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**TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION**



***Statistical Portrayal of the Indian  
Tribal Government Office's  
Enforcement Activities From Fiscal  
Year 2002 Through Fiscal Year 2005***

August 23, 2006

Reference Number: 2006-10-121

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

**Redaction Legend:**

1 = Tax Return/Return Information

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TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

August 23, 2006

**MEMORANDUM FOR** COMMISSIONER, TAX EXEMPT AND GOVERNMENT ENTITIES  
DIVISION

**FROM:** *Michael R. Phillips*  
Michael R. Phillips  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Statistical Portrayal of the Indian Tribal  
Government Office's Enforcement Activities From  
Fiscal Year 2002 Through Fiscal Year 2005 (Audit # 200610008)

This report presents the results of our review of the Indian Tribal Governments (ITG) office's enforcement data. The overall objectives of this audit were to review relevant Fiscal Years (FY) 2002 through 2005 statistical data for the ITG office enforcement activities and analyze the data for trends.

The ITG office is responsible for administering Federal tax laws for the 564 Federally recognized Indian tribal governments and their approximately 2,100 related entities. The emergence and growth of the tribal economies is fueled largely by gaming<sup>1</sup> and represents one of the fastest growing segments of the economy. From Tax Year 2000 to Tax Year 2001, tribal employment grew by 22 percent, and 9 of 10 newly hired employees of tribal entities were attributed to the gaming market segment. The ITG office's primary method of ensuring compliance with the Internal Revenue Code is through its Examination Program. In addition, the ITG office must ensure the Internal Revenue Service (IRS) complies with the treaty provisions that establish rights of tribal governments and Executive Order 13175 (dated November 6, 2000),<sup>2</sup> which outlines the Government-to-Government relationships between the IRS and individual tribal governments.

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<sup>1</sup> There are three classes of gaming: Class I consists of social games for prizes of nominal value; Class II consists of games such as bingo or lotto; and Class III consists of card games, dog and horse racing, and all other types of casino gaming.

<sup>2</sup> Consultation and Coordination With Indian Tribal Governments, Exec. Order No. 13175, 3 C.F.R. 304 (2001), reprinted in 25 U.S.C. Section (§) 450 (2001).



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**Synopsis**

The number of ITG office Full-Time Equivalents (FTE)<sup>3</sup> applied to conducting examinations almost doubled between FYs 2002 and 2004.<sup>4</sup> In contrast, the number of FTEs available to the ITG office overall increased only slightly over the same period, which indicates the percentage increase in Examination FTEs is greater than the percentage increase for the ITG office's overall FTEs. This higher percentage for examination activities is consistent with the IRS' commitment to direct more resources to its Enforcement Program areas.

*The ITG office committed a higher percentage of resources to the Enforcement Program from FY 2002 to FY 2004, but examinations have declined due to the increasing complexity of the closures.*

Despite this increase in FTEs, the ITG office completed fewer examinations in FYs 2004 and 2005 than in FYs 2002 and 2003. ITG office management informed us they were faced with a backlog of claims that had been in suspense pending the outcome of a legislative change<sup>5</sup> involving Federal unemployment taxes and a Supreme Court case<sup>6</sup> related to wagering excise taxes. Once these issues were resolved in late 2001, the ITG office began to close claims cases in FY 2002 that did not recur in later years. As the ITG office moved into more traditional examination work in FY 2004, the increasing complexity resulted in fewer case closures. In addition, approximately 75 percent of examinations closed during FYs 2002 through 2005 resulted in no dollar change to a past or current tax liability; 25 percent resulted in dollar adjustments.

**Response**

We made no recommendations in this report. However, key IRS management officials reviewed it prior to issuance and agreed with the facts and conclusions presented.

Copies of this report are also being sent to the IRS managers affected by the report findings. Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Acting Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

<sup>3</sup> A measure of labor hours in which 1 FTE is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For FYs 2002 and 2003, 1 FTE was equal to 2,088 staff hours; for FY 2004, 1 FTE was equal to 2,096 staff hours.

<sup>4</sup> The total FTEs applied to the Examination Program were not available for FY 2005.

<sup>5</sup> Federal Unemployment Tax Act, 26 U.S.C. §§ 3301-3312 (2003).

<sup>6</sup> Chickasaw Nation v. United States, 534 U.S. 84 (2001).



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## ***Background***

The Indian Tribal Governments (ITG) office was established as part of the Internal Revenue Service (IRS) Tax Exempt and Government Entities Division in Fiscal Year (FY) 2000. The mission of the ITG office is to provide its customers top-quality services, by helping them understand and comply with applicable laws, and to protect the public interest by applying the tax law with integrity and fairness to all. In addition, the ITG office must ensure the IRS complies with the treaty provisions that establish rights of tribal governments (tribes) and Executive Order 13175 (dated November 6, 2000),<sup>1</sup> which outlines the Government-to-Government relationships between the IRS and individual tribes.

The ITG office is responsible for administering Federal tax laws for the 564 Federally recognized Indian tribes and their approximately 2,100 related entities. The emergence and growth of the tribal economies is fueled largely by gaming<sup>2</sup> and represents one of the fastest growing segments of the economy. From Tax Year 2000 to Tax Year 2001, tribal employment grew by 22 percent, and 9 of 10 newly hired employees of tribal entities were attributed to the gaming market segment.

ITG office enforcement activities consist of examinations of taxpayers who have filed tax returns or those who have not filed a return either because (1) they are not in compliance with the tax law or (2) they have not been required to file previously. Examinations are conducted for several types of returns, including information returns and employment tax returns.<sup>3</sup> Examinations can result in no change to the tax due, assessments of additional tax or penalties, or a reduction in tax. Additionally, the tax return could be referred to the Small Business/Self-Employed (SB/SE) Division Lead Development Center<sup>4</sup> or to the Criminal Investigation function for further review.

The ITG office and SB/SE Division share enforcement tasks for ITG office customers.

- The ITG office is responsible for examining the various employment taxes, excise taxes, and information reporting for the tribal entities.

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<sup>1</sup> Consultation and Coordination With Indian Tribal Governments, Exec. Order No. 13175, 3 C.F.R. 304 (2001), reprinted in 25 U.S.C. Section (§) 450 (2001).

<sup>2</sup> There are three classes of gaming: Class I consists of social games for prizes of nominal value; Class II consists of games such as bingo or lotto; and Class III consists of card games, dog and horse racing, and all other types of casino gaming.

<sup>3</sup> See Appendix IV for a list of IRS tax forms used by the tribes.

<sup>4</sup> The SB/SE Division Lead Development Center centralizes the receipt and development of leads on abusive tax schemes and promoters, as well as the authorization and referral of Internal Revenue Code Section 6700 investigations.



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- The SB/SE Division is responsible for examining tribal entities to determine whether they are complying with the anti-money laundering statutes. The ITG office is responsible for selecting the entities for the SB/SE Division to examine.

Additionally, if the ITG office identifies misconduct that should be investigated under Internal Revenue Code (I.R.C.) Section (§) 6700,<sup>5</sup> those cases are referred to the SB/SE Division or the Criminal Investigation function.

This review was performed at the ITG National Headquarters office in Washington, D.C., and the Compliance and Program Management<sup>6</sup> office in Buffalo, New York, during the period October 2005 through June 2006. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objectives, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

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<sup>5</sup> I.R.C. § 6700 (2004) imposes a penalty for promoting an abusive tax shelter while making a false or fraudulent misrepresentation as to any material matter or for making a material gross valuation overstatement as to any material matter.

<sup>6</sup> The Compliance and Program Management office was previously known as the Outreach, Planning, and Review office.



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***Results of Review***

Prior to establishment of the ITG office, the IRS did not have a coordinated effort to interact with tribes and had not identified the full customer population or the compliance needs within that customer base. The ITG office spent its first several years performing education and outreach to identify its customers and gradually transitioned to performing work (examinations) to enforce compliance with the I.R.C. during FYs 2002 through 2005. We identified the following trends from our analysis of ITG office data for FYs 2002 through 2005.

***Resources applied to Examination Program activities in the ITG office***

The number of Full-Time Equivalents (FTE)<sup>7</sup> applied to conducting examinations (Examination FTEs) in the ITG office almost doubled between FYs 2002 and 2004.<sup>8</sup> In contrast, the number of FTEs available to the ITG office overall increased only slightly over the same period, which indicates the percentage increase in Examination FTEs is greater than the percentage increase for the ITG office's overall FTEs. This higher percentage for examination activities is consistent with the IRS' commitment to direct more resources to the Enforcement Program areas. Figure 1 presents FTE usage for FYs 2002 through 2004.

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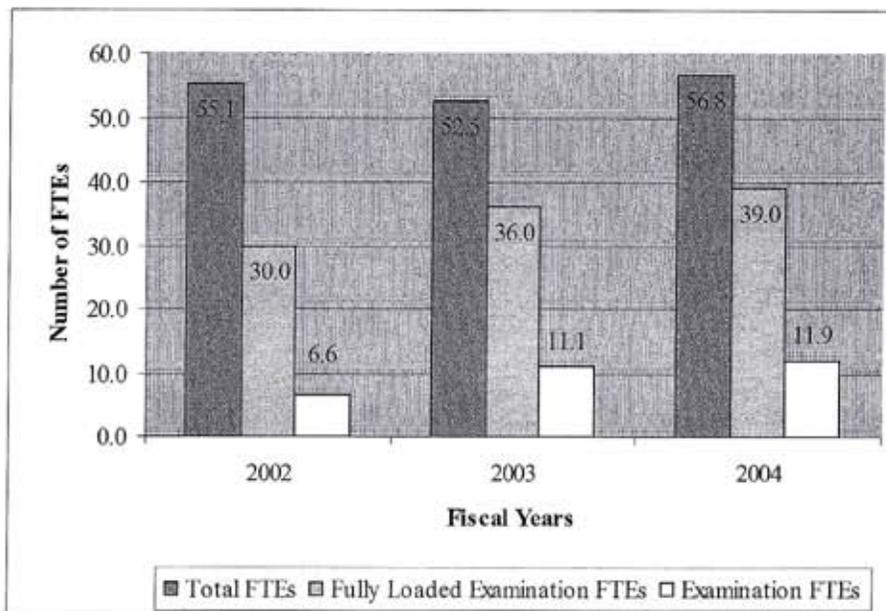
<sup>7</sup> A measure of labor hours in which 1 FTE is equal to 8 hours multiplied by the number of compensable days in a particular fiscal year. For FYs 2002 and 2003, 1 FTE was equal to 2,088 staff hours; for FY 2004, 1 FTE was equal to 2,096 staff hours.

<sup>8</sup> The total FTEs applied to the Examination Program were not available for FY 2005.



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**Figure 1: Total ITG Office FTEs Versus Examination FTEs  
(FYs 2002 – 2004)**



Source: Analysis of the ITG office Tax Exempt and Government Entities Division Technical Time Reporting System (ETS)<sup>9</sup> data.

Fully Loaded Examination FTEs include the Examination FTEs and allocations of indirect time categories such as Indirect Administration, Management, Training, and Details and Leave. The Examination FTEs presented do not include the time charged to Title 31 Education and Outreach.<sup>10</sup> The data analyses that follow include only direct examination time; they do not include allocations of indirect time, such as training and annual leave.

The increase in the number of Examination FTEs from FY 2002 through FY 2004 can be attributed to the ITG office shifting its resource usage to conduct more examinations.

**Total examinations conducted**

Several different statistics can give an indication of the impact of the ITG office Examination Program on compliance. One statistic is the total number of examinations completed each year.

<sup>9</sup> The ETS is a stand-alone DOS-based software application designed and developed to enable electronic tracking and reporting of technical time.

<sup>10</sup> Title 31 Education and Outreach is a category that the ITG office field specialists charge time to when making presentations to tribal officials about the Bank Secrecy Act (Titles I and II of Pub. L. No 91-508, 84 Stat. 1114 (1970), as amended, codified at 12 U.S.C. §§ 1829b, 1951-1959, and 31 U.S.C. §§ 5311-5322).

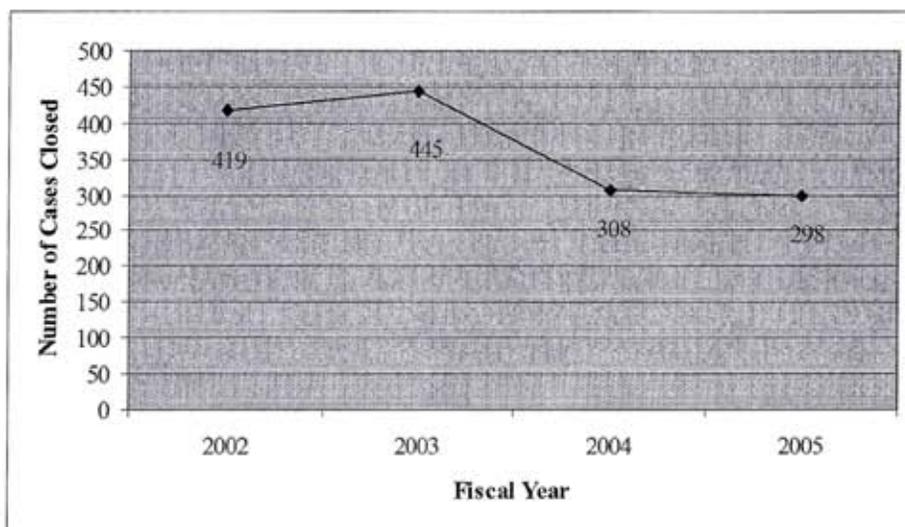


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Figure 2 shows the ITG office closed 1,470 examinations during FYs 2002 through 2005. The total number of examinations closed in FY 2002 is understated because the ITG office had incomplete data for that year.<sup>11</sup>

A comparison of Figures 1 and 2 shows fewer examinations were completed in FYs 2004 and 2005 than in the prior 2 fiscal years, despite the number of FTEs for the Examination Program increasing through FY 2004.

**Figure 2: Number of Examinations Closed, by Fiscal Year  
(FYs 2002 – 2005)**



Source: Analysis of ITG office case closure information.

ITG office management informed us they were faced with a backlog of claims that had been in suspense pending the outcome of a legislative change involving Federal unemployment (FUTA)<sup>12</sup> taxes and a Supreme Court case<sup>13</sup> related to wagering excise taxes. Once these issues were resolved in late 2001, the ITG office began to close claims cases that did not recur in later years. As the ITG office moved into more traditional examination work in FY 2004, the increasing complexity resulted in fewer case closures.

Figure 3 lists the specific types of examinations closed by the ITG office during FYs 2002 through 2005. Most examinations involved employment taxes, excise taxes, and penalty claims.

<sup>11</sup> The number of examinations closed in FY 2002 is understated because the ITG office did not retain data for Penalty Claims examined and closed prior to July 1, 2002; an additional 40 examinations closed in FY 2002 were not included because the data were incomplete.

<sup>12</sup> Federal Unemployment Tax Act, 26 U.S.C. §§ 3301-3312 (2003).

<sup>13</sup> Chickasaw Nation v. United States, 534 U.S. 84 (2001).



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**Figure 3: Number of Examinations Closed, by Type  
(FYs 2002 – 2005)**

Type of Examination Case	Fiscal Year				Totals
	2002	2003	2004	2005	
Employment Tax <sup>14</sup>	140	96	53		289
Excise Tax <sup>15</sup>	270	198	128		596
Claims for Refund				13	13
Delinquency Follow-Up				52	52
Gaming Initiative				2	2
Information Reporting					
Penalty					
Penalty Claim	6	126	91	108	331
Return Examination				70	70
Tip Rate Review		7	5	3	15
Tip Rate Solicitation	3	14	30	19	66
<b>Totals</b>	<b>419</b>	<b>445</b>	<b>308</b>	<b>298</b>	<b>1,470</b>

Source: Analysis of ITG office case closure information.

**Examination of compliant and noncompliant returns**

Generally, one indication of the effectiveness of selecting and examining tax documents for compliance with the I.R.C. is calculation of the change and no-change rates. No-change examinations are closed without a change to the tax documents (i.e., at the completion of the examination, the tax documents are accepted as filed without change and there is no change to the tax liability); change examinations are closed with a change to either the tax documents or the tax liability. Most IRS business units differentiate between examinations resulting in changes to tax documents and examinations resulting in changes in tax liability and track them separately. For example, the designation “no change with adjustment” is often used to track examinations in which there is no change to the underlying tax liability but there has been a

<sup>14</sup> These employment tax cases include some claims for refund related to the FUTA.

<sup>15</sup> These excise tax cases include some claims for refund related to the Supreme Court case Chickasaw Nation v. United States.



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change to the tax documents. However, the ITG office does not track change cases in this manner and instead reports only the total number of change cases.

A comparison of the change and no-change rates for the ITG office shows a very high change rate for the period of time reviewed. Of the 1,470 examinations listed in Figure 3, only 27 were considered no-change by the ITG office. It is unlikely that this high change rate will continue because it can, in part, be attributed to a nonrecurring legislative change.<sup>16</sup> The legislative change in FY 2001 allowed the tribes to pay State unemployment taxes rather than FUTA taxes. This change generated many claims from the tribes for a refund of FUTA taxes previously paid. By definition, this type of claim was considered a change examination, regardless of whether there was any change to the taxpayer's tax liability. In addition, the ITG office performs examinations of a large number of documents that do not result in a change in historic or current tax liabilities but may affect future filings. As discussed above, although there is no change to a past or current liability, these information reporting examinations are considered change examinations, but are not separately tracked to differentiate them from those change examinations that result in a change to the underlying tax liability.

We reviewed cases involving tax liabilities by comparing the number of examinations with dollar adjustments to the tax liabilities to the number of examinations without adjustments to the tax liabilities. Approximately 75 percent of examinations closed during FYs 2002 through 2005 resulted in no dollar change to a past or current tax liability; 25 percent resulted in dollar adjustments. Figure 4 shows the yearly comparisons.

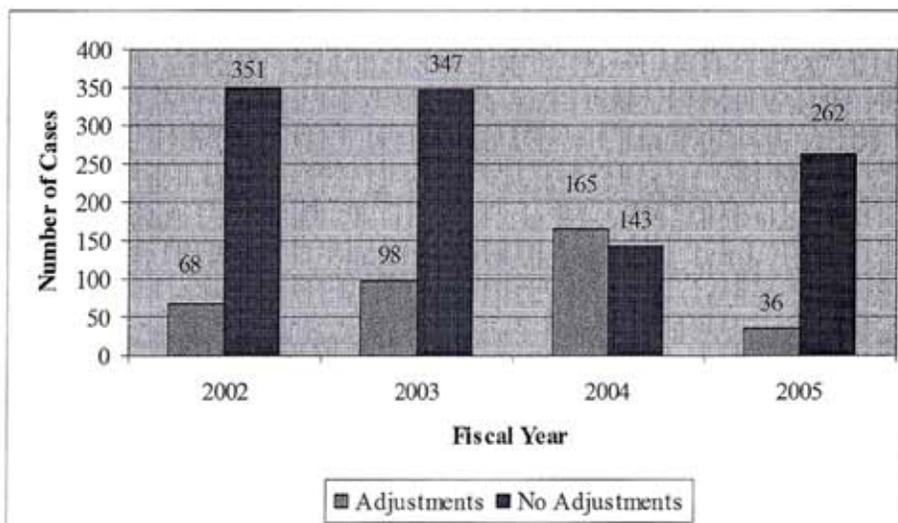
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<sup>16</sup> Consolidated Appropriations Act of 2001, Pub. L. No. 106-554, Sec. 1(a) (7) [title I, Sec. 166(b), (c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-627.



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**Figure 4: Number of Examinations With Adjustments Compared to Examinations Without Adjustments (FYs 2002 – 2005)**



Source: Analysis of IRS Master File<sup>17</sup> and ITG office case closure information.

**Time expended on examinations**

One tool that can be used to manage the effectiveness of the Examination Program is the amount of time spent examining tax documents, preparing the examination report, and closing the case. Figure 5 shows the number of examinations closed per Examination FTE decreased by more than one-half during FYs 2002 through 2004.<sup>18</sup> This decrease is an indication the ITG office is examining a different mix of work, including fewer FUTA and excise tax claims and more complex issues.

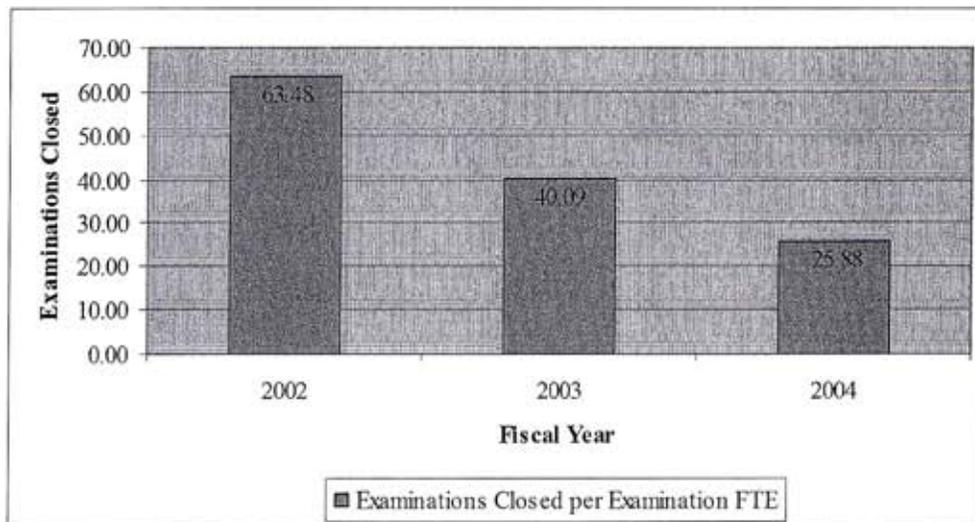
<sup>17</sup> The Master File is the IRS database that stores various types of taxpayer account information, including individual, business, and employee plans and exempt organizations data.

<sup>18</sup> ETS data were not available for FY 2005.



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**Figure 5: Examinations Closed per Examination FTE, by Fiscal Year  
(FYs 2002 – 2004)**



Source: Analysis of the ETS and ITG office case closure information.

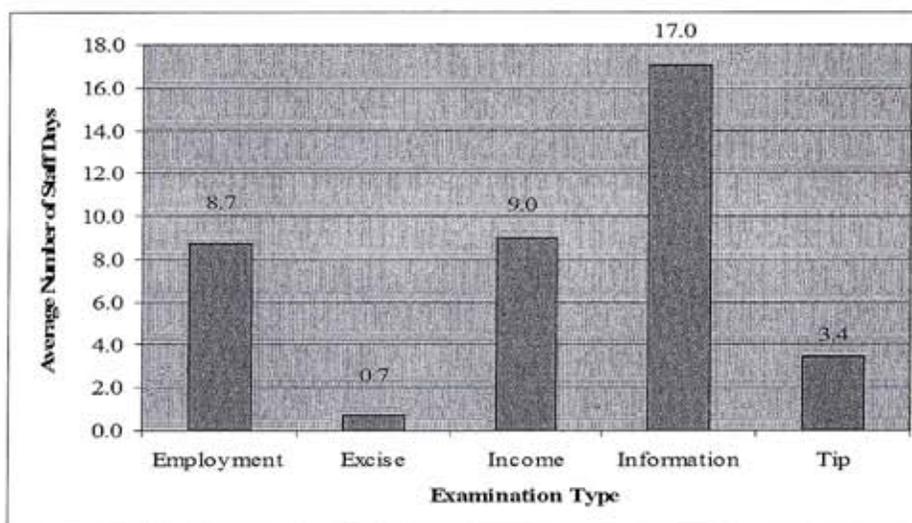
We calculated the average number of staff days<sup>19</sup> taken by the ITG office to complete the types of examinations listed in Figure 6. This is based on the number of examinations completed and the amount of time charged to the examinations by examination type for FYs 2002 through 2004.

<sup>19</sup> A measure of labor hours in which 1 staff day is equal to 8 hours. For FY 2002, 261 staff days were equal to 1 FTE or 2,088 staff hours.



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**Figure 6: Average Staff Days per Examination, by Examination Type  
(FYs 2002 – 2004)**



Source: Analysis of ITG office case closure information.

As Figure 6 shows, the Information Return examinations took the greatest average amount of time to complete, and the excise tax examinations took the least. The average staff days for Tip Compliance examinations is misleading. We determined 3 cases in FY 2002 took an average of 127 staff days to complete, but the average number of staff days for Tip Compliance examinations dropped significantly in FYs 2003 and 2004.

**Adjustments, penalties, and interest applied to taxpayer accounts**

Another indication of the success of the Examination Program is the additional amounts assessed on the noncompliance identified during examinations. Penalties, interest, and additional tax assessments to ITG office customer accounts increase tax liability. Claims generally decrease the liability because they usually request a refund or an abatement of taxes, penalties, or interest. Figure 7 shows the dollar differences between the Examination-related adjustments, penalties, and interest and the nonexamination<sup>20</sup> adjustments, penalties, and interest for the ITG office customer base.

<sup>20</sup> Adjustments from outside the Examination Program include claims for FUTA taxes. These claims were processed by the Brookhaven Campus in Holtsville, New York. The claims cases were not included as part of the ITG office's examination work; however, the adjustment dollars are reflected in its customers' tax accounts. Campuses are the data processing arm of the IRS. They process paper and electronic submissions, correct errors, and forward data to the Computing Centers.



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In Figure 7, we divided the net adjustments into two categories: claims for adjustment and adjustments. Claims for adjustment are transactions that reduce the taxpayer's tax liability; adjustments are transactions that increase the taxpayer's liability.

**Figure 7: Examination-Related Adjustments, Penalties, and Interest Compared to Nonexamination Adjustments, Penalties, and Interest (FYs 2002 – 2005)**

Category	Dollars (in Thousands)		
	Examination-Related	Nonexamination-Related	Totals
Claims for Adjustment	-\$6,197	-\$98,571	-\$104,768
Adjustments	\$4,824	\$130,670	\$135,494
Penalties	\$1,141	\$36,002	\$37,143
Interest	\$551	\$8,717	\$9,268

Source: Analysis of IRS Master File data.

As Figure 7 indicates, most claims for adjustment (to reduce tax liability), adjustments (to increase tax liability),<sup>21</sup> penalties, and interest for ITG office customers originated from outside the ITG office Examination Program. This likely is attributable to the numerous adjustment actions undertaken by the campuses, such as failure to deposit penalties, interest on late payments, and information return filing penalties. These types of assessments are often significant for tribal entities.

**Analysis of market segment examinations**

The ITG office divided its customer base into three market segments to learn more about the demographic and tax-filing characteristics that are unique to the respective market segment. The market segments are tribes located in Alaska (Alaska), tribes with gaming (Gaming), and tribes without gaming (Non-Gaming).

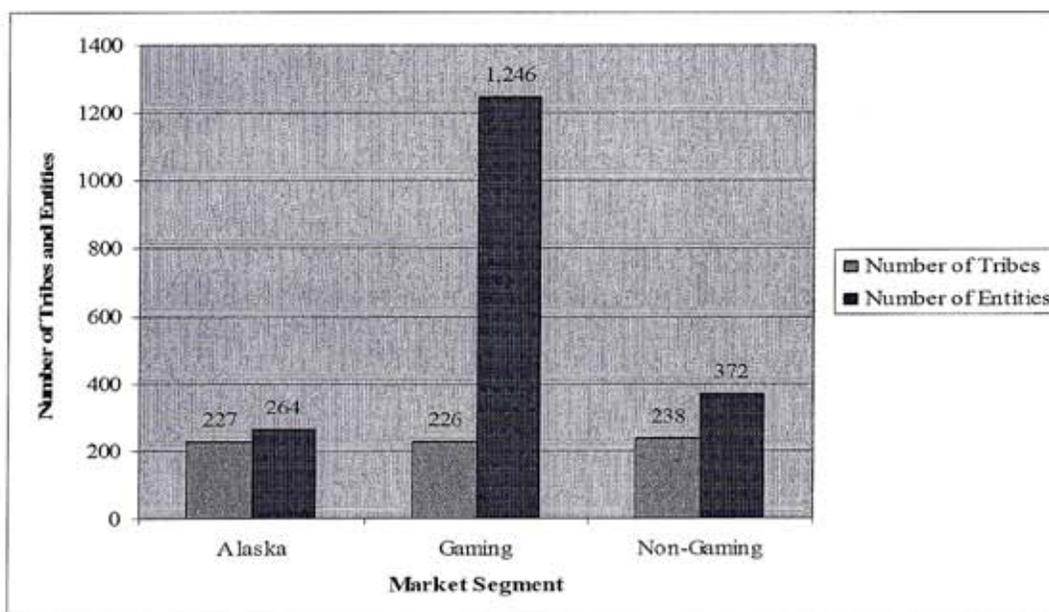
<sup>21</sup>





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**Figure 8: Number of Tribes and Related Entities in the  
ITG Office Market Segments**



Source: Analysis of active entities from the ITG Database.<sup>22</sup>

Figure 8 shows the Gaming market segment has the most active<sup>23</sup> entities (66 percent). The Gaming market segment includes businesses that conduct gaming (e.g., casinos) and entities such as housing authorities or gasoline stations. Gaming operations have the greatest economic impact of all the tribal entities.

<sup>22</sup> The ITG office Database was developed over the past several years and contains data from the IRS' main database (Master File), the Bureau of Indian Affairs, and other sources on Indian tribes and their related enterprises. The ITG office Database records contain more than 200 data fields and include information such as tribal entity data, filing requirements, and line-item information from filed returns such as wages paid. The ITG office Database is made up in part by the Inventory Database, the Outreach Assignment Database, and the Tribal Compliance Database.

<sup>23</sup> Entities are considered active when they are in use by the tribe, or are pending use in the near future, regardless of whether they have any current filing requirements or past filing history.



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**Figure 9: Examinations by Market Segment (FYs 2002 – 2005)**

Market Segment	Fiscal Year				Totals	Percentages
	2002	2003	2004	2005		
Alaska	4	20	4	57	85	6%
Gaming	396	314	232	156	1,098	81%
Non-Gaming	15	73	50	35	173	13%
<b>Totals<sup>24</sup></b>	<b>415</b>	<b>407</b>	<b>286</b>	<b>248</b>	<b>1,356</b>	<b>100%</b>

Source: Analysis of IRS Master File data and ITG office case closure information.

As shown in Figure 8, the Gaming market segment had 66 percent of the entities. Figure 9 shows the Gaming market segment had 81 percent of the examinations conducted. The Gaming market segment reports the most employment taxes, average wages, and other compensation paid to employees, tips, and FUTA taxes. With more entities and more associated tax dollars, it is logical that this market segment was examined more frequently than the others. Figure 10 shows the Gaming market segment had approximately 82 percent of adjustments.

**Figure 10: Market Segment Examinations With Adjustments (FYs 2002 – 2005)**

Market Segment	Fiscal Year				Totals	Percentages
	2002	2003	2004	2005		
Alaska					7	2%
Gaming	59	89	137	20	305	82%
Non-Gaming	8	10	28	14	60	16%
<b>Totals</b>	<b>71</b>	<b>99</b>	<b>166</b>	<b>36</b>	<b>372</b>	<b>100%</b>

Source: Analysis of IRS Master File data and ITG office case closure information.

The Gaming market segment has the most entities, examinations, and Examination-related adjustments. Figure 11<sup>25</sup> shows the Gaming market segment also has the largest dollar figures for net adjustments, penalties, and interest. The sum of total claims for adjustment (-\$6,197,000) and total adjustments (\$4,824,000) indicate net adjustments reduced tax liabilities by approximately \$1.4 million, while approximately \$1.7 million of additional penalties and interest were assessed.

<sup>24</sup> The numbers of examination records shown in Figure 3 (1,470) and Figure 9 (1,356) are different because there are closed examination cases for which the Employer Identification Number of the taxpayer is not marked as active in the ITG office Database. The market segment for 114 examinations could not be identified for inactive Employer Identification Numbers.

<sup>25</sup> The numbers in Figure 11 do not add up to the totals presented due to rounding.



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**Figure 11: Examination-Related Adjustments, Penalties, and Interest by Market Segment (FYs 2002 – 2005)**

Market Segment	Dollars (in Thousands)			
	Claims for Adjustment	Adjustments	Penalties	Interest
Alaska	-\$125	\$41	\$11	\$1
Gaming	-\$5,933	\$4,587	\$992	\$477
Non-Gaming	-\$139	\$196	\$138	\$74
<b>Totals</b>	<b>-\$6,197</b>	<b>\$4,824</b>	<b>\$1,141</b>	<b>\$551</b>

Source: Analysis of IRS Master File data.

Figure 12 shows the average amount per transaction for the claims for adjustment and the adjustments, for customers examined in the three market segments. The Gaming market segment claims for adjustment and adjustments were significantly higher than those for the Alaska and Non-Gaming market segments.

**Figure 12: Average Amount of Examination-Related Adjustment Transactions by Market Segment (FYs 2002 – 2005)**

Market Segment	Dollars (in Thousands)	
	Claims for Adjustment	Adjustments
Alaska	-\$26	\$21
Gaming	-\$606	\$209
Non-Gaming	-\$18	\$21

Source: Analysis of IRS Master File data.



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Figure 13<sup>26</sup> shows the net Examination-related adjustment dollars for each market segment by fiscal year.

**Figure 13: Examination-Related Adjustments by Market Segment  
(FYs 2002 – 2005)**

	Market Segment	Fiscal Year (Dollars in Thousands)				Totals
		2002	2003	2004	2005	
Claims for Adjustment	Alaska	-\$117	\$0	-\$9	\$0	-\$125
	Gaming	-\$1,317	-\$3,577	-\$147	-\$891	-\$5,933
	Non-Gaming	-\$24	-\$10	-\$28	-\$76	-\$139
Adjustments	Alaska	\$2	\$0	\$39	\$0	\$41
	Gaming	\$649	\$2,444	\$896	\$597	\$4,587
	Non-Gaming	\$16	\$3	\$76	\$102	\$196
<b>Totals</b>		<b>-\$790</b>	<b>-\$1,141</b>	<b>\$827</b>	<b>-\$269</b>	<b>-\$1,373</b>

Source: Analysis of IRS Master File data.

Figure 13 shows the taxpayers' tax liabilities were reduced by a total of approximately \$2.2 million in 3 years and increased by more than \$800,000 in 1 year, for a net reduction of approximately \$1.4 million.

Figures 14 and 15<sup>27</sup> present, by fiscal year, the penalties and interest assessed to taxpayer accounts on which examinations were performed. Figure 14 shows penalty assessments on ITG office customers increased from about \$34,000 in FY 2002 to about \$526,000 in FY 2005. This may appear to conflict with the information presented in Figure 10, which shows the number of examinations by year by market segment, and Figure 13, which shows the examination related adjustments. ITG office management informed us that penalties are not related to the number of examinations or to examination assessments, but rather are related to tax deposits. Analysis of Master File data indicates that the majority of the penalty transactions are for failure to pay tax timely, delinquencies for late filing, and insufficient or late deposits of taxes. The Gaming market segment was assessed approximately 87 percent of the total penalties. This is in line with the number of examinations performed in the Gaming market segment.

<sup>26</sup> The numbers in Figure 13 do not add up to the totals presented due to rounding.

<sup>27</sup> The numbers in Figures 14 and 15 do not add up to the totals presented due to rounding.



**Statistical Portrayal of the Indian Tribal Government Office's  
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**Figure 14: Examination-Related Penalties by Market Segment  
(FYs 2002 – 2005)**

Market Segment	Fiscal Year (Dollars in Thousands)				Totals
	2002	2003	2004	2005	
Alaska <sup>28</sup>	\$6	\$0	\$5	\$0	\$11
Gaming	\$27	\$314	\$132	\$520	\$992
Non-Gaming	\$1	\$43	\$88	\$6	\$138
<b>Totals</b>	<b>\$34</b>	<b>\$357</b>	<b>\$224</b>	<b>\$526</b>	<b>\$1,141</b>

Source: Analysis of IRS Master File data.

Figure 15 shows interest assessments on ITG office customers fluctuated throughout the 4 years reviewed. The Gaming market segment was assessed approximately 87 percent of the total interest.

**Figure 15: Examination-Related Interest by Market Segment  
(FYs 2002 – 2005)**

Market Segment	Fiscal Year (Dollars in Thousands)				Totals
	2002	2003	2004	2005	
Alaska	\$0	\$0	\$0	\$0	\$1
Gaming	\$126	\$177	\$126	\$47	\$477
Non-Gaming	\$0	\$27	\$45	\$2	\$74
<b>Totals</b>	<b>\$127</b>	<b>\$204</b>	<b>\$172</b>	<b>\$49</b>	<b>\$551</b>

Source: Analysis of IRS Master File data.

**I.R.C. § 6700 referrals**

I.R.C. § 6700<sup>29</sup> imposes a penalty for promoting an abusive tax shelter while making a false or fraudulent misrepresentation as to any material matter or for making a material gross valuation overstatement as to any material matter. Through the end of FY 2005, the ITG office had made four I.R.C. § 6700 referrals to the SB/SE Division Lead Development Center.

<sup>28</sup> The Alaska market segment had under \$150 in Examination-related penalties assessed in FY 2005. This amount rounded to zero when the data were rounded to thousands.

<sup>29</sup> I.R.C. § 6700 (2004).



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**Appendix I**

***Detailed Objectives, Scope, and Methodology***

Our overall objectives were to review relevant Fiscal Years (FY) 2002 through 2005 statistical data for the Indian Tribal Governments (ITG) office enforcement activities and analyze the data for trends. To accomplish our objectives, we:

- I. Identified data relating to the ITG office enforcement activities.
  - A. Obtained the Tax Exempt and Government Entities Division Technical Time Reporting System<sup>30</sup> data for FYs 2002 through 2005 to determine the time applied to examinations.
  - B. Obtained the ITG office Database<sup>31</sup> (cumulative through the end of FY 2005) to determine the population and market segments of the ITG office customers.
  - C. Obtained Internal Revenue Service Master File information to identify all closed examinations conducted on customers and associated information such as dollars assessed.
  - D. Interviewed ITG office management to determine if there are factors that may have had an effect on enforcement indicators during FYs 2002 through 2005.
  - E. Interviewed ITG office management to identify any other enforcement indicators used within the office.
  - F. Validated the ITG office Database information by relying on previous Treasury Inspector General for Tax Administration audit work<sup>32</sup> that used and established the

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<sup>30</sup> A stand-alone DOS-based software application designed and developed to enable electronic tracking and reporting of technical time.

<sup>31</sup> The ITG office Database was developed over the past several years and contains data from the Internal Revenue Service's main database (Master File), the Bureau of Indian Affairs, and other sources on Indian tribal governments and their related enterprises. The ITG office Database records contain more than 200 data fields and include information such as tribal entity data, filing requirements, and line-item information from filed returns such as wages paid. The ITG office Database is made up in part by the Inventory Database, the Outreach Assignment Database, and the Tribal Compliance Database. The Master File is the Internal Revenue Service's database that stores various types of taxpayer account information, including individual, business, and employee plans and exempt organizations data.

<sup>32</sup> *The Process for Assigning Cases Should Be Strengthened to Provide Better Coverage to Indian Tribal Governments Most in Need of Compliance Checks* (Reference Number 2004-10-191, dated September 2004) and *The Indian Tribal Governments Office Can Improve the Effectiveness, Consistency, and Efficiency of Compliance Checks* (Reference Number 2005-10-158, dated September 2005).



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validity of the data. The Master File information was validated by relying on the Treasury Inspector General for Tax Administration Information Systems Programs Electronic Data Processing Audit Support group's documentation ensuring the data extracted from the Business Master File were an exact replica and the character of the data was not changed.

- II. Analyzed the data for trends in enforcement activities for FYs 2002 through 2005.
  - A. Determined staffing metrics, such as the time applied to examinations, and the average staff days per examination type, by fiscal year.
  - B. Determined fiscal year examination results by market segment and type of case.
  - C. Identified the number of Internal Revenue Code Section 6700<sup>33</sup> cases referred to the Small Business/Self-Employed Division or the Criminal Investigation function and determined the current status or final outcome of each case.

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<sup>33</sup> This Section imposes a penalty for promoting an abusive tax shelter while making a false or fraudulent misrepresentation as to any material matter or for making a material gross valuation overstatement as to any material matter.



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**Appendix II**

***Major Contributors to This Report***

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**Appendix III**

***Report Distribution List***

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
Deputy Commissioner, Tax Exempt and Government Entities Division SE:T  
Director, Indian Tribal Governments, Tax Exempt and Government Entities Division  
SE:T:GE:ITG  
Chief Counsel CC  
National Taxpayer Advocate TA  
Director, Office of Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Audit Liaison: Director, Communications and Liaison, Tax Exempt and Government Entities  
Division SE:T:CL



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**Appendix IV**

**List of Tax Forms**

<b>Form</b>	<b>Title</b>
W-2G	Certain Gambling Winnings
11-C	Occupational Tax and Registration Return for Wagering
720	Quarterly Federal Excise Tax Return
730	Monthly Tax for Wagers
940 Series	Employer's Annual Federal Unemployment (FUTA) Tax Return
941 Series	Employer's Quarterly Federal Tax Return
943	Employer's Annual Federal Tax Return for Agricultural Employees
945	Annual Return of Withheld Federal Income Tax
1042 Series	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons
1065 Series	U.S. Return of Partnership Income
1096	Annual Summary and Transmittal of U.S. Information Returns
1099 Series <sup>1</sup>	Various Informational Returns
	1099-A Acquisition or Abandonment of Secured Property
	1099-B Proceeds From Broker and Barter Exchange Transactions
	1099-C Cancellation of Debt
	1099-CAP Changes in Corporate Control and Capital Structure
	1099-DIV Dividends and Distributions
	1099-G Certain Government Payments
	1099-H Health Coverage Tax Credit (HCTC) Advance Payments
	1099-INT Interest Income
	1099-LTC Long Term Care and Accelerated Death Benefits
	1099-MISC Miscellaneous Income
	1099-OID Original Issue Discount
	1099-PATR Taxable Distributions Received from Cooperatives
	1099-Q Payments From Qualified Education Programs (Under Sections 529 and 530)
	1099-R Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
	1099-S Proceeds From Real Estate Transactions
	1099-SA Distributions From an HSA, Archer MSA, or Medicare Advantage MSA
1120 Series	U.S. Corporation Income Tax Return
2290	Heavy Highway Vehicle Use Tax Return
8027	Employers Annual Information Return of Tip Income and Allocated Tips

<sup>1</sup> IRA - Individual Retirement Arrangement; HSA - health savings account; MSA - medical savings account.