

Wisconsin Tax Requirements Relating to Nonresident Entertainers

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IMPORTANT CHANGES

- Effective for taxable years beginning on or after January 1, 2014, 1) the threshold total contract price that subjects a nonresident entertainer to the requirement to file a surety bond or make a cash deposit is increased from \$3,200 to \$7,000 and 2) total contract price does not include travel expenses. See Part IV.A. for additional information.
- The department encourages cash deposits and withholding payments to be made electronically through its website at revenue.wi.gov. Go to "Online Services" and click on "Nonresident Entertainer's Report" under the heading "Businesses." (**Note:** In order to make a payment, the nonresident entertainer must have an account with the department. To set up an account, the entertainer must contact the department at (608) 266-2772.)

I. INTRODUCTION

A "nonresident entertainer" may be required to file a surety bond or cash deposit for a performance in Wisconsin to guarantee payment of income, franchise, and sales and use taxes and any interest and penalties. If a required bond or deposit is not filed, the "employer" is required to withhold a portion of the entertainer's payment.

This publication explains how the above requirements and other Wisconsin tax laws apply to nonresident entertainers performing in Wisconsin. Part V explains the requirements for "employers" of nonresident entertainers. Definitions of "nonresident entertainer" and "employer" are found in Parts II and III.

II. WHO IS A "NONRESIDENT ENTERTAINER"?

For purposes of this publication, a "nonresident entertainer" is:

- (a) 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

- (b) 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) in the previous column. (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.)

Examples of nonresident entertainers include:

- The *owner* (sole proprietor) of a group of individuals who travel from one engagement to the next.
- The *individual members* of an entertainment group, none of whom legally own the group.
- An *individual entertainer* or *public speaker* who performs at or competes in one or more entertainment, public speaking, or sporting events in Wisconsin.
- A *partnership* comprised of corporate and/or individual partners, that contracts for one or more appearances of the partners in Wisconsin.
- An *agent, manager, promoter, or other sponsor* who negotiates or otherwise arranges for the appearance of one or more performers, competitors, or speakers for an entertainment event in Wisconsin **and**, either themselves or through one or more employees, provides managerial, promotional, or other services at that event.
- A *foreign corporation* that enters into a contract to perform, compete, or speak at an event in Wisconsin.
- A *foreign corporation* whose employees appear in one or more entertainment, public speaking, or sporting events in Wisconsin.

III. WHO IS AN "EMPLOYER"?

For purposes of this publication, an employer is first a person as described in paragraph (a) on page 4. If there is no such person, then the employer is a person as described in paragraph (b). If there is no such person, then the employer is a person as described in paragraph (c). "Resident person" for paragraph (a) or (b) includes an individual (or partnership) that is a resident of Wisconsin or a corporation organized under the laws of Wisconsin.

- (a) “Employer” is any resident person who contracts for the performance of a nonresident entertainer in Wisconsin.

Examples of such resident employers include:

- The resident *owner* or *operator* of a nightclub or theater, who contracts for the performance of a nonresident entertainer in Wisconsin.
- A resident *promoter*, *agency*, or *association* who contracts for the performance of a nonresident entertainer in Wisconsin.

- (b) If there is no resident person in paragraph (a) above, “employer” is the resident person having receipt, custody, or control of the proceeds of the event.

Examples of such resident employers include:

- The resident *ticket agency*, *box office manager*, or *theater* or *arena manager* who has custody of the proceeds of an event. The event has been arranged by a nonresident promoter who has contracted for the performance of a nonresident entertainer in Wisconsin.
- The resident *sanctioning body*, *sponsoring entity*, or *facility manager* that has custody of the proceeds of a sporting event in which nonresident athletes compete for consideration or prizes.

- (c) If there is no resident person in paragraph (a) or (b) above, the “employer” is any nonresident person having receipt, custody, or control of the proceeds of the event.

Examples of such nonresident employers include a *nonresident promoter*, *agency*, *association*, or *other sponsoring entity* that contracts for or provides the services of a nonresident entertainer at an entertainment event in Wisconsin that does not involve a resident employer.

CAUTION

Because persons in paragraphs (b) and (c) above may not always know if the person in paragraph (a) is a Wisconsin resident, persons described in paragraph (b) or (c) should assume the responsibility of the employer and proceed as explained in Part V.

IV. HOW DOES THE BOND OR CASH DEPOSIT REQUIREMENT APPLY TO NONRESIDENT ENTERTAINERS?

A. Bond or Cash Deposit Required

Nonresident entertainers must file a surety bond or make a cash deposit with the Wisconsin Department of Revenue if the accumulative total contract price for a Wisconsin performance or performances is more than \$7,000. The amount of bond or deposit is 6% of the total contract price, unless the entertainer is notified otherwise by the department.

Lower Rate for Bond or Deposit: The nonresident entertainer may request a bond or cash deposit rate of less than 6 % of the total contract price, on the basis that the ordinary and necessary deductible expenses in performing the services required by the contract would merit a lower rate. The nonresident entertainer must provide the department with a signed and dated statement, as well as other information, as explained in Appendix A on pages 13 and 14. The statement and information should be delivered to the department at the address shown in Part X.A, at least 30 days prior to the nonresident entertainer’s performance date in Wisconsin. The department will review the information and (1) notify the nonresident entertainer and the employer of the lower rate, or (2) notify the nonresident entertainer that a lower rate is not permitted.

“Total Contract Price” is the amount of consideration indicated in the contract as the price for the nonresident entertainer’s performance, including amounts payable in money or the cash value of any medium other than cash. It also includes any specific amounts to be paid to the nonresident entertainer or subcontracted services such as lighting, sound, or any other special services or properties required by the nonresident entertainer.

Exceptions: Total contract price does not include:

- Amounts paid by the employer to persons other than the entertainer for ordinary and necessary expenses in the production of the event (building rent, staging material costs, utility connections, etc.), unless a specific dollar amount is specified in the contract for such ex-

penses. If there is no contract covering the nonresident entertainer's performance in Wisconsin, the total contract price is the amount of consideration payable as a condition (or result) of the entertainer's performance in Wisconsin.

- Payments for travel expenses made to, or on behalf of, an entertainer that are 1) made under an accountable plan and 2) for actual transportation, lodging, and meals that are directly related to the performance.

Individual Members of a Group Not Owned by Anyone: In the case of a nonresident entertainment group of independent members, not owned by any single member of the group or any other sole proprietor, partnership, or corporation, the *total contract price must be determined for each separate independent member*. The group must provide the employer with a signed statement from the leader of the group, or the promoter or manager, attesting to the members' distributive shares of the total contract price. False statements made under this provision are subject to income tax penalties for filing false returns, and copies of such statements must be submitted to the Department of Revenue by the employer.

Accumulative Total Contract Price: If a nonresident entertainer performs a number of times during the same calendar year, for separate total contract prices of less than \$7,000 each, the nonresident entertainer may still be subject to the surety bond/cash deposit requirement or employer withholding. The nonresident entertainer becomes subject to the requirement or withholding at the time the accumulative total contract prices exceed \$7,000, and thereafter, during the same year. (**Note:** It is the responsibility of the nonresident entertainer or their representative to notify an employer if their accumulative total contract prices exceed \$7,000.) At the time the \$7,000 threshold is met, the amount of surety bond or cash deposit, or the amount to be withheld by the employer, is based on the *accumulative* total contract price with that employer for the year, not just the amount in excess of \$7,000.

Example 1: Nonresident Entertainer A performs in February under a contract with Employer B. The total contract price is \$3,000. Nonresident Entertainer A performs again in July under a contract with Em-

ployer B. The total contract price is \$5,000. Nonresident Entertainer A becomes subject to the surety bond/cash deposit requirement or employer withholding at the time they enter into the contract for their performance in July. The amount of surety bond or cash deposit, or the amount to be withheld, is based on the *accumulative* total contract price with Employer B (\$8,000).

Example 2: Assume the same facts as in Example 1, except that Nonresident A's performance in July is under a contract with Employer C. The amount of surety bond or cash deposit, or the amount to be withheld, is based on the total contract price with Employer C (\$5,000).

B. How to File a Surety Bond

A surety bond (see Appendix B on pages 15 and 16) must be obtained from an insurance or bonding company licensed with the Wisconsin Commissioner of Insurance to write such bonds in Wisconsin. Any questions regarding which companies are licensed to write surety bonds should be directed to Wisconsin Commissioner of Insurance, P.O. Box 7873, Madison, WI 53707-7873 (telephone (608) 266-3585 or toll-free 1-800-236-8517, fax (608) 266-9935, or email ociinformation@wisconsin.gov).

A Form WT-11 (see Appendixes C and D on pages 17 and 18) must be completed and filed with the surety bond.

C. How to Make a Cash Deposit

The department encourages cash deposits to be made electronically through its website at revenue.wi.gov. Go to "Online Services" and click on "Nonresident Entertainer's Report" under the heading "Businesses."

A deposit may also be made by certified personal check, postal or bank money order, or cashier's check. A completed Form WT-11 must be submitted with the check or money order. Appendixes C and D on pages 17 and 18 show a copy of Form WT-11 and instructions. Additional instructions are shown in Part VII.

D. When and Where Must a Bond or Deposit Be Filed?

The Form WT-11 and surety bond or cash deposit must be filed with the department at least **seven days** prior to the nonresident entertainer's performance in Wisconsin, as described in Part X.B.

E. Providing Proof to Employer

Nonresident entertainers who make a cash deposit electronically should print two copies of the payment confirmation page. One copy should be retained for the nonresident entertainer's records and the other for the employer's records.

Nonresident entertainers who file a bond or make a cash deposit by check or money order will receive Form WT-11 back from the department with the receipt portion completed and signed by a department employee. A copy of Form WT-11 will also be given to the employer before payment is completed for the nonresident entertainer's performance in Wisconsin.

F. Effect if Insufficient or No Bond or Deposit Is Filed by Nonresident Entertainer

If the nonresident entertainer does not file the required surety bond or cash deposit with the Wisconsin Department of Revenue, or if a bond or deposit is for an insufficient amount, the employer must withhold an amount for which a bond or deposit should have been filed. See Section G below for an exception to the withholding requirement. If the exception does apply, see Part V.A for an explanation of an employer's responsibilities to withhold.

The nonresident entertainer will be given a receipt by the employer, for the amount withheld. The employer will remit the amount withheld to the Department of Revenue as explained in Part V.B.

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. The request should indicate the reason the entertainer was exempt from Wisconsin income or franchise tax and

include supporting documents to prove the exemption (for example, a copy of the ruling from the Internal Revenue Service or, for entertainers not organized in the United States, a statement from the tax or other authority of their country to verify tax-exempt or nonprofit status). Submit the request to the department by any of the methods shown in Part X.A.

The department will review the waiver request and issue the nonresident entertainer either a waiver from the surety bond or cash deposit requirement, or notification that the entertainer does not qualify for a waiver.

An employer of a nonresident entertainer may not issue a waiver of the surety bond or cash deposit requirement. However, 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.

V. RESPONSIBILITIES OF AN EMPLOYER

A. Employer Must Withhold or Obtain Proof of Sufficient Bond or Deposit

If the total contract price (see Part IV.A for the definition of "total contract price") for a performance in Wisconsin by a nonresident entertainer (see Part II) exceeds \$7,000, 6% of the total contract price must generally be paid to the Wisconsin Department of Revenue. See the exceptions under "Lower Rate for Bond or Deposit," "Insufficient Bond or Deposit Filed," and "No Bond or Deposit Filed," on page 7. Also see the last paragraph of Part IV.A, titled "Accumulative Total Contract Price."

If a nonresident entertainer meets the requirement to make a payment to the department but does not file a sufficient surety bond or cash deposit with the department, the entertainer's employer must generally withhold 6% of the total contract price from the entertainer's payment. Before an employer makes payment to a nonresident entertainer who meets this requirement, the employer should request from the entertainer either (1) a completed Form WT-11, "Nonresident Entertainer's Report," with the receipt

portion of the form signed by a department employee (proof that the nonresident entertainer filed a bond or deposit with the department), (2) a copy of the confirmation page for an electronically transmitted payment, or (3) a waiver issued by the department.

Note: Persons having receipt, custody, or control of proceeds of an event who are unsure of whether or not they are an employer should request documentation from the nonresident entertainer or the person contracting for the performance of the nonresident entertainer. The documentation should be either a photocopy of Form WT-11, signed by a department employee or issued by an employer for an amount withheld from the nonresident entertainer, a copy of the confirmation page, or a copy of a waiver issued by the department. Persons should proceed as the employer if this proof is not received as requested.

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.

Lower Rate for Bond or Deposit: If a nonresident entertainer establishes to the department's satisfaction that a bond or deposit rate (or employer withholding rate) of less than 6% is appropriate, the department will notify the nonresident entertainer and the employer of the lower rate. An employer receiving such notification from the department should withhold from the entertainer's payment at the lower rate, if the entertainer does not furnish proof of filing a bond or deposit (a Form WT-11 signed by a department employee) for the amount required by the lower rate.

Sufficient Bond or Deposit Filed: If a Form WT-11 shows that the bond or deposit equals 6% (or a lower percent if notified by the department) of the total contract price, the employer does not have to withhold any amount from the payment to the nonresident entertainer. The employer has no further requirements in this situation.

Insufficient Bond or Deposit Filed: If the nonresident entertainer provides a Form WT-11 that indicates the bond or deposit was less than the required percentage of the total contract price, the employer must withhold from the entertainer's payment an amount to cover the additional bond or deposit that should have been filed.

Example: A contract provides that a nonresident entertainer is to receive \$50,000 plus 10% of all ticket sales. The entertainer provides the Department of Revenue with a \$3,000 surety bond (\$50,000 x 6%). The department gives the nonresident entertainer a receipt for the \$3,000 bond on Form WT-11. However, ticket sales of \$75,000 are made, therefore, the entertainer's total contract price becomes \$57,500 (\$50,000+ 10% of \$75,000). Of the additional \$7,500 of total contract price, 6% or \$450 must be withheld by the employer from the payment to the entertainer.

See Section B for an explanation of how an employer remits additional withheld amounts to the department.

No Bond or Deposit Filed: The employer must withhold 6% of the total contract price from the payment to the nonresident entertainer, unless the nonresident entertainer furnishes proof of a surety bond, cash deposit, or waiver issued by the department.

Example: If an employer hires a nonresident entertainer to perform in Wisconsin for \$10,000, and Form WT-11 is not furnished to the employer, the employer must withhold \$600 (\$10,000 x 6%) from the \$10,000 payable to the entertainer. The \$600 is sent by the employer to the department as explained in Section B.

If the employer is not aware of the total contract price, a statement or a copy of the nonresident entertainer's performance contract for the event should be requested from the nonresident entertainer, the entertainer's agent, or the promoter of the event, attesting to the total contract price. This statement should be sent to the department within five days after the performance. If no statement is provided, the employer should withhold 6% of the total gross receipts or amount payable to the nonresident entertainer.

Individual Members of a Group Not Owned by Anyone: In the case of a nonresident entertainment group of independent members, not owned by any single member of the group or any other sole proprietor, partnership, or corporation, the *total contract price must be determined for each separate independent member*. The employer should obtain a signed statement from the leader of the group, or the promoter or manager, attesting to the members' distributive shares of the total contract price. Copies of such statements must be submitted to the department whether or not an amount is withheld from the entertainer(s). The employer should retain a copy of the statement for its records. If the statement provided to the employer does not set forth the amounts of the members' distributive shares, requests for proof and/or amounts withheld should be made on an equal-share basis.

Example: A nonresident entertainment group of four individuals, not owned by any member or other owner, will appear for a total contract price of \$20,000. The leader of the group gives the employer a signed statement indicating the leader will receive \$8,000 and the other members \$4,000 each. Proof of a bond or deposit should be requested from the *leader*, and if not received, 6% of \$8,000 (\$480) should be withheld from the leader. The other members' shares from this event are not in excess of \$7,000 and there is no such requirement for them, unless they previously appeared during the same calendar year and their accumulative shares now exceed \$7,000.

B. How and When to Remit an Amount Withheld

The department encourages withholding to be remitted electronically through its website at revenue.wi.gov. Go to "Online Services" and click on "Nonresident Entertainer's Report" under the heading "Businesses." Two copies of the payment confirmation page should be printed, one for the employer's records and one for the nonresident entertainer's records.

Withholding may also be remitted by mail, along with a completed Form WT-11, "Nonresident Entertainer's Report." Two copies of Form WT-11 should be retained, one for the employer's records and one for the nonresident entertainer's records.

The amount withheld must be remitted within **five days** after the nonresident entertainer's performance. Amounts not remitted within five days are subject to delinquent interest, and may also be subject to a negligence penalty.

C. If Proof of Bond or Deposit Is Not Provided AND the Employer Does Not Withhold

If the nonresident entertainer does not provide the employer with proof of filing a surety bond or cash deposit, or a waiver issued by the department, and the employer fails to withhold the amount required, the employer will be held personally liable for the amount that should have been withheld. In addition, the employer may not be allowed an income tax deduction for the amount of payment to the nonresident performer.

D. Questions About a Waiver of the Bond or Deposit Requirement

Employers may receive questions from nonresident entertainers about waiving the requirement to file a bond or deposit because they are exempt from Wisconsin income or franchise taxes. Employers who receive such inquiries should forward them to the department by any of the methods shown in Part X.A. The department will request any additional information required from the nonresident entertainer and then issue the nonresident entertainer either a waiver from the surety bond or cash deposit requirement, or notification that the entertainer does not qualify for a waiver.

CAUTION

It is important for the employer to retain a copy of any signed Form WT-11 or waiver issued by the department and furnished by the entertainer.

VI. INCOME AND FRANCHISE TAX RETURNS OF NONRESIDENT ENTERTAINERS

A. Requirements of Nonresident Individuals to File Income Tax Returns

Who Must File: Any nonresident individual (including an entertainer) who has Wisconsin gross income of \$2,000 or more during a taxable year

must file a Wisconsin income tax return (Form 1NPR, "Wisconsin income tax - Nonresident and part-year resident"). Wisconsin gross income means all income (before deducting expenses) reportable to Wisconsin that is received in the form of money, property, or services.

For example, an individual nonresident entertainer who receives \$2,000 or more for performing in Wisconsin must file a Wisconsin income tax return, even if the individual's net income after deducting expenses is less than \$2,000.

An individual nonresident entertainer who is paid by a corporation doing business in Wisconsin, for services performed in Wisconsin, must file a Wisconsin income tax return if the amount allocable to Wisconsin exceeds \$2,000 for a taxable year. If the amount paid for the services performed in Wisconsin is not a set, definite amount, the entertainer's total compensation from the corporation must be allocated to Wisconsin in the ratio of the paying corporation's Wisconsin gross receipts to its total gross receipts for the year, times the total compensation the corporation pays the entertainer.

For example, assume a corporation has Wisconsin gross receipts of \$100,000 and total gross receipts of \$1,000,000 for a taxable year. The corporation pays a nonresident entertainer \$50,000 for the year, for services performed both in Wisconsin and outside Wisconsin. No specific amount is allocated for the Wisconsin performances. The entertainer must file a Wisconsin income tax return, based on Wisconsin gross income of \$5,000 ($\$100,000 \div \$1,000,000 = 10\%$; $10\% \times \$50,000 = \$5,000$).

If an individual does not receive a Wisconsin income tax Form 1NPR from the Department of Revenue by the end of the tax year, the person should obtain the form from the department by any of the methods shown in Part X.C.

For persons reporting on a calendar year basis, an income tax return is due by April 15 following the end of the year.

Treatment of Cash Deposits or Amounts Withheld: If the individual nonresident entertainer made a cash deposit or had an amount withheld by an employer, the amounts deposited or withheld during

the year are allowed as a credit on the Wisconsin income tax return. (**Caution:** The amount of the surety bond or premiums paid to acquire the bond may not be claimed as a credit on the income tax return.)

The amount of the cash deposit or the amount withheld by an employer should be entered on Form 1NPR on the line for Wisconsin estimated tax payments. If the cash deposits or amounts withheld by employers exceed the individual's Wisconsin tax liability, the excess will be refunded to the individual as are overpayments of taxes withheld from wages.

Partners and Tax-Option (S) Corporation Shareholders: An individual who is a member of an entertainment partnership or a shareholder in a tax-option (S) corporation may contact the department by any of the methods shown in Part X.A, for information on how to treat such items on a Wisconsin income tax return. A partner or tax-option (S) corporation shareholder may claim credit for payments withheld for the partnership or the corporation that are allocated to them on Schedule 3K-1 or 5K-1.

B. Filing Requirements for Corporations

Which Corporations Must File: Every corporation organized under the laws of Wisconsin and corporations licensed to do business in Wisconsin must file a Wisconsin franchise or income tax return. Corporations not licensed to do business in Wisconsin are also required to file returns for each year they actually do business in Wisconsin.

Example: An entertainment corporation organized under the laws of another state enters into a contract to have a person or group perform in Wisconsin. The corporation is required to file a Wisconsin franchise or income tax return, Form 4, "Wisconsin Corporation Franchise or Income Tax Return," or Form 5S, "Tax-Option (S) Corporation Franchise or Income Tax Return."

The tax return must be filed by the 15th day of the third month following the end of the taxable year. Forms may be obtained from the department by any of the methods shown in Part X.C.

Treatment of Cash Deposits or Amounts Withheld: If the corporation is a nonresident entertainer, amounts it has deposited or had withheld by the employer should be entered as estimated tax payments and credits on the corporation franchise or income tax return. Any amounts deposited or withheld that are in excess of the Wisconsin tax liability will be refunded to the corporation.

An (S) corporation may elect to allocate to its nonresident entertainer shareholders amounts it has deposited or had withheld by an employer, but only to the extent the income subject to the deposit or withholding is allocated to those shareholders. See Form PW-1 and instructions for additional information.

Caution: The amount of the surety bond or premiums paid to acquire the bond may not be claimed as a credit on the corporation's franchise or income tax return or allocated to its shareholders.

C. Filing Requirements for Partnerships

Which Partnerships Must File: Every partnership and limited liability company treated as a partnership with income from Wisconsin sources, regardless of the amount, must file a Wisconsin partnership return (Form 3).

Form 3 must be filed by the 15th day of the fourth month following the close of the partnership's taxable year. The partnership may obtain Form 3 from the department by any of the methods shown in Part X.C.

Treatment of Cash Deposits or Amounts Withheld: If the partnership is a nonresident entertainer, amounts it has deposited or had withheld by the employer should be claimed on Form 3, *Wisconsin Partnership Return*, as payments from Form WT-11.

A partnership may elect to allocate to its nonresident entertainer partners amounts it has deposited or had withheld by an employer, but only to the extent the income subject to the deposit or withholding is allocated to those partners. See Form PW-1 and instructions for additional information.

Caution: The amount of the surety bond or premiums paid to acquire the bond may not be claimed as a credit on the partnership's return or allocated to its partners.

VII. INSTRUCTIONS FOR PREPARING FORM WT-11

A. Entertainer Information

Enter the legal name of the nonresident entertainer. *This is the name and tax identification number used on the nonresident entertainer's tax return.*

Enter the stage or professional name of the nonresident entertainer. (See Part II for information concerning who is considered a nonresident entertainer.)

Enter the business address and entity type.

B. Employer's Information

Enter the employer's name, telephone number, and business address.

C. Performance Information

Enter the date(s) and location of the performance(s). Enter the total contract price, percentage of withholding, and amount of withholding.

D. Signature

A paper-filed Form WT-11 must be properly signed to be valid.

Withholding by employer – The signature must be that of the employer or the employer's representative.

Cash deposit or surety bond – The signature must be that of the nonresident entertainer or the entertainer's representative.

VIII. OTHER TAXES TO BE AWARE OF

A. Sales and Use Taxes

Sales or rentals of tangible personal property (such as tapes, posters, or souvenirs) are subject to the Wisconsin sales and use tax. Sales of admissions to

entertainment, amusement, or recreational events in Wisconsin are also subject to the Wisconsin sales and use tax. For more information on Wisconsin's sales and use tax, contact the department by any of the methods shown in Part X.D.

B. Withholding Taxes

If an entertainer has employees in Wisconsin, the entertainer may be required to withhold Wisconsin income taxes from the employees' wages. An entertainer required to withhold must register for withholding by submitting an application for a Wisconsin Employer Identification Number. If any employee will earn more than \$1,500 in Wisconsin during the year, the entertainer should contact the department by any of the methods shown in Part X.D, for information on how to apply.

IX. RECORDKEEPING FOR NONRESIDENT ENTERTAINERS

Nonresident entertainers performing in Wisconsin must keep adequate records to accurately account for their business transacted in Wisconsin. These records are needed to properly file Wisconsin tax returns. Failure to keep adequate records may result in the department's assessment of additional taxes or disallowance of deductions. Penalties may be imposed if a return is filed that is incomplete or incorrect due to neglect or fraud.

X. ADDITIONAL INFORMATION

A. Nonresident Entertainers Tax Treatment

You may contact the department by any of the methods listed below if you have questions about the Wisconsin tax treatment of nonresident entertainers. This includes information relating to the following:

- A request for a bond, deposit, or withholding rate of less than 6% of the total contract price.
- A request by a nonresident entertainer for a waiver of bond or deposit requirements.
- An employer's referral of an inquiry relating to a waiver.

- Information relating to the treatment of cash deposits or withheld amounts on a partner's or tax-option (S) corporation shareholder's Wisconsin income tax return.
- Any other questions relating to nonresident entertainers (see Sections B and C for information relating to payments or forms and publication requests).

Some of the methods by which you may contact the department include the following:

- Write to Wisconsin Department of Revenue, Nonresident Entertainer Program, Mail Stop 3-164, P.O. Box 8966, Madison, WI 53708-8966. (**Note:** Address letters to be delivered via a delivery service other than the U.S. Postal Service to Wisconsin Department of Revenue, Nonresident Entertainer Program, Mail Stop 3-164, 2135 Rimrock Road, Madison, WI 53713.)
- Visit or call any Department of Revenue office. The address and telephone number of the nearest office may be listed in the local telephone directory.
- Call the Madison office at (608) 264-1032.
- Send a fax to (608) 327-0230. Write "Attention Nonresident Entertainer Program" at the top of the cover page of the faxed document.
- Send an email message (subject: "Nonresident Entertainer Program") to:
income@revenue.wi.gov.

B. Forms WT-11, Bonds, Payments

The department encourages cash deposits and withholding to be made electronically through its website at revenue.wi.gov. Go to "Online Services" and click on "Nonresident Entertainer's Report" under the heading "Businesses."

If payments were not made electronically, mail completed Forms WT-11, surety bonds, cash deposits, and/or amounts withheld by employers to the address listed above in Section A. The forms and payments may also be delivered via a delivery service to the address listed in Section A, or hand-delivered to the department's Madison office at 2135 Rimrock Road.

C. Form, Publication Requests

You may obtain any of the income tax forms or other forms mentioned in this publication, as well as additional copies of this or any of the other publications published by the department, by any of the following methods:

- Visit or call any Department of Revenue office. The address and telephone number of the nearest office may be listed in the local telephone directory.
- Call the Madison office at (608) 266-1961.
- Fax a request to (608) 267-1030.
- Access the department's website at revenue.wi.gov, to either download forms or publications or request them using the online order form. Click on either "Forms" or "Publications."

D. Sales/Use, Withholding Taxes

You may obtain information about Wisconsin sales and use tax, or about registering to withhold Wisconsin income tax from employees or other withholding questions, by any of the following methods:

- Write to Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.
- Visit or call any Department of Revenue office. The address and telephone number of the nearest office may be listed in the local telephone directory.
- Call the Madison office at (608) 266-2776.
- Fax a request to (608) 267-1030.
- Email a request to:
DORSalesandUse@revenue.wi.gov.
- Access the department's website at revenue.wi.gov, and click on "Common Questions."

CAUTION

The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature that are effective as of April 30, 2014. Laws effective after this date, new administrative rules, and court decisions may change interpretations in this publication.



State of Wisconsin • DEPARTMENT OF REVENUE

TAX OPERATIONS BUREAU • 2135 RIMROCK ROAD • P.O. BOX 8966 • MADISON, WISCONSIN 53708-8966
TELEPHONE (608) 264-1032 • FAX (608) 327-0230 • revenue.wi.gov

APPENDIX A

**INFORMATION REQUIRED FOR LOWER NONRESIDENT
ENTERTAINER BOND/DEPOSIT RATE**

A. A signed and dated statement containing:

1. Entertainer Identification

- a. Stage name
- b. Real name
- c. Address
- d. Phone number
- e. SS# or FEIN
- f. State and year of incorporation (if a corporation)
- g. Date income year ends (calendar or fiscal year)

2. Performance Identification

- a. Date(s) of performance(s)
- b. Locations(s) of performance(s)
- c. Contract price of performance(s)
- d. Employer's name, address and phone number

3. Itemized statement of necessary expenses relating to the performance(s) in 2 above, such as agent's/manager's fees, meals, lodging, travel and transportation (one way-in), subcontracted services (sound, lights, etc.) and stage expense and payroll

4. Officer/Employee Identification and Wages

- a. Legal names, addresses and social security numbers of members (if group of 1 to 10 and not identified in 1 above), or of major (headlining) artists if a group of 11 or more
- b. Amounts expected to be earned by those in 1 above

INFORMATION REQUIRED FOR LOWER NONRESIDENT
ENTERTAINER BOND/DEPOSIT RATE

(continued)

- B. Wisconsin Withholding Tax Registration (if 2 or more in A4 are different from A1 and amounts in A4b exceed \$1,500). NOTE: If 2 or more appearances may be made during the calendar year, total wages exceeding \$1,500 requires withholding tax registration. There is no fee for a Wisconsin Employer Identification Number; request Form BTR-101 to apply.
- C. Additional copies of documents the Department of Revenue may request (not requested at this time):
1. Contract(s)
 2. Federal Tax Return
 3. Wisconsin Tax Return
 4. Certificate of Authority
 5. IRS determination (if alien)

The signed and dated statement should be mailed to the department at least thirty (30) days prior to the entertainer's appearance in Wisconsin. The department will review the information submitted and either (1) notify the nonresident entertainer and the employer of the lower rate, or (2) notify the nonresident entertainer that a lower rate is not permitted. Thereafter, the nonresident entertainer is required to file a surety bond or cash deposit at either the normal 6% rate or an approved lower rate, along with a properly completed Form WT-11. If the bond or deposit and Form WT-11 are not filed, the employer will withhold the amount for which a bond or deposit should have been filed from the nonresident entertainer's payment.

Mail the signed statement to: Wisconsin Department of Revenue, Nonresident Entertainer Program, Mail Stop 3-164, PO Box 8966, Madison WI 53708-8966.

If you have any questions or require assistance, write to the Nonresident Entertainer Program at the address listed above, or call (608) 264-1032. You may also contact the department by fax. The fax number is (608) 327-0230. The words "Attention Nonresident Entertainer Program" should be written at the top of the first page of the faxed document.

APPENDIX B

BOND NO. _____

A-133: SURETY BOND

I/we _____ of _____ as
(Legal Name) *(City and State)*
Principal, and _____ of _____ as a
(Surety) *(City and State)*

corporation duly licensed and authorized to transact business in the State of Wisconsin, as a Surety, are held and firmly bound to the Wisconsin Department of Revenue in the sum of \$ _____ for which payment we bind ourselves and our respective heirs, personal representatives, successors, and assigns jointly and severally.

The condition of this obligation is such that the Principal has applied for, or has obtained, a permit to engage in business subject to taxes according to the provisions of Chapters 66, 71, 77, 78, or 139, of the Wisconsin Statutes and any amendments thereto and a demand has been made upon the Principal by the Wisconsin Department of Revenue for security for payment of taxes imposed under those chapters.

The Principal shall fully comply with all of the provisions of the Wisconsin Statutes indicated above, and pay all taxes, interest, and penalties promptly when due, including taxes, interest, and penalties now due and those which may become due, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

If the Principal is delinquent in the payment of the taxes imposed under the Wisconsin Statutes indicated above, the Wisconsin Department of Revenue may, upon ten (10) days notice, recover the taxes, interest, and penalties from the Surety.

The Surety reserves the right to withdraw as such Surety, except for any liability already incurred or accrued, and may do so upon giving written notice of such withdrawal to the Wisconsin Department of Revenue; provided, that no withdrawal shall be effective for any purpose until sixty (60) days have elapsed from and after the receipt of such notice by the Wisconsin Department of Revenue; and further provided that no withdrawal shall in any way affect the liability of the Surety arising out of any taxes incurred under the provisions of the Wisconsin Statutes indicated above, made by the Principal prior to the expiration of the sixty (60) days, regardless of whether or not an assessment for tax due has been levied before the lapse of the sixty (60) days.

Check one: *(Only one tax type per surety bond is allowed).*

- ALCOHOL BEVERAGE CIGARETTE SALES AND USE
- TOBACCO PRODUCTS FUEL NONRESIDENT ENTERTAINER*

*6% of the total contract price rounded to the next highest \$1,000 amount

The undersigned Principal and Surety have signed and sealed this bond this _____ day of _____
(Month) *(Year)*

(Signature of Principal)

(Signature of Surety)

(Title)

(Title)

(Name of Principal) Corporate
(Seal)

(Name of Surety) Corporate
(Seal)

(Address)

(Address)

(City, State, and Zip Code)

(City, State, and Zip Code)

WITNESSED BY:

WITNESSED BY:

(Signature)

(Signature)

(Title)

(Title)

Mail To:

Alcohol, Cigarette, Fuel, and Tobacco Bonds
Excise Tax Unit 3-107
Wisconsin Dept of Revenue
PO BOX 8900
Madison WI 53708-8900

Sales and Use Tax Bonds
Special Procedures Unit 4-SPU
Wisconsin Dept of Revenue
PO BOX 8901
Madison WI 53708-8901

Entertainer's Bonds
Wisconsin Dept of Revenue 3-164
PO BOX 8966
Madison WI 53708-8966

ACKNOWLEDGMENT BY PRINCIPAL

Complete this section if the Principal Is an individual

State of _____)
: ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____,
Month Year
by _____
Principal

(seal) _____
Notary Public, State of _____
My Commission Expires: _____

Complete this section if the Principal Is a partnership

State of _____)
: ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____,
Month Year
by _____, partner (or agent) on behalf of
Name of acknowledging partner or agent
_____, a partnership.

(seal) _____
Notary Public, State of _____
My Commission Expires: _____

Complete this section if the Principal Is a corporation or limited liability company (circle one)

State of _____)
: ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, _____,
Month Year
by _____,
Name of officer/member
of _____, a _____ corporation/limited
liability company, on behalf of the corporation/limited liability company.

(seal) _____
Notary Public, State of _____
My Commission Expires: _____

Form

WT-11

Nonresident Entertainer's Report

ENTERTAINER

Legal name of entertainer performing in Wisconsin		Entertainer's Federal ID Number or SSN	
Stage or professional name of nonresident entertainer			
Address			
City		State	Zip Code
Entertainer's Entity Type <i>(check one)</i>		If LLC is checked, indicate type	
<input type="checkbox"/> Sole Proprietor	<input type="checkbox"/> Limited Liability Company (LLC)	<input type="checkbox"/> Disregarded (single member LLC only)	
<input type="checkbox"/> Partnership	<input type="checkbox"/> C Corporation	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Taxed as Corporation <input type="checkbox"/> Taxed as Partnership

EMPLOYER

Name		Telephone Number ()	
Address			
City		State	Zip Code

PERFORMANCE

Date of Performance	Location of Performance
<p>1. Total contract price <i>(see instructions)</i> 1 _____</p> <p>2. If lower rate was not granted, enter 6% (.06) 2 _____</p> <p>3. If lower rate was granted, indicate the percentage granted 3 _____</p> <p>4. Multiply Line 1 by Line 2 or Line 3, whichever is applicable. Enter on Line 4 4 _____</p> <p>Amount of <i>(check one)</i>: <input type="checkbox"/> bond <input type="checkbox"/> cash deposit <input type="checkbox"/> withholding</p>	

I declare that this report is true, correct and complete to the best of my knowledge and belief.

Signature	Title	Date
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- Submit one copy to Wisconsin Department of Revenue with payment or surety bond.
- Print one copy for nonresident entertainer.
- Retain one copy for your records.

Wisconsin Department of Revenue
PO Box 8966
Madison WI 53708-8966

This space for Department use only

Receipt for: Surety Bond Cash Deposit \$ _____

Department Representative

Date

Instructions for Nonresident Entertainers and Employers

General Requirements for Surety Bond, Cash Deposit, or Withholding

A **nonresident entertainer** is generally required to file a surety bond or cash deposit with the Wisconsin Department of Revenue at least **seven days prior** to a performance in Wisconsin, if the total contract price for the performance **exceeds \$7000**. The amount of the bond or deposit is generally 6% of the total contract price.

A "**nonresident entertainer**" is a person who is not a legal resident of Wisconsin or a foreign corporation, partnership, or other type of entity, not regularly engaged in business in Wisconsin who furnishes amusement, entertainment, public speaking services or performs in sporting events in Wisconsin for a consideration.

A foreign corporation, partnership, or other entity is one organized under the laws of either a state other than Wisconsin or a foreign country.

"**Total contract price**" does not include travel expenses. Travel expenses are payments to, or on behalf of, an entertainer that are 1) made under an accountable plan and 2) for actual transportation, lodging, and meals that are directly related to the performance.

An **employer** is required to withhold from a nonresident entertainer's payment if the entertainer does not file a sufficient surety bond or cash deposit. Before withholding from the nonresident entertainer's payment, the employer should request proof from the entertainer that a sufficient surety bond or cash deposit has been filed with the Department of Revenue, or that a bond or cash deposit is not required.

An "**employer**" is any resident person who contracts for the performance of a nonresident entertainer in Wisconsin. If there is no such person, then the "employer" is the resident person having receipt, custody, or control of the proceeds of the event. If there is no resident person, "employer" is any nonresident person having receipt, custody, or control of the proceeds.

When and Where to File Surety Bond or Cash Deposit

The due date for filing a surety bond or cash deposit is **seven days prior** to the Wisconsin performance covered. If a bond or deposit is not filed, the employer will withhold 6% (or a lower rate if granted and verified) from the nonresident entertainer's payment.

Cash deposits should be made electronically through our Online Services for businesses at revenue.wi.gov.

Mail surety bonds, or cash deposits not made electronically, along with Form WT-11 signed by the nonresident entertainer/entertainer's representative to: Wisconsin Department of Revenue, PO Box 8966, Madison WI 53708-8966, or deliver to the department's Madison office at 2135 Rimrock Road. Do not mail cash. Hand deliver only.

The Wisconsin Department of Revenue will review the report. If it has been properly submitted, a copy of the report signed by a department representative will be sent to the nonresident entertainer. A copy of the report will also be sent to the employer as proof that a surety bond or cash deposit has been filed.

Credit for cash deposits or withholding (but not surety bonds) must be claimed on the nonresident entertainer's Wisconsin tax return. The department, upon written request from the nonresident entertainer or surety company, will release surety bonds when the nonresident entertainer's Wisconsin tax liability has been satisfied.

When and Where to Remit an Amount Withheld

If you withhold an amount from payment to a nonresident entertainer, submit the amount withheld to the Wisconsin Department of Revenue **within five days** after the nonresident entertainer's performance.

Withholding payments should be made electronically through our Online Services for businesses at revenue.wi.gov.

If payment is not made electronically, mail Form WT-11 and the remittance to: Wisconsin Department of Revenue, PO Box 8966, Madison WI 53708-8966; or deliver to the department's Madison office at 2135 Rimrock Road. One copy of Form WT-11 should be given to the nonresident entertainer and one copy should be retained by the employer.

Questions Regarding Form WT-11?

See Publication 508, *Wisconsin Tax Requirements Relating to Nonresident Entertainers* at revenue.wi.gov, or contact our Madison office.

Nonresident Entertainer Program
Wisconsin Department of Revenue
PO Box 8966
Madison WI 53708-8966

(608) 264-1032

income@revenue.wi.gov (see below)

Note: Add "Nonresident Entertainer Program" to the subject line, when sending an email.