



Special Bulletin

Date: December 9, 2008

From: Finley & Cook

To: Casino Compliance Departments

Re: **IRS Form 1042-S**

After a thorough investigation, we have found some new guidelines for using IRS Form 1042-S. IRS Form 1042-S is used to report income for Non-Resident Alien’s only. Resident Aliens are people from a foreign country who have obtained a permanent residency card or Green Card and may be reported using IRS Forms W-2G or 1099-MISC. Non-Resident Alien’s must continue to be reported using IRS Form 1042-S and must have taxes withheld from all winnings at the rate of 30%.

IRS Publication 3908 states that:

“An alien may have one or more of the following forms of identification cards: U.S. or foreign driver’s license, national identification card, U.S. state issued identification card, passport, visa, U.S. military identification card, U.S. Citizenship and Immigration Service (USCIS) photo identification, and/or resident alien card (so called the “green card”).

If the individual is a Nonresident Alien, then a **Form 1042-S**, Foreign Person’s U.S. Source Income Subject to Withholding, is used to report payments made. Unlike the requirements for Forms W-2G and 1099, there is no dollar threshold for withholding or reporting purposes. Therefore, any gambling winnings or other payments made to a nonresident alien must be reported and taxes must be withheld. The withholding rate on nonresident aliens is generally 30 percent, unless the foreign country has a treaty with the U.S. for a lower rate.”

In order to ensure that the casino remains in compliance with IRS regulations, casino employees should treat all foreign persons as a Non-Resident Aliens unless they can provide a copy of their Green Card and then they may be treated as a resident and will be reported using IRS Forms W-2G or 1099-MISC. Below is an example of a Green Card.

