on-line Employment Tax Guide continues to receive a very positive response from tribal payroll and finance employees. You can download this comprehensive guide from a link on our landing page at [www.irs.gov/tribes](http://www.irs.gov/tribes).**

## MISMATCH NOTICE PENALTIES

Mismatch notices are generated by one of the Internal Revenue Service Campuses when the taxpayer identification number and name on an information return do not match either Social Security Administration or Internal Revenue Service records. There are two types of mismatch notices generated depending on the information return that was filed by the payer.

**Form 1099-MISC-** mismatch notices are Letters CP2100 and CP2100A. The CP2100 package will contain a B Notice Letter. The payer must send the payee the B Notice within 15 days of receiving the CP2100 along with a blank W-9 for confirmation of the taxpayer identification number. The envelope must be clearly marked on the outside with **“Important Tax Information Enclosed.”** The payer must provide return mail information to the payee or a pre-addressed return envelope. Make sure that the date, account number and back-up withholding rate are all on the B Notice before it is mailed to the payee. The payer must begin back-up withholding if the payee does not respond within 30 days to the B Notice.

If the payer receives a **second B Notice** on the same payee, the payer must issue the second B Notice Letter. This Notice requires the payee to contact the Social Security Administration on Form SSA-7028 and request that the Social Security Administration provide the proper social security number to the payer. If the incorrect tax identification number is an employer identification number, the payee must write to the Internal Revenue Service Entity Section where the payee normally files their income tax return. The payee must include a copy of the second B Notice and request that the IRS send Letter 147C to the payer. **Important Note: This information must be requested in writing. The confirmation must be received directly from SSA or the IRS in order to stop or prevent back-up withholding.** A detailed description of this process and the Form SSA-7028 may be found in Publication 1679.

**Letter 972CG-**Casinos that receive mismatch notices concerning Form W-2G are sent Letter 972CG. The payer may contact the payee in one of three ways. The payee may be notified about the mismatch notice by letter, by telephone, or electronic mail. The payer must provide the payee with a W-9 to correct their taxpayer identification number regardless of which solicitation method it uses to notify the patrons of the mismatch notice. Please refer to Publication 1586 for full details concerning notification requirements.

The Letter 972CG is a **proposal** to assess penalties. The penalties are not assessed if there is reasonable cause to waive the penalties. The IRS may assess the penalties if the payer does not respond to Internal Revenue Service within 45 days of receiving the letter. The payer should contact the IRS if more than 45 days are needed to fully respond to the notice.

The payer must check its records, solicit verification of addresses and taxpayer identification numbers from payees, and write back a response to the Letter 972CG.

Continued on next page

## MISMATCH NOTICE PENALTIES *Continued*

Penalties for failure to furnish and failure to file correct information returns may be waived if the payer can show that the failure was due to reasonable cause and not willful neglect. Reasonable cause means that the payer acted in a responsible manner both before and after the failure occurred.

Acting in a responsible manner means that the payer makes an initial solicitation (request) for a payee's name, address and taxpayer identification number. Once a mismatch notice is received, the payer must check its records against the information furnished by the Internal Revenue Service. If the payer information matches the information on the mismatch notice, the payer must contact the payee in one of the three ways mentioned in Publication 1586 in order to obtain the payee's correct taxpayer identification number and address. In many cases penalties have not been waived because the payer has not completed the follow-up actions required to demonstrate reasonable cause after being notified of the mismatch by the Social Security Administration or the Internal Revenue Service.

Often times mismatch notices are issued to a payer several years after the reportable transaction took place. For example, a payer asked a customer to complete Form W-9 and used the information supplied by the payee to fill out the Form W-2G in 2002. In 2004 the payer receives a Letter 972CG concerning the same payee. An employee of the payer attempts to telephone this person and finds the telephone number is no longer in service. The employee sends a written notification to the payee and receives the letter back marked "return to sender." The employee runs the payees name through the 2003 and 2004 payee records and does not find a match. The payee appears to no longer have a relationship with the payer. The payer is not required to try and contact the payee any further. The payer should respond to the Notice 972CG stating that the exception to the requirement for the annual solicitation is met because the payee has a closed account. **However**, if the customer comes back in 2004 the whole verification process begins again.



Previous editions of the newsletter may be found at [www.irs.gov/tribes](http://www.irs.gov/tribes)

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



### Mileage Rates Increase

In response to the recent gasoline price increases, the IRS and Treasury Department announced an increase in the optional standard mileage rates for the final four months of 2005.

The rate will increase to **48.5 cents a mile** for all business miles driven from Sept. 1 through Dec. 31, 2005. This is an increase of 8 cents a mile from the 40.5 cent rate in effect for the first eight months of 2005, as set forth in Revenue Procedure 2004-64.

## Annual Customer Satisfaction Survey Update

As we announced in the July issue of ITG News, we undertook our annual customer satisfaction survey of all 564 federally-recognized tribes during August and September, in order to secure feedback on our operations. As noted in this issue's "Message From The Director," feedback from tribes is one component we use in formulating our annual Work Plan.

We are just beginning to analyze the responses. As in past years, we will publish the results on our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes). Our report, which we plan to complete and post by November 15<sup>th</sup>, will contain a summary of any actions we will undertake to effect improvements based on the feedback provided by tribes. Improvements made as a result of past surveys include staffing increases, creation of new educational products, and the redesign of the ITG web site. Equally important is feedback on areas where we are meeting the federal tax administration needs of tribes so we can continue to reinforce our activities in those areas.

We want to thank all of you who took the time to respond. While we welcome your feedback at any time, your survey input is valuable in our decision-making processes. We look forward to your continuing participation in this important process.

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### Consultation Policy Update

We continue to progress with the issuance of an IRS/Tribal Consultation Policy. While we continue to work through the clearance process internally and with the Treasury Department, we plan to begin to implement the section of the policy that will direct a minimum of four annual listening meetings. Our web site will contain the latest news as we move forward to finalize the policy as well as schedule the initial meetings.

## Effective Internal Controls Can Mitigate Risk in the Contracting Process

Several tribes have surfaced concerns regarding losses they incurred from contractors who failed to perform services as required. Subsequent discussions revealed that in many cases the tribes did not have adequate controls in place to properly award or monitor the contracts. While tribes enact their own operating procedures for contracting with vendors, many have developed internal controls that help ensure the contracting process has four keys steps – 1) solicitation of bids for statements of work, 2) a formal award of the contract by a duly designated tribal body, 3) a validation of work performed, and 4) a documented formal payment process. Generally the award and monitoring of performance is done by a different party than the one that makes payment. A certification is used to validate that the work is completed and to request issuance of payment.

While there is no guarantee that losses can be avoided, the creation of internal checks and balances within the process by the tribe can help ensure that work is performed as required and that payment is not made until the tribe is satisfied that the contract has been fully performed.

## PAYROLL TAXES

The IRS has issued temporary regulations (regs) that eliminate a burdensome chore employers had to perform when they came across a suspect W-4 handed in by an employee. The regs also eliminate another rule that made an employer the conduit in one type of dispute between employees and the IRS, and clarify the rules for when substitute W-4s may be used.

**W-4 rules:** Each employee must give his or her employer a signed withholding exemption certificate - Form W-4 - on or before commencing employment. The maximum number of withholding exemptions an employee is entitled to depends on: marital and filing status; the number of dependents he or she has, and, if married, the number of exemptions claimed by the employee's spouse (if any) on a Form W-4; and estimated itemized deductions, tax credits, and certain other deductions from income.

**Previous procedure for suspect W-4s:** Under previous rules, employers had to submit to the IRS copies of the following questionable Form W-4s:

\* W-4s on which an employee claims more than 10 withholding exemptions; and

\* W-4s on which the employee claims a complete exemption from withholding for the tax year, if the employer reasonably expects, when the Form W-4 is received, that the employee's wages from that employer will usually be \$200 or more per week.

**Paperwork chore eliminated:** Under the new temporary regs, employers are no longer required to submit to the IRS a copy of the above suspect W-4s. Instead, an employer must submit a copy of any currently effective withholding exemption certificate only if directed to do so in a written notice from the IRS or if directed to do so under any published IRS guidance. As under previous rules, the written notice may direct the employer to submit copies of Forms W-4 for certain employees. The IRS also may issue a notice to an employer specifying the maximum number of withholding exemptions permitted for a particular employee, after it determines that a W-4 submitted to the IRS contains a materially incorrect statement or after the employee fails to respond adequately to a request for verification of the statements on the certificate. The IRS may also issue such a notice after it determines an employee can't claim complete exemption from withholding or more than a specified number of withholding exemptions based on IRS records without first getting a copy of the withholding exemption certificate from the employer.

**Go-between duty eliminated:** After the IRS issues a notice of the maximum number of withholding exemptions permitted, an employee may dispute the notice (e.g., claim complete exemption from withholding). Under the temporary regs, he or she may do so only by submitting to the IRS a new withholding exemption certificate and a written statement to support his or her claims. To reduce burdens on employers and to more efficiently respond to the employee, the option under previous regs to send this information to the employer for forwarding to the IRS has been removed.

**Substitute W-4 forms ok'd:** The new temporary regs clarify that a substitute withholding exemption certificate developed by the employer can be used instead of the official IRS Form W-4 if the employer also provides the worksheets contained in the Form W-4 in effect at that time. The temporary regs also say that employers may refuse to accept a substitute form developed by an employee and that the employee submitting such form will be treated as failing to furnish a withholding exemption certificate.

**Effective date:** The new temporary regs on W-4s went into effect on April 14, 2005.

## ITG Area Contacts

### PACIFIC NORTHWEST

Alaska, Idaho, Oregon, Washington

### SPECIALISTS

#### **Mary Jo Audette**

Anchorage, AK

907-271- 6874

MaryJo.Audette@irs.gov

#### **Carol Czolowski**

Ogden, UT

801-620-5048

Carol.A.Czolowski@irs.gov

#### **Michael Fehrenbacher**

Vancouver, WA

360-696-7643 ext. 227

Michael.Fehrenbacher@irs.gov

#### **Melodie Gren**

Spokane, WA

509-353-0824

Melodie.F.Gren@irs.gov

#### **John Mandeville**

Spokane, WA

509-353-0816

John.M.Mandeville@irs.gov

#### **Judy Pearson**

Anchorage, AK

907-271-6949

Judy.M.Pearson@irs.gov

#### **Connie Perkins**

Salem, OR

503-399-5623 ext 251

Connie.K.Perkins@irs.gov

#### **Joe W. Kincaid, Manager**

Portland, OR

503-326-2381

Joe.Kincaid@irs.gov

### Telephone, Internet, & Mailing Address

- **Call: Customer Account Services** toll free **877-829-5500**
- **Visit: Indian Tribal Governments** Web site at **www.irs.gov/tribes**
- **Write: Internal Revenue Service**

Indian Tribal Governments SE:T:GE:ITG

1111 Constitution Ave., NW

Washington, DC 20224