



ITG News

Keeping First Nations Informed



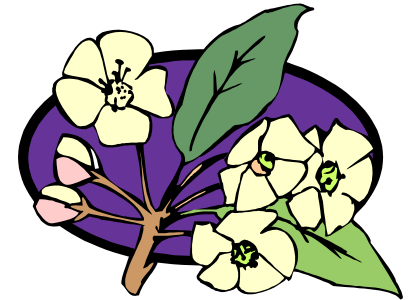
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Message From The Director



Many of you have probably read about the growth in abusive schemes that began two decades ago with what we now call “tax shelters”. While the IRS was successful in addressing those initial schemes, we are now experiencing a new generation of individuals promoting opportunities to avoid taxes through structured transactions that “sound too good to be true” and often are.

Unfortunately, Indian tribal governments are not immune from these promoters. In fact, tribal governments have recently helped the IRS identify several promoters that are attempting to use tribal sovereignty and some of the special tax benefits that tribes enjoy, to enrich a select group of individuals they represent. These promoters may offer the tribe a limited benefit that is marketed as being at no cost or risk to the tribe. In some cases the promoters of these schemes may be invisible to tribal leadership, since they hide behind shell corporations and/or attempt to conduct transactions directly with tribal employees.

The simple fact is that these schemes do bring risk to the tribe. Even where there may be no direct financial risk, the risk to the tribe’s reputation is significant and the risk to any tribal employee who becomes involved in such a scheme can be substantial.

The office of Indian Tribal Governments has initiated a program to work with tribes to address this area and ensure that these abusive schemes do not gain a foothold in Indian Country. Our Abuse Detection and Prevention Team (ADAPT) is already developing actions to identify abusive schemes being promoted to tribes, and is working with tribes to address them. Our goal is to protect the interests of all governments through mutual actions that will eliminate these schemes. Our web site will contain information on identified schemes, as well as a method to report any concerns to the ADAPT group. We look forward to partnering with tribes and other interested parties in this effort.

Christie Jacobs

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A New Method to Contact Us

In response to your feedback, we want to make it easier for you to contact us. Effective immediately you can contact Judy Pearson, our Indian Tribal Governments Specialist in Alaska, by calling her toll-free pager at 888-733-6502, and leaving a callback telephone number. Judy will return your call as soon as possible.



We Need to Hear from You

The office of Indian Tribal Governments utilizes numerous methods to communicate information to tribes. We are aware that the geographic isolation of tribal villages in **Alaska**, coupled with the potentially high expense of access to telecommunications and the Internet, creates added challenges for the villages to be able to secure needed information.

In order to assist us in determining the best method to share information, we are asking each tribal village to furnish the following information. We will utilize the responses to formulate improvements in our communication methods. Please print this page, and after answering the questions, please fax it to us at **716-686-4818** to the attention of the "ITG OPR Staff," or mail it to us at: **Internal Revenue Service, Indian Tribal Governments, Box 227, Buffalo, New York 14225**. Please note that this is voluntary on your part, but the information will help us to provide better service to you.

Do you regularly access the IRS web site at www.irs.gov/tribes to secure tax information? Yes No

If yes, do you experience any difficulties in downloading information and forms? Yes No

If no, why don't you access the web site? (circle all that apply)

- I have no Internet access at my work location Yes No
- Internet access at my work location is too slow Yes No
- Internet access is too costly for the tribal village Yes No
- It is difficult to find what I need on the IRS web site Yes No
- I have no experience in using the IRS web site Yes No
- I didn't know about the web site Yes No
- Other (explain)

Do you have easy access to a computer with a CD-ROM drive? Yes No

If yes, would you prefer tax information to be available to you on CD-Rom? Yes No

Do you have ready access to a fax machine that you would use to receive information from us? Yes No

On the average, how many days are required for postal mail to arrive at your location from Anchorage? ____

What do you believe is the best method for IRS to provide tax information and forms for your tribal village?



Update on the Development of an IRS/Tribal Consultation Policy

We continue to move forward in the process to develop an IRS/Tribal Consultation Policy having completed 12 regional listening meetings with tribal representatives during 2003. In January, a summary of the input received at those meetings was posted to the ITG web site at www.irs.gov/tribes with a link to submit any further comments. Once the period for submitting further input has passed, we will undertake an initial draft that will be further shared for comment. It is our hope to have a final draft policy for review by late 2004.

We welcome your input so that we can create the best possible policy. To review the input to date and offer us your thoughts, visit our web site at www.irs.gov/tribes before April 30th.

Tribal Enterprise Structure Issues

We have recently encountered several situations where tribes have formed business structures that may unnecessarily subject their earnings to federal income tax. While federally recognized Indian tribes are not subject to federal income tax, if they form a state-chartered corporation that is not specifically exempted from income tax under the Internal Revenue Code (such as IRC 501(c)(3) entities), the entity must file a Form 1120 and pay federal income tax on any net earnings.

In addition, we have encountered situations where tribes have formed subchapter S corporations where the tribe is a shareholder. While the Service may acknowledge this status and process the resultant Form 1120-S that is filed, the simple fact is that tribes cannot be shareholders in subchapter S corporations. Once these situations are discovered, the entity must be converted to a C corporation, and the resultant Form 1120 will subject the tribe to federal income tax on any net earnings.

If you have either of these situations present within your tribal enterprises, and you wish to restructure them to mitigate the potential tax problem, you should contact your ITG Specialist so that we can take prompt action to effect corrections and limit any potential interest and penalties.

The sooner a problem is identified, the sooner you can change the structure of the entity to avoid future federal tax consequences.

Tribal Employment Tax Guide Now Available

Publication 4268, our on-line Employment Tax Guide for Tribal Governments, is now available at our web site at www.irs.gov/tribes.

SSA and IRS Reconciliation Processes

As the Social Security Administration (SSA) processes employer wage reports, it maintains a record of total Social Security and Medicare wages and tips processed for each employer. These totals are then compared with the totals for Internal Revenue Service (IRS) employment tax records filed by the employer with IRS on Form 941 returns. Employers whose reports to IRS and SSA do not balance are contacted for an explanation of the discrepancy and asked for additional wage evidence.

- IRS contacts employers who reported more wages to SSA than to IRS.
- SSA contacts employers who reported more wages to IRS than to SSA.

Failure to resolve these discrepancies may result in IRS assessment of penalties for filing incorrect reports.

When more wages were reported to IRS than to SSA, then SSA is concerned that employees' earnings are not credited correctly to the agency's records. SSA examines some of these cases and makes an effort to resolve the difference without contacting the employer.

When an effort to resolve the discrepancy is unsuccessful or a resolution is not possible without the employer's assistance, SSA sends a notice and questionnaire to the employer, requesting the earnings data needed to resolve the case. If SSA does not receive a response after 120 days, the employer is sent a second notice. When no response is received after the second notice, IRS is responsible for contacting the employer and may impose penalties, if necessary.

Balancing Forms 941 to Form W-3 Information

You should balance or reconcile your Form 941 reports to your Form W-3 for the year. This will help you identify and resolve errors in your records which could lead to the filing of erroneous reports. You should balance cumulative quarterly Forms 941 for the tax year to the Form W-2/W-3 information in your records at the end of the tax year.

Compare the amounts you reported to SSA on Form W-3 to the sum of the amounts you reported to IRS on Form 941s for the tax year. The following amounts on the IRS and SSA report should match.

Items	W-3 Block	941 Line
Social Security Wages	3	6a
Social Security Tips	7	6c
Medicare Wages/Tips	5	7
Federal Income Tax Withheld	2	3
Adv. Earned Income Credit Payments	9	12

Review your copies of filed Forms 941 for the year along with the payroll records for the year. Identify any over or under reporting of income or wages, and adjust any overpayment or underpayment of taxes on the Form 941 for the erroneous quarter. For example, a 2003 reporting error discovered during April 2004 would be an adjustment on the second quarter 2004 Form 941. Form 941c is not a standalone form; it must be filed with the next quarter's 941. See page 8 for an example of a 941c.

Annual amounts from payroll records should match the total amounts reported on all Forms 941 for the year; the total amounts reported on all Forms 941 for the year should match the sum of the same data fields which is shown in the W-3 totals. If these amounts do not match, recheck records and identify necessary adjustments.

To assist you with this process, a worksheet has been provided on the following page.



Forms 941, W-2, and W-3 Reconciliation

column a	column b	column c	column d	column e	column f	column g
COMPARISON AREA	941 Line #	Form 941 (all 4 quarters)	W-2, W-3 Box #	W-2s (total of all forms)	Amount on W-3	Difference (col c minus col e)
Compensation	Line 2		Box 1			
Federal Income Tax	Line 3		Box 2			
Social Security Wages	Line 6a		Box 3			
Social Security Tips	Line 6c		Box 7			
Social Security Tax	Line 6b + 6d					
Social Security Tax comparison computation	Line 6b + 6d divided by 2		Box 4			
Medicare Wages	Line 7a		Box 5			
Medicare Tax	Line 7b					
Medicare Tax comparison computation	Line 7b divided by 2		Box 6			



How To Avoid Errors with New Hires

Employee Tax Withholding

New employees should complete Form W-4 (Employee's Withholding Allowance Certificate) to establish the amount of Federal income tax to be withheld from their wages. The employee can fill in the blocks on the form but may **NOT** make any changes in the form's wording; changes make the form invalid.

Form W-4 tells the employee to call Social Security Administration (SSA) at 1-800-772-1213 if his/her name has changed since the last Social Security card was issued and request a Form SS-5 Application for a Social Security Card. The application is also used to apply for a corrected card. This is important because SSA will compare the Form W-2 reports filed for your employees to SSA's record of names and corresponding Social Security numbers.

Box 4 of the Form W-4:

4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a new card.

Social Security Numbers (SSNs)

Because IRS requires taxpayers to provide the SSNs for dependent children listed on their tax returns, it should be infrequent that you will have a new employee who does not have an SSN. However, if that happens or if you have an employee whose name has changed (i.e. marriage, court order, etc.), you should advise the employee to contact any SSA office.

For either an SSN or a card showing the new name, the employee will need to complete an application and provide the necessary evidence. If the employee has changed his or her name, the card showing the new name will usually be received in about 2 weeks. If the employee has never had a number and is now applying for one, there may be a delay in processing the application.

SSA verifies the birth records of people born in the United States applying for SSNs and verifies the immigration documents of all non-citizen applicants for SSNs and SSN cards. This takes from two to eight weeks depending on the individual situation. If the new employee has applied for an SSN but not received the card before you must file your Form W-2 reports, do not enter anything in the box for the SSN on that employee's Form W-2; when the SSN is received, file Form W-2c with SSA showing the SSN assigned.

Review Social Security Card

Though not required as a condition of employment, each **new employee hired** should show his or her Social Security card to you so that:

- You can **accurately transcribe** the name and SSN to the employee's payroll records.
- You can **check the SSN for accuracy**.
 - ◇ Valid SSNs must have nine digits in this format: XXX-XX-XXXX.
 - ◇ The first three digits of the SSN must be a number in the following ranges: 001-587, 598-680, 700-728, or 764-772.
 - ◇ Any SSNs that begin with numbers outside of these ranges are invalid, and an SSA office should be contacted to resolve the matter.
 - ◇ A listing of all SSN ranges issued to date is available on SSA's web page at www.ssa.gov/employer.

If you report an employee's name and SSN that do not match SSA's records:

- The employee's wages may not be credited to his or her Social Security record, which could result in potential loss of benefits.
- You, as the employer, may be subject to IRS penalties for filing an incorrect report.



Social Security Number Verification Service

In many cases, name and SSN mismatches prevent wages from being posted to individual earnings records. This can mean additional processing costs for you. Using Social Security's verification service will help you correct name and SSN errors before submitting your reports to SSA. Using this service is easy.

◆ **To verify 1 to 5 names/SSNs:**

- ◇ Call the toll-free number for **employers**, 1-800-772-6270, Monday to Friday 7 am to 7 pm EST or SSA's general toll-free number, 1-800-772-1213, Monday-Friday 7 am to 7 pm in all time zones. Verification will be given over the telephone.

◆ **To verify up to 50 names/SSNs:**

- ◇ Up to 50 names/SSNs can be submitted on paper lists and submitted to your local Social Security office. Some offices accept faxed listings. To find the office nearest you, check your local phone book or visit SSA's Internet Home Page at www.ssa.gov. You may call or visit the office.

Name Change after Original W-4

Advise employees to **notify SSA of any name change** to ensure wages are properly credited to their records.

Do NOT update your payroll records for a name change until the employee has obtained a new Social Security card. You can help employees by reminding them to promptly report a name change to Social Security by calling 1-800-772-1213 and requesting a Form SS-5, Application for Social Security Card, which is also used for name changes. Tell employees that just notifying their payroll office will not change SSA's records and their wages may not be properly credited to their records. After the employee has received their new Social Security card, ask them to complete a new Form W-4 with the new information.

Questions and Answers

What do I do if an employee says he has an SSN card but no card can be produced?

Tell the employee to provide his/her name as it appears on the SSN card, otherwise the employee may not get the proper credit for his/her earnings. Also tell the employee to apply for a duplicate card at any local Social Security office. He or she should receive the card in the mail within two weeks.

I reported an incorrect SSN or name on Form W-2 for one of my employees. What should I do?

To correct a previous Form W-2 submission, file a Form W-2c with a separate form for each year needing correction. **File a Form W-3c whenever you file a Form W-2c with SSA**, even if you are only filing Form W-2c to correct an employee's name or Social Security number (SSN).

How much time do I have for filing Forms W-2c to make corrections to a wage report?

W-2cs should be filed as soon as possible to prevent having SSA recontact you for additional information or having IRS assess you penalties for filing the original inaccurate reports. Failure to file W-2c's within 3 years' time may preclude any corrections to SSA earnings records or to IRS tax records.

941c Example: Two reporting errors were discovered on April 14, 2004 for the prior year's Forms 941. To correct these prior quarters, you prepare a Form 941c and file it with your next quarterly 941. The net adjustment to the prior quarters' social security tax of \$1,116 (as shown on line 6 below) will be reported on line 9 of the June 2004 Form 941 (the quarter during which you discovered the error).

Form 941c (Rev. October 2003) Department of the Treasury Internal Revenue Service	Supporting Statement To Correct Information Do Not File Separately ▶ File with Forms 941, 941-M, 941-SS, 943, 945, or Form 843.	OMB No. 1545-0256 Page No.
Name Native Village of XYZ		Employer identification number 92 : 0000001
Telephone number (optional) 907-555-1212	A This form supports adjustments to: Check only one box. (see instructions) <input checked="" type="checkbox"/> Form 941 <input type="checkbox"/> Form 941-SS <input type="checkbox"/> Form 945 <input type="checkbox"/> Form 941-M <input type="checkbox"/> Form 943	
B This form is attached to and filed with the return for the period ending (month, year) ▶ JUNE 2004		C Enter the date that you discovered the error(s) reported on this form. (If you are making more than one correction and the errors were not discovered at the same time, explain in Part V.) ▶ APRIL 14, 2004

Part III Social Security Tax Adjustment (Use the tax rate in effect during the period(s) corrected. You must also complete Part IV.)

(a) Period Corrected (For quarterly returns, enter date quarter ended. For annual returns, enter year.)	(b) Wages Previously Reported for Period	(c) Correct Wages for Period	(d) Tips Previously Reported for Period	(e) Correct Tips for Period	(f) Social Security Tax Adjustment
1 DECEMBER 31, 2003	24,500	34,500			1,240.00
2 SEPTEMBER 30, 2003	33,700	32,700			(124.00)
3					
4					
5 Totals. If more than one page, enter totals on first page only. ▶	58,200	67,200			1,116.00
6 Net social security tax adjustment. If more than one page, enter total of all columns (f) on first page only. Enter here and on the appropriate line of the return with which you file this form. ▶				6	1,116.00
7 Net wage adjustment. If more than one page, enter total of all lines 7 on first page only. If line 5(c) is smaller than line 5(b), enter difference in parentheses. ▶				7	9,000.00
8 Net tip adjustment. If more than one page, enter total of all lines 8 on first page only. If line 5(e) is smaller than line 5(d), enter difference in parentheses. ▶				8	

For Paperwork Reduction Act Notice, see page 4.

Cat. No. 112420

Form **941c** (Rev. 10-2003)

ITG Specialists for the Pacific Northwest

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Federal Tax Calendar for First Quarter 2004

April 2004

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2 * Payroll date 3/27-3/30	3
4	5	6	7 * Payroll date 3/31-4/2	8	9 * Payroll date 4/3-4/6	10
11	12 Employees report tips from March	13	14 * Payroll date 4/7-4/9	15 ** Monthly Deposit for March	16 * Payroll date 4/10-4/13	17
18	19	20	21 * Payroll date 4/14-4/16	22	23 * Payroll date 4/17-4/20	24
25	26	27	28 * Payroll date 4/21-4/23	29	30 * Payroll date 4/24-4/27	

May 2004

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5 * Payroll date 4/28-4/30	6	7 * Payroll date 5/1-5/4	8
9	10 Employees report tips from April	11	12 * Payroll date 5/5-5/7	13	14 * Payroll date 5/8-5/11	15
16	17 ** Monthly deposit for April	18	19 * Payroll date 5/12-5/14	20	21 * Payroll date 5/15-5/18	22
23	24	25	26 * Payroll date 5/19-5/21	27	28 * Payroll date 5/22-5/25	29
30	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.

June 2004

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3 * Payroll date 5/26-5/28	4 * Payroll date 5/29-6/1	5
6	7	8	9 * Payroll date 6/2-6/4	10 Employees report tips from May	11 * Payroll date 6/5-6/8	12
13	14	15 ** Monthly deposit for May	16 * Payroll date 6/9-6/11	17	18 * Payroll date 6/12-6/15	19
20	21	22	23 * Payroll date 6/16-6/18	24	25 * Payroll date 6/19-6/22	26
27	28	29	30 * Payroll date 6/23-6/25			

*= 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.

Return Filing Dates

By April 30th

- File Form 941 for the first quarter of 2004.
If the tax was deposited in full and on time, file by May 10th.
- File Form 730 on applicable wagers accepted during March 2004.

By June 1st

- File Form 730 for applicable wagers accepted during April 2004.

By June 30th

- File Form 730 for applicable wagers accepted during May 2004.