

Non – Resident Entertainer Tax Frequently Asked Questions

What is a non-resident entertainer?

From Wisconsin Department of Revenue Publication 508, Wisconsin Tax Requirements Relating to Nonresident Entertainers, <http://www.revenue.wi.gov/pubs/pb508.pdf>:

Wisconsin DOR Publication 508, Part II.

“A nonresident person (a person who is not a legal resident of Wisconsin) who furnishes amusement, entertainment, or public speaking services, or performs in one or more sporting events in Wisconsin for consideration; or,

A foreign corporation, partnership, or other type of entity, not regularly engaged in business in Wisconsin, that derives income from amusement, entertainment, or sporting events in Wisconsin or from the services of a nonresident person as defined in paragraph (a) above. (A foreign corporation, partnership, or other type of entity is one organized under the laws of either a state other than Wisconsin or a foreign country.)”

For specific examples, see ‘Appendix 4 – 1099 Implications - Interpretation and Definition of Non-Resident Entertainer’, of SFS training manual Vendor and Voucher Entry Working with 1099 and 1042S Transactions:

<http://www.uwsa.edu/fadmin/sfs/EnterMaintain1099VendVouch.pdf>

Can the requirement of the bond or deposit be waived for non-resident entertainers?

Yes. Wisconsin DOR Publication 508 refers to waivers.

Part IV. G. Waiver of the Bond or Deposit requirement

“Nonresident entertainers who are exempt from Wisconsin income or franchise tax should submit a request to the Department of Revenue, for a waiver of the bond or deposit requirement.”

“An employer is not required to withhold (as explained in Part V) if the entertainer gives the employer a copy of a waiver issued by the department.”

How does a campus get a refund of WT-11 estimated tax back from Wisc DOR?

If a performance is cancelled after the WT-11 is already submitted with the state, Wisconsin DOR will need a letter requesting the refund, the reason for the request (ie. performance cancelled by entertainer), and a copy of the WT-11.

Guidance on timing of WT-11 from Wisc DOR publication 508:

Part V. B.

“When the employer withholds an amount from the payment to a nonresident entertainer, Part 1 of the Form WT-11 and the amount withheld must be mailed or delivered to the Wisconsin Department of Revenue within five days after the nonresident entertainer’s performance, as described in Part X.B of this publication.”

Part V. A.

“The employer should notify the nonresident entertainer as early as possible that the entertainer will be required to show proof that a surety bond or cash deposit was filed. This will allow the entertainer to file a bond or deposit with the Department of Revenue in a timely manner. However, because the entertainer has until seven days before the performance to file a bond or cash deposit, the employer should make a final request for the Form WT-11 before withholding 6% of the total contract price.”

How are payments split between the vendor and Wisconsin DOR for 6% estimated tax?

The voucher is split depending on whether the payment is made directly to the non-resident entertainer or to an agent of that entertainer.

For examples of how to split payments, see ‘Appendix 4 – 1099 Implications - Interpretation and Definition of Non-Resident Entertainer’ of the SFS training manual ‘Vendor and Voucher Entry Working with 1099 and 1042S Transactions.’

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What payments are considered when completing the WT-11 vs. what is reported on the 1099?

	<u>WT-11 Calculation</u>	<u>1099 Reportable</u>
Fee for Service	Yes	Yes
Travel Expenses		
Reimbursed	Yes	No
Direct-Billed from 3 rd Party	Yes	No

If the vendor submits original receipts for travel reimbursement, or if you pay a hotel directly for their lodging, this would be included for the WT-11 calculation, but not included on the 1099. Because of this, UWSA recommends that the contract with the vendor be written as all inclusive, including travel and hotel, rather than having the vendor submit receipts for reimbursement. This would make it more straightforward to match up the amount paid to the vendor with the WT-11 and 1099 reportable amounts.

Are WT-11 payments considered estimated tax or state tax withheld?

The Department of Revenue (DOR) considers the payment made with the WT-11 as payment of estimated tax. Because this is not considered withholding it must *not* be placed in the State Tax

Withheld box 16 on the 1099. Also, because of this, we no longer have to report agents that are corporations.

How are payments to agents of the non-resident entertainer treated with respect to the WT-11 and the 1099-MISC?

The UW issues the WT-11 in the entertainer's name with the respective amount of estimated tax (withholding). The 1099-MISC will get issued to the agency for the fee for service amount paid to the agent *plus* the amount paid to Wisc DOR with the WT-11, but the WT-11 amount should *not* be entered in State tax withheld box 16. The agency, acting as a "nominee/middleman," will issue a 1099-MISC to the entertainer in an amount that is net of the agency fee without the WT-11 amount entered in State tax withheld box 16.

How about payments to U.S. Agents for Non Resident (Non U.S.) Entertainers?

1. The 6% WT-11 tax is sent to Wisc DOR if the entertainer is not a resident of Wisconsin and is \$3,200 or more.
2. The payment is made to the agent less the WT-11 amount if applicable.
3. If the entertainer is not a US resident there should be no federal withholding.
4. The UW would send the agent (middleman) a *1099-MISC* for the fee for service amount paid to the agent *plus* the amount paid to Wisconsin DOR with the WT-11. It is the agent (middleman's) responsibility to withhold any federal tax and send the entertainer a 1042-S.
5. The WT-11 payment made to the Wisconsin DOR is considered payment of estimated tax, and *should not* be reported on the agent's 1099 in State tax withheld box 16.

What if the non-resident entertainer questions the tax treatment?

Make sure the entertainer has a copy of the WT-11. A copy of this form with check was sent by the UW to the Wisconsin DOR as the entertainer's estimated tax. The purpose of the entertainer's copy is so that they have this information to file their taxes correctly with Wisconsin DOR. Refer the entertainer to Wisc DOR Publication 508. <http://www.revenue.wi.gov/>

Entertainers may contact the Wisconsin DOR several ways if they have questions, including an email message (subject: Nonresident Entertainer Program) to income@revenue.wi.gov.

Tax Advice

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