

# FY 2008 Work Plan

## Office of Indian Tribal Governments



Tax Exempt Government Entities Division

October 2007  
through  
September 2008

FY 08  
Indian Tribal Governments Work Plan

Telephone Contacts

<b>Area</b>	<b>Contact</b>	<b>Telephone</b>
General Work Plan Questions	Christie Jacobs Steve Bowers	(202) 283-9800 (714) 347-9430
Customer Education and Outreach	Steve Bowers	(714) 347-9430
Compliance and Examination Activity	Steve Bowers Ann Brinlee Randy Johnson	(714) 347-9430 (405) 297-4694 (405) 297-4407
ITG Training	Elizabeth Gabbey	(716) 686-4861

## Table of Contents

Executive Summary.....	3
Planning Process	
Overview of ITG.....	5
Methodology.....	5
Work Plan Areas	
BAC 52, PAC TT.....	8
BAC 64, PAC EF .....	11
Training Activities.....	14

## **Executive Summary**

As ITG begins its eighth year of existence, it continues to utilize a balanced approach to the development and implementation of its annual work objectives. Employee input, customer feedback, and data-driven analysis of tax and economic data serve as the foundation for determining the specific areas of focus.

FY 2008 will represent a continuation of many programs, and the initiation of several new ones. ITG will continue to provide outreach and education to its customers, where such actions are the optimal method to improve compliance and share critical information. This will include large scale outreach events for regional and national tribal groups, intensive hands-on training where ITG must enable compliance, and the continuation of the use of the web site and the 8 editions of ITG News for the distinct regional audiences.

ITG will continue its Compliance Check program, and work to increase participation in the tribal self compliance-check program known as TEFAC.

ITG will maintain an examination focus on the issues where noncompliance is a major concern. A focus will remain on the use of gaming revenues, continuing the Gaming Initiative that began in FY 2005. Many of these examinations will involve Forms 945 and Information Reporting, since historic data has disclosed the lowest level of voluntary compliance is within that area. Some resources will be applied to traditional Employment tax issues, particularly in those areas where data shows ongoing problems, with an additional emphasis on smaller entities that have exhibited continuing noncompliance. ITG will also continue to pursue wagering excise tax cases, in order to ensure that horizontal equity exists with this issue. ITG will also continue its Bank Secrecy Act Compliance Check program begun in FY 2007 to assist tribes in assessing BSA compliance, and in effecting improvements in BSA compliance programs. ITG will also continue its efforts to address compliance issues involving Tribal banking, a new market segment within Tribal economies that is expected to triple in size in the next few years

ITG will undertake two new initiatives in FY 2008:

- ✓ One will focus on Non-Filers, and will support a national non-filer initiative. ITG will utilize data to determine entities which appear to have return filing obligations but have not filed, as well as those who are “stop-filers”. Such entities have filed returns, but for some apparent reason have failed to file returns for specific tax periods.
- ✓ ITG will also undertake a targeted Outreach initiative in Alaska and within the Navajo Chapters. This effort will involve specially designed outreach materials developed to address the specific compliance issues found within

those segments. ITG will seek partners to help sponsor and support this major undertaking.

In addition, ITG will undertake extensive outreach and education efforts to assist in the implementation of pension legislation enacted in 2006, and in the rule on “essential government services” in regard to tax-exempt bonds that is currently under consideration by Counsel.

ITG will continue its extensive use of data to analyze compliance levels and trends, adjust workload selection formulas, and measure customer satisfaction. The analysis will continue to be used to determine program direction, develop targeted compliance improvement products, and assess the impact of ITG efforts.

Lastly, ITG will fully integrate TREES, the TEGE workcenter, into its work processes, and will also continue to supplement that effort through the ITG Toolboxes that have evolved during the last three fiscal years.

## **PLANNING PROCESS**

### Overview of ITG

The office of Indian Tribal Governments was established in FY 2001 as part of the Service's modernization process. The office is responsible for federal tax administration issues relating to the 562 federally recognized Indian tribes. This includes various employment taxes, excise taxes, anti-money laundering statutes, income taxes, and information reporting. ITG is also responsible to ensure that the Service is in compliance with the provisions of various treaty-based rights of Indian tribes, and various Executive Orders that outline the government-to-government relationship that is required for all interactions.

FY 2008 represents the eighth year of existence for ITG, and will mark a continuation of the balance between outreach and examinations that ITG has utilized for the last 3 years.

For FY 2008, ITG continued its comprehensive planning process to ensure that the Work Plan reflected input from IRS data, customers, and employees. Responsibility for the implementation of the Annual Work Plan is vested with the Compliance and Program Management Manager.

At the start of FY 2008, ITG will be staffed at 87% of planned staffing. ITG is scheduled to receive some attrition hiring in FY 2007. In addition, ITG is scheduled to receive additional hiring to continue to build its Special Enforcement Program that focuses on schemes, abuses, and fraud. As a result of the hiring, ITG projects that it will complete FY 2008 at 89% of planned staffing.

Although there are only 562 federally recognized Indian tribes, the continuing emergence and growth of tribal economies, largely fueled by gaming, requires ITG to interact with nearly 2250 current tribal entities. Indian tribal governments represent one of the fastest growing segments of the economy, with employment continuing to grow at a steady rate.

### Methodology

The Strategic Business Plan identified Trends, Issues, and Problems (TIPs) for FY 2008 at the time of its formulation. The ITG office determined that an accurate Work Plan would require a data-driven approach to help refine the TIP areas into specific areas of focus. This approach would provide additional information on which to actually plan critical work.

To accomplish this objective, ITG embarked on a multiple-stage data collection process, including:

- ✓ a formal analysis of compliance,

- ✓ customer feedback, and
- ✓ environmental scanning by the field.

A Compliance Initiative was initiated in FY 2001, which utilized generally accepted research methodology to analyze compliance by Indian tribal governments. A major component of this effort was an analysis of Master File information and external data that would assist in determining compliance issues that exist on a national scale. This work was repeated in June 2002, July 2003, September 2004, September 2005, November 2006, and July 2007, and it assisted in determining issues for the FY 2008 Work Plan. It also is used to create new measures that can be contrasted to data from the prior analyses to determine compliance trends over time. The latest analysis reflected the following issues as being present on a regional or national scale:

- ✓ Anti-Money Laundering Requirements
- ✓ Information Reporting (including withholding on Forms W-2G and per capita distributions from gaming)
- ✓ Tip Reporting Compliance
- ✓ Employment tax filing and payment compliance

ITG attended and participated in numerous meetings during FY 2007 with tribal groups and trade associations. The areas of concern identified through this process include:

- ✓ Anti-Money Laundering Requirements (with added focus on Suspicious Activity Reporting)
- ✓ Tip Reporting Compliance
- ✓ Communication mechanisms with tribes
- ✓ FICA and Federal withholding on Tribal Council pay (Revenue Ruling 59-354)

ITG conducts a Customer Satisfaction Survey each year, which identifies areas of strength where ITG needs to maintain its current efforts, as well as areas for improvement. The FY 2008 Work Plan includes continuing actions designed to address the needs that surfaced in the FY 2006 and FY 2007 surveys, including improved communication mechanisms, web site enhancements, and during Listening Meetings held under the auspices of the ITG Consultation process.

Employee feedback secured through the field groups helped to identify issues/customer needs, including:

- ✓ Tip Reporting compliance
- ✓ Employment Tax assistance, with an emphasis on penalty administration
- ✓ Per capita distributions (minor trusts, need-based payments, information reporting)
- ✓ Title 31
- ✓ Gaming issues

In addition to the issues surfaced through data analysis, customer feedback, and employee input, ITG will devote FY 2008 resources to address abusive issues surfacing within Indian tribal enterprises. We will seek to partner with tribes to address issues regarding promotion of tax schemes, as well as to address internal abuses that harm tribal finances.

Thus, the foundation for the formulation of the FY 2008 ITG Work Plan is based on the TIP area, but refined to specific issues through the analysis of IRS data, customer input, employee input, and environmental scanning. These issues form the basis for the compliance activities to be undertaken in FY 2008. The major areas of emphasis are those that were reflected in the analysis of compliance, and reinforced through customer and employee input. These include Tip Reporting Compliance, Employment Tax accuracy (including deposits and penalties), Anti-Money Laundering, Non-Filing, and Information Reporting.

Each manager was provided a summary of the information and then was given the responsibility to determine the resources required to address relevant issues with their impacted tribes in FY 2008. The managers determined the extent of relevancy for each issue in their area, and estimated their resource needs by issue. Each manager was also asked to provide projections for administrative time, leave, training, etc., and to provide a narrative supporting all of their time allocations. The resultant input was compiled, and a meeting was held to review the results. The management team worked to align the Work Plan with all of the guidelines.

The data validated the TIPs that had been initially projected for FY 2008, but the data-driven approach utilized allowed ITG to pinpoint specific issues, and to ensure that a balanced approach is planned for outreach and compliance activities.



## **WORK PLAN AREAS**

ITG will support the Tax Exempt and Government Entities (TEGE) Division major strategies and operating priorities for FY 2007. These strategies address key challenges we face in delivering top quality service to each customer, top quality service to all customers, and productivity through a quality work environment. These include actions to:

- **Understand and Improve Compliance** – as detailed below, ITG will continue to utilize employee input, customer input, data analysis, and environmental scanning, to secure a comprehensive knowledge of key compliance issues and causes of noncompliance.
- **Meet Customer Needs** – as detailed below, ITG will work closely with customers through focus groups and a customer satisfaction survey, to ascertain their needs, as well as to design and deliver mutually agreeable remedies to identified compliance concerns and problems whenever possible.
- **Improve Organizational Performance** – as detailed below, ITG will utilize balanced measures and analyze the results to enhance operations and improve performance.
- **Improve Knowledge and information Management** – as detailed below, ITG will expand its use of data, and continue to use it to identify, track, and measure the impact of all field activities. ITG will continue to support the development and implementation of TREES as its primary work platform.
- **Build a Highly Qualified and Satisfied Workforce** – as detailed below, ITG will continue to train its workforce so that employees have the skills necessary to meet customer needs. ITG will also continue its Knowledge Sharing process to expand technical skills of the ITG workforce, and will continue its use of the employee survey and ITG employee focus groups to identify opportunities for improvements in employee satisfaction.

### **Budget Activity Code 52, PAC TT**

This area represents the resources devoted to Pre-filing Education and Assistance, which includes customer education and outreach, direct and indirect assistance, and coordination of assistance actions between ITG and other functions.

#### **Customer Focus Groups**

ITG will continue to utilize a data-driven approach to the identification of compliance needs. This approach includes the continuation of employee focus groups, customer focus groups, and compliance data analysis. Customer groups will include a minimum of four Consultation listening meetings for FY 2008,

currently projected to be held in Seattle, Billings, Phoenix, and Washington, D.C. To meet the focus group needs in this area, ITG will devote resources to Activity Code 316.

### Customer Education and Outreach

ITG will undertake a series of activities that focus on addressing key areas of noncompliance through a combination of targeted outreach, development of new educational products and processes, and conduct of field compliance activities. While focus will be placed on the national and regional issues identified through the research, environmental scanning, and focus groups, local actions will also be supported.

Outreach will focus on key areas such as anti money laundering requirements (a continuing area of national emphasis in all customer segments), employment tax and information reporting requirements, the rollout of Form 944 (annualized employment tax return) and tip reporting requirements. ITG will also expend outreach and education resources to assist tribes with changes required by the enactment of new pension legislation in 2006, the pending new rules defining “essential government services” for tax exempt bonds, and the rules relating to the new Telephone Excise Tax refunds.

ITG will undertake these efforts with individual tribes, trade organizations, and stakeholder groups. ITG will also continue the issuance of regional newsletters each quarter during FY 2008. These newsletters will again be used to provide additional customer education on technical issues, and to disseminate information on meetings and seminars. The regional approach to these newsletters allows us to meet the diverse needs of our customers, which often vary by geographic area.

Time expended in this area will be charged to Activity Codes 121, 122, 123, 125, 127, and 591.

In addition to the regional newsletters, other products to be developed during FY 2008 will include a revision of Publication 3908, Gaming Tax Law for Indian Tribal Governments. ITG will also continue to upgrade its portion of the [www.irs.gov](http://www.irs.gov) web site, and make significant enhancements to information that will assist tribes in the self-determination of compliance problems.

### Stakeholder Relationship Management

ITG will continue to identify the optimal partners for joint activities. Stakeholder relationships will be fostered as a mechanism to involve customers in the

development of outreach products, and to leverage resources to maximize the benefit of customer education efforts.

### Other Actions

ITG will continue three major activities during FY 2008 that are designed to effect operational improvements.

- Balanced Measures - ITG will utilize Balanced Measures to determine Employee Satisfaction, Customer Satisfaction, and Business Results. Data from these measures will assist ITG to ensure that actions undertaken do not adversely impact any of the three areas, and will also assist ITG to identify areas in need of operational improvements in subsequent years.

As part of this process, ITG will continue the structured review of 100% of all examinations and compliance checks. Time spent in this area will be charged to Activity Code 315.

While the measures being utilized for Employee Satisfaction and Business Results are somewhat consistent with measures used by other functions, ITG will continue its Customer Satisfaction Survey, which is unique. FY 08 will be the sixth year for an annual survey of the 562 federally recognized tribes to ascertain their level of satisfaction with their relationship with the Service. The Compliance and Program Management staff will administer the actual survey. Data collected in prior surveys will continue to serve as a baseline, and FY 2008 data will be analyzed to determine any change.

- Knowledge Sharing – ITG will continue its Knowledge Sharing process that focuses on enhancing employee technical knowledge. For FY 2008, ITG will add Bank Secrecy Act issues to the existing knowledge-sharing process. This effort concentrates on the transfer of specialized technical knowledge between employees to improve both employee and customer satisfaction. Project codes 275-281 will be utilized to track the resources expended on activities where KSG processes are employed.
- Consultation Policy – During FY 2008, ITG will continue to institutionalize a Consultation process within the IRS. In addition, four Consultation listening meetings will be held, with notifications to be made by mail and web site postings. ITG plans to hold these meetings in FY 2008 in Seattle, Billings, Phoenix, and Washington D.C.

## **Budget Activity Code 64, PAC EF**

This area represents the resources devoted to Field Compliance Services, which includes compliance checks, return examinations, anti money laundering oversight, research, and requisite support work.

### Workload Selection

ITG will continue to refine the workload selection criteria utilized in prior years. In addition, through various Memoranda of Understanding and Internal Revenue Manual provisions, ITG will partner with internal stakeholders to assist in workload identification in areas such as excise tax, and Bank Secrecy Act examinations.

Workload selection will be monitored to ensure that key areas identified through environmental scanning, research, and focus groups are addressed, and that the actions being assigned represent the optimal approach to the identified issue. ITG will continue to undertake Compliance Checks as a mechanism to better understand customer needs and identify appropriate remedies to compliance issues. During FY 2008, ITG will launch an initiative regarding non-filers, as part of a national non-filer strategy.

### Research

ITG will continue its annual analysis of federal tax compliance and will expend resources in Activity Codes 161 and 186 to complete the necessary actions.

### Compliance Focus Areas

ITG field compliance workload will focus on the following key areas:

- Employment Tax

ITG will address employee vs. independent contractor issues that are identified through the filing of Forms SS-8, compliance checks, or regular workload selection. Time expended in this area will be charged to Activity Codes 587, 463, and 465.

ITG will place a significant emphasis on tip income compliance issues within tribal gaming and food service entities for FY 2008. This includes solicitation and maintenance of Tip Rate Determination Agreements (TRDA) and Gaming Industry Tip Compliance Agreements (GITCA), as well as necessary examinations where there is a likelihood of noncompliance. ITG will also coordinate activities regarding nonparticipating employees, or employees of entities with unreported tip income, to ensure that W&I has necessary

information to make proper income tax and FICA assessments. Time expended in this area will be charged to Activity Codes 575 and 463.

- Anti-Money Laundering

ITG, in concert with the Bank Secrecy Act (BSA) staff in SBSE, will undertake actions to ensure that Indian tribal governmental entities subject to the BSA are properly identified and are fully aware of the requirements of the BSA. ITG will also provide assistance to SBSE as required, in the conduct of any BSA examinations involving tribal entities.

ITG will also conduct BSA Compliance Checks, to validate that tribal entities are meeting requirements in regard to training, program oversight, and recordkeeping. ITG will utilize data to determine tribal entities with low filing levels of FinCEN Forms 102 and 103, and will work with approximately 30 of those entities to assess their BSA Compliance Program in an effort to effect improvements. Time expended in this area will be charged to Activity Codes 509 and 591.

- Information Reporting

ITG will work with tribal governments to resolve questions regarding the taxability of distributions to members, including per capita vs. general welfare distributions.

Reporting compliance in the proper filing of Forms 1099 and W-2G will be addressed through field compliance actions, including both compliance checks and examinations.

Time expended in this area will be charged to Activity Codes 587, 463, 470, and 520.

- Abusive Schemes and Fraud

ITG will utilize data, and also work with tribal governments, external stakeholders, and other IRS operating divisions, to identify promoters of abusive schemes and other activities that lead to violations of federal tax law and the Bank Secrecy Act. ITG will provide expert witnesses as required for criminal prosecution of those responsible for such actions.

Time expended in this area will be charged to the relevant examination Activity Code for the returns being examined, as well as to Activity Codes 155 and 593.

## FY 2008 Initiatives

Within the budget and PAC Code, ITG will undertake three specific initiatives during FY 2008. All three are designed to address compliance issues within emerging market segments. One will involve gaming and the appropriate information reporting that is required in the utilization of gaming revenues. The second will involve tribal banking, an emerging market segment within tribal economies. The third will involve non-filers, where ITG will aggressively seek delinquent returns from entities that have failed to file specific tax periods as identified from IRS data.

### ITG-1 Gaming Initiative

The Gaming Initiative commenced by the office of Indian Tribal Governments in FY 2005 will continue into FY 2008. Continuing discussions with the Chairman of the National Indian Gaming Commission indicate their extreme interest in ensuring that tribes appropriately use gaming revenues, and properly account for such use. Since they have limited oversight of that issue, it falls upon the IRS, particularly to ensure that information reporting requirements are met with regard to the expenditure of such net revenues. With Indian gaming now surpassing \$25.4 billion in gross revenue for 2006, and expected to grow by over \$2 billion per year, our role and responsibilities will continue to expand. We plan to devote 6 FTEs to this initiative. Existing structures set up for the initial rollout of the Gaming Initiative in FY 2005 will support this initiative.

### ITG-2 Banking Initiative

For FY 2008, ITG will continue its banking initiative. The growth of tribal economies has led to tribes acquiring existing banks, or starting new banks. This includes traditional banks and depositories. Many tribes lack the expertise to operate banks, and in some cases are relying on external investors to set up and manage operations. As a newly emerging segment of the economy, and one that may repeat some of the abuse issues we have seen in tribal casinos, ITG will need to acquire expertise on the banking industry and train our staff to conduct banking examinations. There are currently 18 tribal banks, and that number is expected to double in the next 3 years. We plan to devote 1 FTE to this initiative in FY 2008.

### ITG-3 Non-Filer Initiative

ITG will utilize data contained in the RICS system to identify non-filers and stop-filers, and will assign such work for procurement of delinquent returns. Actions undertaken in this initiative will support the national non-filer strategy.

## **TRAINING**

### **Course Number 4300**

Continuing Professional Education is planned for 70 ITG participants at 40 hours each. The course will address technical topics, emerging issues, and work process changes.

### **New Hire Training**

ITG will conduct basic Employment Tax, Protocol, Casino Tax Law, TREES, and Tip Compliance training for employees hired during FY 2008

### **Forensic Accounting**

In partnership with SBSE and the faculty of the University of West Virginia, ITG will pilot a forensic accounting program for selectees from its Special Enforcement staff.