

## Withholding Fact Sheet 11, Nonresident Entertainer Tax

This fact sheet explains Minnesota income tax withholding responsibilities as they relate to nonresident entertainers, entertainment entities, and promoters. If you need more information, see Information and Assistance on page 3.

### Definitions

#### Entertainer

State law defines an entertainer as an individual who performs acts in Minnesota that amuse, entertain, or inform. Entertainers include, but are not limited to, musicians, singers, dancers, comedians, actors, athletes, and public speakers.

#### Entertainment Entity

The law defines an “entertainment entity” as one of the following:

- An **independent contractor** who is paid for providing entertainment
- A **partnership** that is paid for entertainment performed by entertainers who are partners
- A **corporation** (including subchapter S) that is paid for entertainment performed by entertainers who are shareholders of the corporation

The entertainment entity is subject to nonresident entertainer tax.

**Note:** An entertainment entity does not include employees who are paid wages and are subject to regular Minnesota withholding and income tax.

#### Gross Compensation

Gross compensation includes, but is not limited to:

- All amounts paid to the entertainment entity for the performance
- Reimbursed expenses (transportation, hotels, meals, sound and lights, security, etc.)
- Prize winnings where spectators are invited

### Requirements

Compensation received by a nonresident entertainer or entertainment entity, or payment made to a representative agent of the entertainer or entity, for performances in Minnesota is subject to a 2% (.02) nonresident entertainer tax (see *Exceptions* on this page). The nonresident entertainer tax replaces the regular Minnesota income tax.

### Compensation Subject to Nonresident Entertainer Withholding Tax

The person or organization (the “promoter”) paying the nonresident entertainer or entertainment entity must withhold the 2% nonresident entertainer tax from gross compensation paid for performances in Minnesota, unless one of the following exceptions apply.

#### Exceptions

Promoters are not required to withhold the 2% nonresident entertainer tax from the compensation if any of the following apply:

- The payment made to a nonresident public speaker is less than \$2,000
- The payment made to a nonresident entertainer or entertainment entity is less than \$600
- The nonresident entertainer or entity is a resident of Michigan or North Dakota and the individual provided a properly completed Form MWR, *Reciprocity Exemption/Affidavit of Residency* (see *Reciprocity Information* below).

#### Reciprocity Information

Minnesota has income tax reciprocity agreements with Michigan and North Dakota. As a result, individuals (entertainers, speakers, etc.) who are residents of Michigan or North Dakota are exempt from nonresident entertainer tax, if they provide the promoter with a properly completed Form MWR for the year.

If Form MWR is not provided as required, the promoter must withhold nonresident entertainer tax from the individual’s pay.

#### Partnerships and S Corporations

Individual partners and shareholders who are residents of Michigan or North Dakota are also exempt from the nonresident entertainer tax, if they provide the promoter with a properly completed Form MWR.

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**Wages Not Subject to Nonresident Entertainer Tax.** Wages received by employees of the entertainment entity who perform service in Minnesota are not subject to the nonresident entertainer tax. However, the employees' wages are subject to the regular Minnesota withholding and income tax. See the Minnesota Income Tax Withholding Instruction Booklet for details.

## If You are a Promoter

If you hire a nonresident entertainer or entertainment entity to perform in Minnesota, they must provide you with a properly completed federal Form W-9, *Request for Taxpayer Identification Number and Certification*.

An individual must provide his or her Social Security Number and full address on Form W-9.

An entertainment entity must provide its federal tax ID number (FEIN) and full address on Form W-9. Do not accept an agent's name or address.

## Backup Withholding

Minnesota follows the federal provisions for backup withholding on payments for personal services. Personal services include any work performed for your business by anyone who is not your employee.

If an individual or entertainment entity fail to provide you a Social Security Number or FEIN, you must withhold 9.85% (.0985) state tax from any payments made to them. For more information on Minnesota backup withholding, see the *Minnesota Income Tax Withholding Instruction Booklet*. For more information on federal backup withholding, see Publication 15, Circular E and Publication 1281, *Backup Withholding for Missing and Incorrect Names/TINs*.

## Form ETD, Promoter's Deposit Form

Complete Form ETD, *Promoter's Deposit Form*, to report the gross compensation subject to the 2% nonresident entertainer withholding tax. The form and tax deposit are due the last day of the month following the month of the performance.

If you fail to withhold nonresident entertainer tax when required, you will be responsible for any tax, penalties, and interest due.

### Deposit Electronically

To make your nonresident entertainer withholding tax deposits electronically, go to [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and log in to our e-Services system. Select your **Non-Res Entertainer - Promoter** account. Under the **I Want To** menu, choose **Manage payments**.

Even though you may deposit electronically, you must still mail your completed Form ETD to the department. Use the address provided at the bottom of the form.

## Form 1099-MISC

By Jan. 31, give a federal Form 1099-MISC to every nonresident entertainer and entertainment entity to whom you paid \$600 or more — or to a nonresident public speaker to whom you paid \$2,000 or more — in total compensation during the previous year.

When completing Form 1099-MISC, enter the total compensation paid to the entertainer in box 7 (nonemployee compensation). Enter "MN" in box 17 (state) and the amount of nonresident entertainer tax withheld in box 16. Write "Nonresident entertainer tax" in box 15b.

*Note:* Even though you may not be required to provide Form 1099-MISC to a corporation for federal tax purposes, you must provide the form to the corporation for Minnesota tax purposes. Write "For Minnesota Use Only" across the top.

## Form ETA, Promoter's Annual Reconciliation

By Jan. 31 of each year, you must complete and submit Form ETA to the department to reconcile your deposits made to the actual tax withheld. Attach a copy of Form 1099-MISC for each nonresident entertainment entity or entertainer hired during the year who was paid \$600 or more or nonresident public speaker who was paid \$2,000 or more.

You must file a return even if you made all the deposits and no additional tax is due.

### Deposit Electronically

If your completed Form ETA indicates you owe additional tax, you can deposit the tax electronically. To do so, go to [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and log in to e-Services. Select your **Non-Res Entertainer - Promoter** account. Under the **I Want To** menu, choose **Manage payments**.

Even though you may deposit electronically, you must still mail your completed Form ETA to the Minnesota Department of Revenue. Use the address provided at the bottom of the form.

## If You are a Nonresident Entertainer or Entertainment Entity

If you are a nonresident of Minnesota, your gross compensation received for performances in Minnesota is subject to a 2% nonresident entertainer tax. The nonresident entertainer tax replaces the regular Minnesota income tax.

The promoter (the person or organization responsible for paying you) is required to withhold 2% of your gross compensation for performances in Minnesota and remit it to us on your behalf (see "Exceptions" on page 1).

You must provide the promoter with a properly completed federal Form W-9, and include your Social Security Number (if you are an individual) or your FEIN (if a business). If you fail to provide your ID number as required, you will be subject to backup withholding (see "Backup Withholding" on this page.)

**Residents of Michigan and North Dakota.** If you provide a properly completed Form MWR to the promoter, you are not subject to the nonresident entertainer tax (see "Reciprocity Information" on page 1). If Form MWR is not provided as required, the promoter is required to withhold nonresident entertainer tax from your pay.

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## Form ETR, Nonresident Entertainer Tax Return

File Form ETR, *Nonresident Entertainer Tax Return*, and pay any additional tax due by April 15 of the following year.

If you received other types of Minnesota income during the year, you may also need to file a partnership return (Form M3), S corporation return (Form M8), corporation franchise tax return (Form M4), or an individual income tax return (Form M1), whichever is appropriate. This requirement is in addition to filing Form ETR.

*Note:* You are not required to file Form ETR, if both of the following apply:

- All the payments you received for performances in Minnesota were not subject to nonresident entertainer withholding tax (see “Exceptions” on page 1)
- Your nonresident entertainer compensation received for the year is less than the minimum filing requirement for Minnesota income tax (\$12,220 for 2019)

**Deposit Electronically.** To make your nonresident entertainer tax deposits electronically, go to [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and login to e-Services. Select your **Non-Res Entertainer** account. Under the **I Want To** menu, choose **Manage payments**.

Even though you may deposit electronically, you must still mail your completed Form ETR to us. Use the address provided at the bottom of the form.

## Examples

*Jim, an actor who is a resident of New Mexico, is an employee of the ACME Roadshow. The ACME Roadshow has several performances in Minnesota and Jim received a W-2 from his employer reporting Minnesota wages of \$30,000. Jim also performed at the Minnesota State Fair as an independent contractor and received a Form 1099-MISC reporting \$1,500 of compensation and \$30 of nonresident entertainer tax withheld.*

Jim will need to file:

- Form ETR to report nonresident entertainer tax on income earned as an entertainment entity while performing at the Minnesota State Fair
- Form M1 to report and pay Minnesota individual income tax on income earned as an employee from the ACME Roadshow

*Nonresident Band XYZ performs twice a month at Bob’s Bar and is paid \$500 for each performance.*

Bob’s Bar is not required to withhold nonresident entertainer tax because each payment is less than \$600.

Band XYZ, however, is subject to nonresident entertainer tax on the entire \$12,000 because its total annual compensation exceeds the minimum requirement to file a Minnesota individual income tax return. Band XYZ must file Form ETR and submit payment by April 15.

*Nonresident Speaker A speaks at three separate conferences in Minnesota and is compensated \$1,500 for each performance (\$4,500 for the year).*

Nonresident entertainer tax is not required to be withheld because each payment to the speaker is less than \$2,000.

Since Speaker A’s total nonresident entertainer income is less than the minimum requirement to file a Minnesota individual income tax return, he is not required to file Form ETR.

*A marathon runner, who is a resident of a foreign country, competes at a marathon in Minnesota and wins a prize of \$5,000.*

The promoter of the marathon must withhold and remit the nonresident entertainer tax to the department.

The marathon runner is required to file Form ETR.

*A speaker, who is a resident of Texas and an independent contractor, is giving a lecture at a school for staff as part of their training. The general public cannot attend the lecture.*

The speaker is not subject to nonresident entertainer tax, as the lecture is for training purposes and is not open to the general public. However, the speaker may be required to file a Minnesota income tax return.

*Tim’s Bar and Grill hires a band. The band is a partnership. All band members are partners and residents of North Dakota.*

Tim received a properly completed Form MWR from each of the band members. Tim is not required to withhold nonresident entertainer tax from the band’s compensation.

Because the compensation is covered under the income tax reciprocity agreements Minnesota has with Michigan and North Dakota, the band members are not required to pay nonresident entertainer tax or regular income tax to Minnesota.

*A choir from California is hired to perform at a Minnesota county fair. The choir is a nonprofit organization and none of the choir members are paid.*

The choir gives the county fair a copy of their nonprofit status from the IRS. The county fair is not required to withhold nonresident entertainer tax from the choir’s compensation.

## Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: [www.revenue.state.mn.us](http://www.revenue.state.mn.us)

Email: [withholding.tax@state.mn.us](mailto:withholding.tax@state.mn.us)

Phone: 651-282-9999 or 1-800-657-3594

This information is available in alternate formats.