

Compliance Check Report

This page to be completed by the IRS ITG Specialist.

Use this form to fully document the activity and findings from your Compliance Check. This template is designed to report on data for one entity within the tribe (each Employer Identification Number (EIN) is considered to be one Entity for this purpose). If you decide to expand to additional tribal entities, pages 2-7 should be completed for each entity and attached to the final report. Only one summary sheet should be completed.

If you have any questions regarding a federal tax administration issue during the course of your Compliance Check, or any questions regarding the completion of this form, please check our web resources, or contact:

Once the Compliance Check is completed, this document should be saved and returned on a 3½" diskette or CD-Rom to:

In order to assist you in completing the Compliance Check, our records currently indicate the following information in regard to this entity:

EIN: _____

Entity Name: _____

Address: _____

Required to file the following federal tax returns:

- Form 940 Employer's Annual Federal Unemployment (FUTA) Tax Return
- Form 941 Employer's Quarterly Federal Tax Return
- Form 943 Employer's Annual Return – Agricultural Employees
- Form 945 Annual Return of Withheld Federal Income Tax
- Form 990 Return of Exempt Organization
- Form 1065 Partnership Tax Return
- Form 1120 Corporation Income Tax Return
- Form 720 Quarterly Federal Excise Tax Return
- Form 730 Monthly Tax on Wagering
- Form 11-C Occupational Tax and Registration Return for Wagering
- Form 1042 Ann. Withholding Return for U.S. Source Income of Foreign Persons
- Form 2290 Highway Use Tax Return
- Form 1041 Fiduciary Tax Return
- Other _____

Tribal Entity Reviewed

Employer Identification Number (EIN)

Name of Entity

Address

City

State

Zip

Activity of Entity

Year Entity Started

Performs Services for the Tribe in the Area of

Which of the following tax issues are applicable to the entity:

- | <u>YES</u> | <u>NO</u> | <u>Tax Issues Present</u> |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Employment Tax</u> (Withholding and FICA) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Information Reporting</u> (Forms 1099) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Tip Income</u> (do employees of the entity receive tip income) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Title 31</u> (Bank Secrecy Act compliance) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Natural Resources</u> (Fishing and Land based income exclusions) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Excise Tax</u> (Wagering) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Excise Tax</u> (Other) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Employee Plans</u> (pension and 401k plans) (are employees of the entity covered by an employee retirement or income deferral plan) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Exempt Organizations</u> (is the entity structured as a not-for-profit organization under Section 501 of the Internal Revenue Code) |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Tax Exempt Bonds</u> (does the entity have any outstanding obligations for tax exempt bonds issued) |

Is the Entity presently required to file:

- | <u>YES</u> | <u>NO</u> | <u>Form</u> | <u>Form Description</u> |
|--------------------------|--------------------------|-----------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Form 940 | Employer's Annual Federal Unemployment (FUTA) Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 941 | Employer's Quarterly Federal Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 943 | Employer's Annual Return – Agricultural Employees |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 945 | Annual Return of Withheld Federal Income Tax |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 990 | Return of Exempt Organization |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1065 | Partnership Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1120 | Corporation Income Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 720 | Quarterly Federal Excise Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 730 | Monthly Tax on Wagering |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 11-C | Occupational Tax and Registration Return for Wagering |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1042 | Annual Withholding Return for U.S. Source Income of Foreign Persons |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 2290 | Highway Use Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1041 | Fiduciary Tax Return |
| <input type="checkbox"/> | <input type="checkbox"/> | Form W-2 | Wage and Tax Statement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form W-2G | Certain Gambling Winnings |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 8027 | Employer's Annual Return of Tip Income and Allocated Tips |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1098-T | Tuition Statement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1099-MISC | Statement for Recipients of Miscellaneous Income |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 1099-R | Distributions from Retirement, Insurance, or Profit Sharing Plans |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 8300 | Cash Transactions Over \$10,000 Received in a Trade or Business |
| <input type="checkbox"/> | <input type="checkbox"/> | FinCEN Form 102 | Suspicious Activity Report by Casinos and Card Clubs |
| <input type="checkbox"/> | <input type="checkbox"/> | FinCEN Form 103 | Currency Transaction Report by Casinos |

Review of Forms

Comment from your reviews of copies of the most recently filed tax forms. Include comments on whether the returns were accurately prepared; whether there were any returns processing problems, whether there was a balance due, whether there were any penalties imposed, etc.

If problems were encountered, how could they have been mitigated?

Forms W-4

- Does the entity have employees? Yes No
- Are Forms W-4 on file for every employee? Yes No
- Are all forms W-4 secured prior to initial payment? Yes No
- If No, what percentage was received after initial payment? _____
- Are all forms W-4 properly completed? Yes No
- If No, what percentage was incomplete? _____
- Are new forms W-4 secured each year on all individuals claiming to be exempt from income tax withholding? No Yes
- List any other comments from inspection of Forms W-4.

Forms W-9

- Does the entity make payments to vendors or independent contractors? Yes No
- Are Forms W-9 on file for every vendor or independent contractor? Yes No
- Are all forms W-9 secured prior to initial payment? Yes No
- If No, what percentage was received after initial payment? _____
- Are all forms W-9 properly completed? Yes No
- If No, what percentage was incomplete? _____
- List any other comments from inspection of Forms W-9.

Forms 1099

Are Forms 1099 filed for payments to all vendors and independent contractors for payments in excess of \$600 per year? Yes No

Is federal income tax withheld when required, due to invalid or missing Forms W-9? Yes No

Employment Taxes

Do Forms W-3, W-2 and 941 reconcile for the most recent calendar year? Yes No

If No, comment on the discrepancy and any actions needed or taken to resolve it.

Were there Federal Tax Deposit penalties assessed that could have been avoided? Yes No

Does the entity provide any fringe benefits (i.e., medical insurance, life insurance, tribal/employer-provided vehicle, tribal/employer-provided housing, etc.) Yes No

If Yes, list the type and whether they are deemed taxable in whole or part by the Entity.

Were taxable fringe benefits included on Forms W-2 for the applicable employee? Yes No

Does the entity pay Tribal Council members for their services on the Council (i.e. salary, meetings fees, stipends, etc.)? Yes No

Are the payments reported on Form W-2 or Form 1099? Yes No

If reported on Form W-2, are there withholding for FICA, Medicare, and Federal Income Tax? Yes No

Is the entity aware of Revenue Ruling 59-354? Yes No

Are internal controls present to ensure that a Form 1099 is not issued to an employee for an item that should be reported on Form W-2 (i.e. bonuses, excess reimbursement of expenses, personal use of a tribal asset, etc.)? Yes No

Is the level of tax filings consistent with the activity of the entity (i.e. Do the wages paid and withholding remittances appear accurate based on the size of the entity and the number of employees)? Yes No

If No, comment on the discrepancy and any actions taken to resolve it.

Does the Entity utilize a payroll service or Employee Leasing entity to file any required employment tax forms? Yes No

If Yes, list the name, address and EIN of the **service provider** as well as the specific forms filed on behalf of the entity.

| | | | |
|---------|------|-------|-----|
| EIN | Name | | |
| Address | City | State | Zip |

Forms filed by payroll service on behalf of THIS entity

Is the entity required to file Form 940 (Employer's Annual Federal Unemployment (FUTA) Tax Return? Yes No

If Yes, does the entity participate in the State Unemployment Tax Act (SUTA) program? Yes No

If yes, are you aware of the relief from Federal Unemployment Tax that is available if you are in compliance with SUTA? Yes No

Comment on tax compliance in the following areas, including if the area is “not applicable” since the Entity has no involvement with the listed issue.

1. General Welfare Programs

Is the Entity involved in the development and/or implementation of any programs that are designed to promote the general welfare of tribal members? Yes No

If Yes, describe the nature of the programs and how the potential tax consequence of such program was determined.

2. Employee Leasing

Is the Entity involved in leasing employees **TO** or **FROM** another entity? Yes No

Lease TO another entity Lease FROM another entity

Is the other entity controlled by the tribe or another tribe? Yes No

Have all federal tax filings and payments been properly made? Yes No

List any other comments on employee leasing.

3. Excise Taxes

Comment on the excise taxes that are applicable to the Entity as reflected on Forms 720, 730, 2290, and 11-C (include a comment on whether the essential government services exclusion was appropriately defined and applied to any communication or fuel taxes)

4. Non-Gaming Distributions to Members

Are there any distributions of non-gaming revenue made by the entity to any individuals (i.e. royalty income, business profits, land claim proceeds, etc.)? Yes No

If Yes, are Forms 1099 issued? Yes No

If No (Forms 1099 are NOT issued) comment on the reason.

List any other comments on Non-Gaming Distributions.

5. Housing Assistance for Law Enforcement Personnel Living in High Crime Tribal Areas

Does the Entity provide any tax-free housing for law enforcement officials to reside in areas deemed to be a "high crime zone" by the Tribe?

Yes No

If Yes, has the tribal governing body duly designated the zone and payments?

Yes No

List any other comments on law enforcement housing.

6. Tip Income

Does the Entity have employees who receive tip income?

Yes No

If Yes, is there a voluntary Tip Agreement in place (Tip Rate Determination Agreement or a Gaming Industry Tip Compliance Agreement)?

Yes No

What is the percentage of tipped employees who are participating in such an agreement? _____

If there are non-participating employees, do all of them report their tip income to the entity as required each month?

Yes No

Are all employee tips properly reported on line 6c of Form 941?

Yes No

Comment on whether the tip income being reported by employees appears accurate.

7. Bank Secrecy Act (BSA) Issues

Is the Entity subject to Title 31 (gross gaming revenues of \$1 million or more per year, or the entity provides services such as check cashing, wire transfers, etc.)?

Yes No

Does the entity have a designated BSA Compliance Officer?

Yes No

Is that position solely dedicated to that task?

Yes No

Does the entity have formal written BSA compliance program?

Yes No

Is ongoing Bank Secrecy Act training held for all employees who interact with customers on the gaming floor, or work in security?

Yes No

Comment on the level of filings of FinCEN Forms **102** and **103**, specifically whether the number being filed is changing in proportion to any changes in the size of the gaming operation.

8. Per Capita Distributions of Gaming Revenues to Members

Does the Tribe distribute any gaming revenues directly to tribal members?

Yes No

Does the Tribe have a Revenue Allocation Plan (RAP)?

Yes No

If Yes, is the tribe in compliance with it's RAP?

Yes No

Is Form 1099 issued to each recipient?

Yes No

Is proper withholding made from the distributions?

Yes No

List any other comments on Per Capita Gaming Distributions

9. Use of Trusts or Other Programs to Defer Distributions, or the Tax Consequence of Distributions

Are any programs utilized by the tribe or tribal members to defer the tax consequence of a distribution, or to defer the actual distribution to a later date (i.e. through the use of a trust or other legal structure)? Yes No

Are they operated by the tribe? Yes No

Are they under contract or facilitated by a third party? Yes No

Were the guidelines in Revenue Procedure 2003-14 used? Yes No

If not, was a Private Letter Ruling secured on the deferral program? Yes No

List any other comments on use of Trusts.

10. Aggregation Agreement on Gaming

Does the Entity have an agreement with the IRS to aggregate slot machine wins for a patron in a gaming day? Yes No

If Yes, is the entity in compliance with that agreement? Yes No

List any other comments on aggregation agreements.

11. Acceptance Agent Agreement on ITINs for Gaming Patrons

Does the Entity have an agreement with the IRS to secure Tax Identification Numbers for gaming patrons from foreign countries who lack a social security number? Yes No

If Yes, is the entity in compliance with that agreement? Yes No

List any other comments on ITIN agreements.

Actions / Corrections / Improvements

List any actions that the Tribe has taken on its own, or plans to implement, to effect improvements in compliance as a result of conducting this Compliance Check.

List any actions where the IRS office of Indian Tribal Governments could assist the Tribe in effecting improvements to compliance (i.e. Outreach/Education, improved access to information, need for a Private Letter Ruling, implementation of a Tip Agreement, etc.) **Note:** Specific identified compliance concerns that may result in additional tax or penalties can be listed at the conclusion of this form if you are seeking IRS assistance and potential penalty relief.

SUMMARY OF COMPLIANCE CHECK

| | | | |
|--|------|--------------------------------------|-----|
| Name of Tribe | | | |
| Address of Tribe | City | State | Zip |
| Date Compliance Check Completed | | | |
| Tribal Entity Contact Name | | Tribal Entity Contact Title | |
| Tribal Entity Contact Telephone Number | | Tribal Entity Contact E-Mail Address | |

The following information summarizes the results of the Compliance Check that was conducted (complete all applicable sections)

EMPLOYER IDENTIFICATION NUMBER (EIN) CHANGES REQUIRED

(List the affected EINs, check the column for the change(s) required and list an explanation for each change in the last column).

| EIN | New EIN | Change of Address | Filing Requirement Change | Other | Explanation of Change |
|-----|--------------------------|--------------------------|---------------------------|--------------------------|-----------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

REQUIRED CORRECTIVE ACTIONS UNCOVERED BY COMPLIANCE CHECK

Based on the results of this Compliance Check, we request assistance in effecting the following corrective actions with the understanding that penalties will be waived wherever permissible.

Privacy Act Statement and Paperwork Reduction Act Notice

This notice is given under the Privacy Act of 1974 and the Paperwork Reduction Act of 1995. The Privacy Act and Paperwork Reduction Act requires that the Internal Revenue Service inform businesses and other entities the following when asking for information.

The information on this form will carry out the Internal Revenue laws of the United States. We will comply with Internal Revenue Code (IRC) section 6109 and the regulations hereunder, which generally require the inclusion of an Employer Identification Number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. Information on this form may be used to determine which Federal tax returns are required to file and to provide related forms and publications. This Form will be disclosed to the Social Security Administration for their use in determining compliance with applicable laws. An EIN will not be issued unless you provide all of the requested information, which applies to your entity.

Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by IRC section 6103.