

ITG News
Keeping First Nations Informed

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Message from the Director

Our last issue of ITG News highlighted some of the results from our 2006 Customer Satisfaction Survey, and outlined some areas where ITG would be taking steps to effect operational changes. Several of those areas focused on communications, and specifically the challenges presented by the movement of personnel, offices, and evolving communication technology.

There is an old saying that “there is nothing as constant as change”. The world around us changes so quickly that it is often difficult to keep pace. We utilize technology such as cell telephones, laptop computers, and the worldwide web, to communicate and attempt to stay abreast of changing events. However, change is not limited to technology; it also includes changes in personnel and personal relationships. All of us experience transitions in staffing. Key employees move into other positions, retire, or resign. Tribal enterprises and the IRS office of Indian Tribal Governments are not immune from those changes.

Recognizing this, in conjunction with feedback from the 2006 survey, has led ITG to implement several actions designed to improve the way we interact. These include:

ITG has created a listing on the ITG web site landing page of each tribe and their assigned ITG Specialist and telephone number. This listing will be refreshed every time a change is made in personnel or in telephone numbers.

ITG has created a back-up telephone number (202-283-9800) to reach an ITG employee in the event that a tribe's assigned ITG Specialist is not available. We will guarantee a return telephone call within 24 hours.

ITG will be disseminating information on reporting changes in tribal personnel or contact points to the IRS. For example, page 2 of this edition of ITG News contains an article on reporting address changes.

We will be continuing to seek opportunities to improve communications. I welcome your ideas, whether through future Customer Satisfaction Surveys, Consultation Listening meetings, or via e-mail to me at christie.jacobs@irs.gov.

Christie Jacobs

Consultation Listening Meeting Scheduled for Oklahoma City

In accordance with the Consultation procedures utilized by the Internal Revenue Service, ITG holds Consultation Listening meetings on a rotating basis throughout Indian country. The meetings are open to any tribal representatives, and provide an opportunity to surface concerns, ask questions, provide input and suggestions to ITG, and dialogue with other tribal representatives concerning federal tax issues. Our objective is to hold a meeting within each of the 12 BIA regions at least once every three years.

Our next meeting has been scheduled for Oklahoma City, Oklahoma on Thursday August 2nd. The meeting will be held from 1:00-4:00pm at:
Embassy Suites
1815 South Meridian Avenue
Oklahoma City, Oklahoma 73108

In order that we can adequately plan for the meeting, we ask that those wishing to attend register for the meeting through a link on our web site at www.irs.gov/tribes.

We plan to hold four meetings next year— in Alaska, the Pacific Northwest, Montana, and Phoenix. The specific dates, times, and locations for those meetings will be announced on our web site, and via direct mailings to the tribes in those areas.

Who Receives Your Letters from the IRS? Is this the Correct Person?

If not, has this caused delays in responding, and created unnecessary penalties or assessments? Here is how to correct the situation:

Form 8822 is used to make the appropriate changes. Part II of the form is used to change your business mailing address. Enter the returns that the change is being made for on line 8 or 9. Enter your business name on line 11a and your Employer Identification number on line 11b. Enter the old mailing address on line 12. The "in care of" (c/o) information should be entered on line 13 with the name of the person who should be receiving IRS correspondence. The business location information is entered on line 14.

An owner, officer, or representative must sign the form. An officer is the president, vice-president, chairman, vice-chairman, chief accounting officer, community service coordinator, office specialist, comptroller, etc.

File the form with the appropriate IRS Service Center as listed on the instruction page of form 8822. The form is available online at <http://www.irs.gov/pub/irs-pdf/f8822.pdf>.

Improving Bank Secrecy Act Compliance

IRS continues to work closely with tribal entities to assess their Bank Secrecy Act (BSA) Compliance programs, in an effort to ensure they have the tools and resources necessary to meet federal regulations. Our work includes Outreach/Education for affected tribal employees, BSA Compliance Checks to help identify material weaknesses, and examinations to identify compliance failures. The office of Indian Tribal Governments (ITG) undertakes Outreach/Education and BSA Compliance Checks, while dedicated staff from our Small Business/Self Employed Division conducts BSA examinations on all entities.

ITG's work in this regard has identified many significant problems in tribal entity BSA compliance, including:

- Written BSA Compliance Plans do not exist or are superficial
- No experienced BSA Compliance Officer
- No ongoing training of affected entity staff
- Extreme reluctance to file Suspicious Activity Reports
- Little or no testing to validate BSA procedures are being followed

The BSA examination staff completed 13 examinations of tribal casinos during the initial six months of this year, and 12 of them resulted in determinations that material violations of Bank Secrecy Act regulations had occurred.

These findings show that improvements in BSA compliance are a major issue that tribes face, and ITG stands ready to assist them in determining changes that may be required. However, tribal entities must first recognize that improvements may be required, and then must be willing to work with ITG to implement those changes.

If you have questions regarding the Bank Secrecy Act, or have an interest in determining where compliance improvements could be made, please contact your assigned ITG Specialist.

Employee Tip Income Program Questions

ITG has a full-time Tip Coordinator to assist you with any questions about tip reporting agreements. If you are interested in securing a Tip Agreement, have questions concerning your existing agreement, or have received a notice about tip reporting responsibilities that is unclear, please contact Suzanne Perry at (602) 207-8254.

Assess Your Own Level of Federal Tax Compliance

ITG continues to offer a self-assessment program where qualifying tribal entities can perform their own Compliance Checks. In order to qualify, the tribal entity must be current in the filing of all required federal tax returns, and must have fully paid all federal tax liabilities. They are then able to apply to perform a “self-Compliance Check”, by submitting a request through the “Enhancing Federal Tax Compliance” link on the landing page of the ITG web site at www.irs.gov/tribes, or by notifying ITG in response to a contact we might initiate.

A special template with fill-in-the blank responses is utilized in conjunction with a special web page with linkages to reference material that will assist tribes in both understanding the process, as well as in completing their own Compliance Check.

As part of this process, tribal entities performing their own Compliance Check have the opportunity to effect any corrective actions. An ITG Specialist assists 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.

There are several advantages that a tribe can 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 assessment 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.

This initiative empowers tribes to self-assess federal tax compliance and effect improvements. We look to further participation by tribal entities who believe they might benefit.

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) 686-4960, or via e-mail at: tege.itg.schemes@irs.gov

What Types of ID can be Accepted?

Are your casino employees familiar with the types of identification that are acceptable for completing Form W-2G Certain Gambling Winnings; Form 1099-MISC Miscellaneous Income; Form 1042-S Foreign Person’s U.S. Source Income Subject to Withholding; FinCEN Form 102 Suspicious Activity Report by Casinos and Card Clubs; FinCEN Form 103 Currency Transaction Report by Casinos? If not, they should be. The casino is required to verify the identification (ID) of customers when completing these forms. Incomplete or inaccurate identification on any of these forms could result in penalties.

For purposes of the Bank Secrecy Act (Title 31) identification requirements can be found in the Code of Federal Regulations 31.103.28 states in part, “Before concluding any transaction with respect to which a report is required,... a financial institution shall verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and the social security or taxpayer identification number. Verification of the identity... shall be made by the examination of a document... that is normally acceptable within the banking community as a means of identification when cashing checks

for non-depositors.” You MUST terminate a transaction under Title 31 if a customer refuses to present ID.

What forms of valid ID can a casino employee rely upon? Valid ID is considered to be any form of government issued identification. Examples of official government issued ID can include but are not limited to:

- Current driver’s license
- State issued identification card
- Tribal issued identification card with a picture
- Passport
- Alien registration card
- Military identification

Is an expired driver’s license (DL) considered valid ID? In most states an expired DL is not a valid form of ID.

In lieu of a social security card, a Form W-9 - Request for Taxpayer Identification Number and Certification, may be accepted by the casino. The customer completes the Form W-9 and attests that the name and social security number (SSN) they have provided is correct.

What if someone refuses to produce ID? If the patron provides their name and address but refuses to provide a SSN, you should inform them their winnings will be subject to backup withholding .

Informing your patrons, and making sure that your employees understand what acceptable identification is, will help increase your compliance. If you have any questions on different types of identification, please contact your designated ITG Specialist.

Slot Machine and Video Lottery Terminal Jackpots Excluded from CTR Filing Requirements

On June 21, 2007, the Financial Crimes Enforcement Network (FinCEN) issued a new rule that exempts casinos from the requirement to file currency transactions reports (CTRs) on jackpots from slot machines and video lottery terminals. The rule also exempts reportable transactions in currency, under certain conditions, involving certain money plays and bills inserted into electronic gaming devices. This final regulation, which amends Bank Secrecy Act regulations, does not change the regulation requiring casinos to report all other transactions in currency of more than \$10,000.

The casino industry sought relief from this reporting requirement relating to jackpots from slot machines and video lottery terminals because these particular

jackpots make up a significant percentage of CTRs filed by casinos, but present a low risk of money laundering. FinCEN accepted that customers who win more than \$10,000 in jackpots will have won those funds because of the workings of the random number generator in electronic gaming devices and, thus, are not likely to form part of a scheme to launder funds through casinos.

If you have any questions relating to this change, please contact your designated ITG Specialist.

Monitoring Existing Tip Agreements: Be ready for your “Refreshment”

The first tip agreements with Indian Casinos in California were entered into in the mid-90’s. At that time, the methodologies used were generally not nearly as detailed and objective as those evidenced today. We sure have come a long way as we pass the decade mark for tip agreements. Tip study methodologies now often read like a statisticians dream. Mandatory participation in the agreement is often seen as a condition of employment.

Tips for a large number of employees are reported on an “actual” basis. However, we still see some areas needing improvement especially in monitoring of existing agreements. By establishing an ongoing system of monitoring the validity of categories and rates, when it comes time for an existing agreement to be “refreshed” the data is for the most part already available or at least easily secured.

Tip Agreements are generally renewed every three years. Although there may be one or more addendums during the three year period, unless there is a significant change at the property the agreement itself will usually remain in effect until the end of three years. The ITG Specialist contacts the tribe, around six months to a year prior to an agreement reaching the three year period, to discuss existing categories and rates. Determinations are made as to potential use of the “McQuatters Formula” for restaurant venues. Study methodologies are discussed for applicable categories. For tipped categories using “actual”, the internal controls should be reviewed periodically to insure continuing adherence to agreed procedures.

Rather than having to conduct lengthy and at times tedious studies on the categories which are not reported on an actual basis, if rates are monitored periodically during the agreement the process is centered more on an analysis of the data that has already been secured. Furthermore, through periodic monitoring the casino can be alerted to categories that may need an addendum.

Certain situations lend themselves to requesting an addendum to an existing agreement. For example, when a new restaurant is added to the property, a

previous buffet only restaurant adds menu options or vice versa, a menu is significantly changed, a previous swing shift only restaurant starts to open for lunch, a poker room or tables devoted to poker or other new games are to be offered, a separate “high limit room” is to be opened, a new bar opens with limited alcohol, or the threshold for payouts on the floor is significantly changed. Marketing campaigns and promotions may also have a significant impact.

There is an understanding when a property enters into a tip agreement, that when significant changes occur the property will contact the ITG Specialist to determine whether an addendum is appropriate. By dealing with these changes as they occur, instead of waiting until the agreement is to be renewed, not only has the agreement been maintained in a valid manner but the renewal process is less cumbersome.

Be thinking about changes in your casino and contact your ITG Specialist to discuss changes before they are implemented to maintain the validity of your agreement.

Even when there are no significant changes made at a casino, such as those referenced above, rates will eventually change. Tip rate changes can occur as a result of national, regional or local economic changes. Factors such as gasoline costs, a significant change in local housing valuations, a new employer and/or new housing developments in a locality, an employer relocating causing a decrease in the income of the local population all have an effect on patronage and tip volume.

Tip rates can also change merely as a result of inflation. As menu prices inevitably increase, due to increased cost of food and beverage purchases, so follows tip behavior based on a percentage of the bill. Communicating with your staff is often the best source of information as to the validity of the rates and whether a particular category needs to be revisited. It is suggested that tribes and casinos consider periodic studies to monitor the rates.

Not only can the current rates be verified and addendums be entered into, as a result of periodic studies, but the process of determining new rates when it comes time for the tip agreement to be refreshed will be facilitated. Additionally, by doing shorter studies during varied times of year the proposed rates will actually be more valid than a “snapshot” study during one 30 day period of time. For example, if the property were to start the periodic studies a year and a half or two years into the three year term of the existing agreement and measure rates for a ten day period during three separate seasons, the rates would be more representative of year round tipping behavior and volume.

By spreading the study out in this manner it would be much less burdensome on the casino than having to capture all the data for multiple categories during a shorter period of time. For example, many casinos are concerned about the

overtime to complete the typical 30 day study and some hire a separate tip coordinator. With the separate ten day studies over a longer period of time, categories and shifts studied can be rotated preventing a massive accumulation of data with the associated costs over a shorter period.

Whatever your decision may be concerning the frequency of tip studies, contact your assigned ITG Specialist before commencing the study. Coming to an agreement on the study methodology ahead of time is a vital part of the process. We have come a long way in the area of tip agreements. The work done by Indian tribes and casinos in conducting studies that result in objective data for determination of rates, is very much appreciated. Monitoring existing agreements, as discussed in this article, is an additional measure to ensure accurate rates are being reported and will hopefully assist in the new agreement process being truly refreshing.

Federal Tax Calendar for Third Quarter 2007

July 2007

Thursday, July 5 – *make a deposit for 6/27-6/29

Monday, July 9 - *make a deposit for 6/30-7/3

Tuesday, July 10 - Employees report June tip income to employers if \$20 or more

Wednesday, July 11 - *make a deposit for 7/4-7/6

Friday, July 13 - *make a deposit for 7/7-7/10

Monday, July 16 - **make a deposit for June if under the monthly deposit rule

Wednesday, July 18 - *make a deposit for 7/11-7/13

Friday, July 20 - *make a deposit for 7/14-7/17

Wednesday, July 25 - *make a deposit for 7/18-7/20

Friday, July 27 - *make a deposit for 7/21-7/24

August 2007

Wednesday, August 1 - *make a deposit for 7/25-7/27

Friday, August 3 - *make a deposit for 7/28-7/31

Wednesday, August 8 - *make a deposit for 8/1-8/3

Friday, August 10 - *make a deposit for 8/4-8/7 – Employees report July tip income if \$20 or more

Wednesday, August 15 - *make a deposit for 8/8-8/10 -- **make a deposit for July if under the monthly deposit rule

Friday, August 17 - *make a deposit for 8/11-8/14

Wednesday, August 22 - *make a deposit for 8/15-8/17

Friday, August 24 - *make a deposit for 8/18-8/21

Wednesday, August 29 - *make a deposit for 8/22-8/24

Friday, August 31 - *make a deposit for 8/25-8/28

September 2007

Thursday, September 6 - *make a deposit for 8/29-8/31
Friday, September 7 - *make a deposit for 9/1-9/4
Monday, September 10 - Employees report August tip income to employers if \$20 or more
Wednesday, September 12 - *make a deposit for 9/5- 9/7
Friday, September 14 - *make a deposit for 9/8-9/11
Monday, September 17 - **make a deposit for August if under the monthly deposit rule
Wednesday, September 19 - *make a deposit for 9/12-9/14
Friday, September 21 - *make a deposit for 9/15-9/18
Wednesday, September 26 - *make a deposit for 9/19-9/21
Friday, September 28 - *make a deposit for 9/22-9/25

Return Filing Dates

July 2nd

File Form 730 and pay the tax on applicable wagers accepted during May.
File Form 11-C to register and pay the annual tax if you are in the business of taking wagers

July 31st

File Form 941 for the 2nd quarter of 2007. If all deposits paid on time and in full, file by August 10th.
File Form 730 and pay the tax on applicable wagers accepted during June.

August 31st

File Form 730 and pay the tax on applicable wagers accepted during July.

October 1st

File Form 730 and pay the tax on applicable wagers accepted during August.