

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100083	Nonresident Entertainers - Common Questions

State of Wisconsin
Department of Revenue

Nonresident Entertainers

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. Who is a nonresident entertainer?
2. What are the Wisconsin nonresident entertainer prepayment of tax requirements?
3. What are the options for making the tax prepayment?
4. Who is an employer?
5. What is the total contract price?
6. How does a nonresident entertainer obtain a lower rate?
7. How does the venue/employer file and remit the amount withheld?
8. How does a nonresident entertainer receive a waiver of the withholding requirement?

1. **Who is the nonresident entertainer?**

A nonresident entertainer is a nonresident person (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 a state other than Wisconsin or a foreign country.

2. **What are the Wisconsin nonresident entertainer prepayment of tax requirements?**

Effective for taxable years beginning on or after January 1, 2014, Wisconsin law requires prepayment of tax if the total contract price for the Wisconsin performance is more than \$7,000.

The prepayment of tax is required to guarantee payment of income or franchise tax, sales or use taxes and any penalties and interest.

3. **What are the options for making the tax prepayment?**

The performance venue or employer of the nonresident entertainer must withhold tax of 6% of the total contract price if the nonresident entertainer does not provide proof of filing a surety bond or cash deposit. The venue or employer remits the amount withheld to the Wisconsin Department of Revenue using Form WT-11 within five days after the performance. For filing options see #7 below.

Generally, the nonresident entertainer must file a surety bond or make a cash deposit with the Wisconsin Department of Revenue in the amount of 6% of the total contract price at least seven days before the performance.

4. Who is an employer?

An employer is any Wisconsin resident 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 having receipt, custody or control of the proceeds.

5. What is the total contract price?

The 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 required by the nonresident entertainer. 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.

Effective for taxable years beginning on or after January 1, 2014, 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.

6. How does a nonresident entertainer obtain a lower rate?

The nonresident entertainer may request a rate less than 6% of the total contract price, on the basis that the ordinary and necessary deductible expenses in performing the services required by contract would merit a lower rate. The nonresident entertainer should file Form [WT-12](#) Nonresident Entertainer's Lower Rate Request at least 30 days prior to the Wisconsin performance.

If the lower rate request is granted, the nonresident entertainer must inform the venue/employer of the rate granted.

7. How does the venue/employer file and remit the amount withheld?

Nonresident entertainer withholding returns and payments should be made electronically through [My Tax Account](#) using the venue/employer's "nonresident entertainer" account. If unable to file electronically use Form WT-11.

8. How does a nonresident entertainer receive a waiver of the withholding requirement?

Nonresident entertainers who are exempt from Wisconsin income or franchise tax should request a waiver from the Department of Revenue by filing Form [WT-12](#) Nonresident Entertainer's Lower Rate Request at least 30 days prior to the Wisconsin performance.

If the tax exempt waiver is granted by the department, the nonresident entertainer must inform the venue/employer.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 6, 2019: Sections 71.01, 71.63, 71.64 and 71.80, Wis. Stats., and sec. Tax 2.90, Wis. Adm. Code.

Laws enacted and in effect after November 6, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 6, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 3-164

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