



Message from the Director

We recently completed our fifth annual Customer Satisfaction Survey and are currently analyzing the feedback that we received from tribes. The results from the 2007 survey will be summarized in the January 2008 edition of ITG News. The annual survey has proven to be a valuable tool in assessing our operations and determining opportunities for improvement. Each year we have assembled a team to review the results and recommend new products and services.

We have just created a new product that we developed from the feedback in last year's survey - "Tax Tools for Tribes," a CD-Rom that can be ordered through our web site at www.irs.gov/tribes or by contacting ITG Specialist Judy Pearson at (907) 271-6949. This product contains current electronic versions of:

- Publication 4268 (Employment Tax Guide for Tribes)
- Publication 3908 (Gaming and Bank Secrecy Act Law for Tribes)
- 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
- An Excel file for calculating withholding on per capita gaming distributions
- A "primer" for federal tax issues affecting individual Native Americans
- A guide on "Helpful Hints to Avoid Penalties"

Many tribes had expressed frustration in trying to easily obtain copies of these items. The size of the files made them difficult to download from our web site, and some tribes have very limited Internet access as well. Since most tribes indicated they have ready access to CD-Rom drives, we created the "Tax Tools for Tribes" as a composite of the documents most relevant to tribal tax officials.

We are pleased to be able to offer this product to you. Tribes can order as many copies as they wish for use by tribal finance and payroll staff, or within casino operations.

As we develop additional products, we will add them to the CD-Rom. In the interim, I welcome your feedback and suggestions on new or existing products you would like added.


Christie Jacobs



*...the survey is a
valuable tool to
assess our
operations...*

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New Annual Electronic Filing Requirement for Small Tax-Exempt Organizations e-Postcard (Form 990-N)

Beginning in 2008, small tax-exempt organizations that previously were not required to file returns may be required to file an annual electronic notice, Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ*. This filing requirement applies to tax periods beginning after December 31, 2006. Organizations that do not file the notice will lose their tax-exempt status.

Small tax-exempt organizations whose gross receipts are normally \$25,000 or less are not required to file Form 990, *Return of Organization Exempt From Income Tax*, or Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*. With the enactment of the Pension Protection Act of 2006 (PPA), these small tax-exempt organizations will now be required to file electronically Form 990-N, also known as the e-Postcard, with the IRS annually. Exceptions to this requirement include organizations that are included in a group return, private foundations required to file Form 990-PF, and section 509(a)(3) supporting organizations required to file Form 990 or Form 990-EZ. In addition, this filing requirement does not apply to churches, their integrated auxiliaries, and conventions or associations of churches.

The IRS started mailing educational letters in July 2007 notifying small tax-exempt organizations that they may be required to file the e-Postcard. The IRS is developing an electronic filing system (there will be no paper form) for the e-Postcard and will publicize filing procedures when the system is completed and ready for use.

The PPA requires the IRS to revoke the tax-exempt status of any organization that fails to meet its annual filing requirement for three consecutive years. Therefore, organizations that do not file the e-Postcard (Form 990-N) or an information return Form 990 or 990-EZ for three consecutive years will have their tax-exempt status revoked as of the filing due date of the third year.

If you would like additional information about this new filing requirement, including notification when the filing system is ready, or information about other new developments, you can subscribe to Exempt Organization's EO Update, a regular e-mail newsletter that highlights new information through a link posted on the Charities pages of www.irs.gov.

Save the Date **April 2008 Training in Anchorage**

We will be offering Employment Tax Workshops in Anchorage during April 2008.
The training will be held at the IRS offices in Anchorage.
Each workshop will cover two days of training on employment tax/payroll issues,
travel reimbursements, and pull tab filing requirements.
More information to follow in the January 2008 issue of ITG News.



Transition Relief Period Extended on Pension Changes

Section 414(d) of the Code provides that a “governmental plan” includes a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Certain plans of Indian tribal governments (ITG) are also governmental plans under § 414(d). Specifically, section 906(a)(1) of the Pension Protection Act of 2006 (PPA '06) amended § 414(d) with respect to ITG plans to provide that the term ‘governmental plan’ includes a plan which is established and maintained by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).

The provisions of section 906 of PPA '06 apply to plan years beginning on or after August 17, 2006 (PPA's date of enactment). For example, an ITG plan with an October 1 to September 30 plan year is a governmental plan under § 414(d) as amended by PPA '06 only if it satisfies this definition in operation beginning on October 1, 2006. Notice 2006-89 provides that the Service and Treasury anticipate issuing guidance on §414(d) as amended and that, until such guidance is issued, an ITG plan will be treated as satisfying the requirements to be a governmental plan under § 414(d) if it complies with those requirements based on a reasonable and good faith interpretation of the amendment made by section 906(a)(1) of PPA '06. Section III.B. of the notice provides certain approaches that, if taken by September 30, 2007, permit separate plans to be established for commercial ITG employees and for other ITG employees who perform essential governmental functions (governmental ITG employees) under the reasonable and good faith compliance standard. Section III.E. indicated that the relief provided in Section III applied pending the issuance of further guidance relating to § 414(d), including the amendment made by section 906(a)(1) of PPA '06. The notice also invited comments from the public on whether additional transition issues need to be addressed.

Since the issuance of Notice 2006-89, the Service and Treasury have continued to consult with Indian tribal government representatives. Based on those consultations and the comments received in response to Notice 2006-89, and until future guidance is issued, the transition relief provided under Notice 2006-89 has been revised so that the date “September 30, 2007” in Section III.B. of Notice 2006-89 was replaced with “the date that is six months after guidance is issued under § 414(d) of the Code, as amended by section 906 of the Pension Protection Act of 2006, on the determination of whether a retirement plan maintained by an ITG is a governmental plan with the meaning of §414 (d).”

This extension is conditioned on the plans involved not being amended, for periods before the extended date, to reduce benefits unless the reduction: (i) does not vary based upon whether the participant is a governmental ITG employee or a commercial ITG employee, or (ii) is made to the plan for commercial ITG employees and is the minimum reduction necessary to satisfy the requirements of the Code. If a reduction occurs that does not meet either of these conditions, the extension provided under this notice ends on the date the reduction goes into effect.

We will continue to post updates on this important issue on the “Recent Developments” page of our web site at www.irs.gov/tribes.



Protecting Tribes and Tribal Members from Schemes

The Internal Revenue Service continues to aggressively pursue individuals who offer “tax planning” services that promote activities which violate federal tax law. Where necessary, we will work in concert with the United States Department of Justice to secure court injunctions that require the promoter to cease activity. An example of one such injunction that involved a scheme being marketed to tribes and tribal members, was one issued by the United States District Court in Los Angeles in December 2006 against an entity known as Benecorp, and its two principals, Stephen Drake and Kenneth Sorenson.

In order to secure an injunction, the government must establish that the scheme being promoted:

- is contrary to federal tax law,
- enriches the promoter, and
- harms the U.S. Treasury

Unfortunately, these requirements often mean that we must allow the scheme to operate for a time in order to establish that federal tax revenues have not been legally paid as a result of the scheme. Thus, a tribe or tribal member(s) can suffer harm through the loss of funds to the scheme and/or subsequent federal tax liabilities that may be assessed through an examination done by the IRS.

There are several ways that tribes and tribal members can protect themselves:

- Contact the IRS if you are approached by someone offering a “plan” to save on your taxes when the plan appears “too good to be true”. You can contact the ITG Abuse Detection and Prevention Team at (716) 686-4860, or via e-mail at tege.itg.schemes@irs.gov.
- Beware of any promoter who has been the subject of prior injunctive action for similar tax schemes.
- Talk with legal counsel and ensure that the plan being promoted is in conformance with federal tax law, and has acceptable risk to you.

The office of Indian Tribal Governments wants to work with you to ensure that the assets of tribes and tribal members are not subjected to needless risk by promoters of schemes whose principal motivation may be their personal enrichment. If you are approached by such individuals, please feel free to contact us, or at a minimum, proceed very cautiously. Clever marketing can trap even those who are normally very careful. Don’t get caught up in something that seems too good to be true - it usually is.

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.

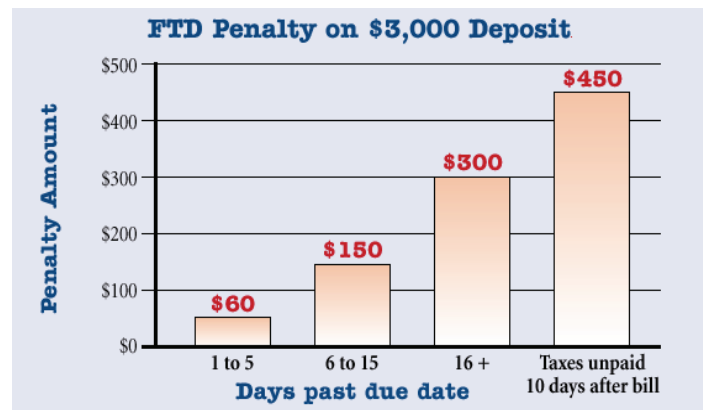


The Basics of Federal Tax Deposits

When you pay your employees, you do not pay them all the money they earned. The income tax and the employees' share of FICA (Social Security and Medicare) that you withhold from your employees' paychecks are part of their wages you pay to the Treasury instead of to your employees. The portion of their wages you hold for transmitting to the Treasury is called "Trust Fund" taxes. Through this withholding, your employees pay their contributions toward their retirement benefits (Social Security and Medicare) and the income taxes reported on their own tax returns. Your employees' trust fund taxes, along with the employer's matching share of FICA, are paid to the Treasury through the Federal Tax Deposit (FTD) System.

As you can see, the part of your employees' wages that you do not give them is actually their money. You should deposit these amounts on time for their benefit. Postponing the tax deposit isn't the same as using your own money to make a late payment on a phone bill or to a supplier. Congress established large penalties for employers that delay in turning over employment taxes to the Treasury. If you delay paying that money, the more it could cost you.

To illustrate how much it will cost you to make your Federal Tax Deposits late, consider this example. Assume your monthly liability for (1) withheld income tax, (2) Social Security and Medicare tax, and (3) your employer's matching share totals \$3,000 per month. Review the graph to see how quickly a penalty for making late deposits increases. As you can see, using your trust fund taxes to finance your other operating costs can be very expensive.



Who must make deposits?

Deposits are **required** if you file Form 941 with \$2,500 or more in taxes per quarter.

What taxes must be deposited?

- Income tax withheld from your employees
- FICA (Social Security and Medicare) tax withheld from your employees
- FICA (Social Security and Medicare) — the employer's share

Important Difference

- Making deposits and filing employer returns with payments are not the same.
- Taxes are **reported** by filing and **paid** by depositing.

When should you make Form 941 tax deposits?

- If your total taxes for the quarter are less than \$2,500, they can be paid with the return or deposited by the return due date.
- If your total taxes on Form 941 are \$2,500 or more, you will need to determine which deposit schedule to follow.
- The easiest/safest way is to make a deposit the **same day** you make payroll or anytime **no later than the deposit due date**.



What is your deposit schedule?

To determine your deposit schedule, review the amounts of tax reported on your earlier Forms 941. This will establish your "lookback period," which is the twelve month period ending June 30 of the previous year. For 2008 taxes, you need to look back from July 1, 2006 to June 30, 2007. In other words, you look back the last two quarters of 2006 and the first two quarters of 2007.

Lookback Period for 2008 Deposits	
July 1, 2006 through June 30, 2007	
2006	
Third & Fourth Quarters	First & Second Quarters
07/01/2006 through 09/30/2006	01/01/2007 through 03/31/2007
10/01/2006 through 12/31/2006	04/01/2007 through 06/30/2007

After you determine your lookback period, you need to total the taxes reported on Forms 941, Line 10, during this period. Once you determine your total tax during the lookback period, it is easy to determine your deposit schedule:

- If total taxes are \$50,000 or less, you make **Monthly Schedule Deposits**.
- If total taxes are greater than \$50,000 you make **Semiweekly Schedule Deposits**.

Example for Monthly Schedule Depositor	
Quarter ending	Tax from Line 10, Form 941
September 30, 2006	\$ 8,385.44
December 31, 2006	11,216.18
March 31, 2007	13,455.26
June 30, 2007	<u>15,407.64</u>
Total Taxes in Lookback Period	\$ 48,464.52

In this example, the total taxes during the lookback period are **\$48,464.52**. Since this is less than \$50,000, the employer is a monthly schedule depositor for 2008.

In this example, the total taxes during the lookback period are **\$55,245.78**. Since this is more than \$50,000, the employer is a semiweekly schedule depositor for 2008.

Example for Semiweekly Schedule Depositor	
Quarter ending	Tax from Line 11, Form 941
September 30, 2006	\$ 15,253.76
December 31, 2006	13,461.56
March 31, 2007	11,769.52
June 30, 2007	<u>14,760.94</u>
Total Taxes in Lookback Period	\$ 55,245.78

Summary of Steps to Determine Your Deposit Schedule

- Identify your lookback period.
- Add the total taxes you reported during the lookback period.
- Determine your deposit schedule; if total taxes are:
 - \$50,000 or less, you make **Monthly Schedule Deposits**.
 - Greater than \$50,000 you make **Semiweekly Schedule Deposits**.
- Employers are required to determine their own deposit schedule. Deposit schedules remain the same for the entire calendar year unless you meet one of the exceptions explained below.

Exceptions to Deposit Schedules

1. \$100,000 Next- Day Deposit Rule:

- If, during any **deposit period**, you accumulate a tax liability of \$100,000 or more, you must make a deposit by the next banking day.
- Once you meet the \$100,000 next-day rule, you follow the semiweekly schedule for all deposits less than \$100,000. You are a semiweekly schedule depositor for the rest of the year and during all of the next calendar year.

2. Banking Days

- If your deposit is due on a non-banking day, make it by the close of the next banking day.
- Federal and state bank holidays, Saturdays and Sundays are non-banking days.

Description of Deposit Schedules

Now that you know how to determine if you are a **Monthly** Schedule Depositor or a **Semiweekly** Schedule Depositor, you are ready to learn the deposit requirements for each schedule.

Monthly Schedule Depositors —
Deposit each month's taxes by the 15th of the next month.

>>>>>

JULY						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31



AUGUST						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Deposits for payroll paid any day in July are due on (or before) August 15.

ANY WEEK						
SUN	MON	TUE	WED	THU	FRI	SAT
						Payday
Payday	Payday	Payday			Deposit	

For wages paid Saturday, Sunday, Monday or Tuesday, deposit taxes by following Friday.

ANY WEEK						
SUN	MON	TUE	WED	THU	FRI	SAT
			Payday	Payday	Payday	
			Deposit			

For wages paid Wednesday, Thursday, or Friday, deposit taxes by following Wednesday.

<<<<<<

Semiweekly Schedule Depositors —

Most employers will make deposits on Wednesdays or Fridays, depending on when you pay payroll.

Where are deposits made?

You make federal tax deposits at any authorized financial institution, such as a commercial bank. As an alternative, you may mail the deposits (checks payable to "Financial Agent") to:

Financial Agent
Federal Tax Deposit Processing
P.O. Box 970030
St. Louis, MO 63197

You must not send these tax deposits directly to the IRS because this will delay getting the money into the Treasury. If you do send the deposit to the IRS, you may get a penalty.



How are deposits made?

Deposits can be made:

1. manually with Form 8109 Federal Tax Deposit (FTD) Coupon, or
2. electronically using your phone or computer.

How are deposits made manually?

1. Complete a Federal Tax Deposit Coupon, Form 8109.
2. Make the check or money order payable to the depository (bank).
3. Mail or deliver the Form 8109 deposit coupon with your payment so that it will arrive at the bank no later than the deposit due date.

How do I make electronic federal tax deposits?

Using your phone or personal computer and the **Electronic Federal Tax Payment System (EFTPS)**, you can arrange for your tax deposits to be transferred directly from your existing bank account to the Treasury. This system is an alternative to using the paper-based FTD coupon method for making deposits. Any federal taxes deposited using an FTD coupon can be deposited electronically. For deposits made by EFTPS to be on time, you must initiate the transaction at least one business day before the date the deposit is due.

Do I need to obtain special equipment in order to use EFTPS?

No, you may use any telephone or your personal computer to input your tax deposit information. If you choose to use your personal computer, you will be provided with free EFTPS software to process the transfer of funds or pay on-line from our website at: www.eftps.gov.

How do I sign up for EFTPS?

Enroll online at www.eftps.gov or call 1-800-555-4477 to request an enrollment form. You complete the enrollment form and return it to the EFTPS Enrollment Center. The center, in turn, will send you a Confirmation Packet, including a step-by-step Payment Instruction Booklet and the telephone numbers for accessing EFTPS.

Electronic deposit requirement.

You **must** make electronic deposits using the Electronic Federal Tax Payment System (EFTPS) in 2008 **if**:

- Your total deposits of employment taxes in 2006 were more than \$200,000 or
- You were required to use EFTPS in 2007.
- You should receive a notice by mail from the IRS if you are required to use EFTPS.

Is there a difference in how I complete the Form 941?

- **Monthly depositors** must enter the Monthly Summary of Federal Tax Liability on page 2 of the tax return by completing the monthly boxes on **line 15** of Form 941.
- **Semiweekly depositors** must submit a **Schedule B**, Employer's Record of Federal Tax Liability as an attachment to Form 941. Semiweekly depositors **do not** complete the monthly boxes on line 15 of Form 941. However, you should check to box under line 15 indicating that you are a semiweekly schedule depositor.
- **Note:** *These are a summary of your tax liability, **not** a summary of deposits made. If line 10 is less than \$2,500, **do not** complete the monthly boxes on line 15 **or** Schedule B. Simply check the box on line 15 indicating Line 10 is less than \$2,500. If you fail to complete a summary of your tax liability, **you may get a penalty.***

Federal Tax Deposit Penalties

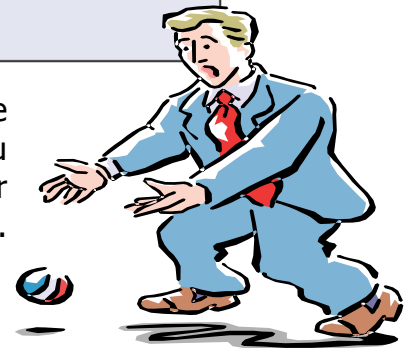
As you previously learned, it is important to make **timely** federal tax deposits because most of the money belongs to your employees. If you make these deposits late, you will receive a penalty. This penalty is called a "failure to deposit" penalty and is computed by multiplying the amount of tax you have underpaid by a penalty percentage rate based on how many days late you make the deposit. These penalties for late deposits are expensive. For amounts not properly or timely deposited, the penalty rates are shown on the table at the right.

Failure to Deposit Penalty Percentage Rates	
Late Period/ Reason for penalty	Penalty Percentage Rate
Deposits made 1-5 days late	2%
Deposits made 6-15 days late	5%
Deposits made 16 + days late	10%
Taxes unpaid after the 10th day following the 1st IRS bill	15%
Deposit made at unauthorized financial institution	10%
Amounts subject to Electronic Deposit requirements, not deposited via EFTPS	10%

In addition to the above deposit penalties, you will also be subject to penalties if you late file your Form 941, or don't pay the amount due on the return:

Other Penalties		
	RATE	MAXIMUM
Late Filed Tax Return	5% per month of unpaid tax	25%
Late Paid Tax	½% per month of unpaid tax, then 1% after Notice of Intent to Levy	25%

Please review your payroll procedures to determine if you are making timely deposits. When you make timely deposits, you avoid penalties. When you avoid penalties, money is available for other governmental needs. Don't let penalties get out of hand. They **are** avoidable!!!



Summary of steps to avoid Failure to Deposit Penalties:

- Make deposits on or before the deposit due date.
 - Make your deposit any time between the payroll liability incurred date and the deposit due date.
 - You are not required to wait until the due date nor will you receive a penalty for making deposits prior to the due date.
 - Mail or deliver the Form 8109 deposit coupon with your payment so that it will arrive at the bank no later than the deposit due date.
 - For deposits made by EFTPS to be on time, you must initiate the transaction **at least one business day before the date the deposit is due.**
- Make deposits with an authorized depository.
- Include a summary of your tax liability with Form 941.
 - Monthly depositors use line 15 of Form 941.
 - Semiweekly depositors use Schedule B, Employer's Record of Federal Tax Liability.



Federal Tax Calendar for Fourth Quarter 2007

October 2007

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

November 2007

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

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

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



December 2007

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

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

Return Filing Dates

October 1st

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

October 31st

- > File Form 941 for the 3rd quarter of 2007. If all deposits were paid on time and in full, file by November 13th.
- > 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.

Decemebr 31st

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



ITG Specialists for Alaska

<u>name</u>	<u>location</u>	<u>Phone/fax #</u>	<u>e-mail</u>
Judy Pearson	Anchorage	Ph 907-271-6949 Fax 907-271-6664	Judy.M.Pearson@irs.gov
Mary Jo Audette	Anchorage	Ph 907-271-6874 Fax 907-271-6413	Mary.J.Audette@irs.gov
Diane Nesvick	Anchorage	Ph 907-271-6917 Fax 907-271-6408	Diane.M.Nesvick@irs.gov
Joe Kincaid Manager	Portland	Ph 503-326-2381 Fax 503-326-7441	Joe.Kincaid@irs.gov

Save the Date: April 2008 Training in Anchorage

We will be offering Employment Tax Workshops in Anchorage the during April 2008. The training will be held at the IRS offices in Anchorage. More information to follow in the January 2008 issue of ITG News.