

12 CSR 10-2.226 Withholding of Tax by Nonresident Professional Entertainers

PURPOSE: This rule establishes guidelines for withholding of income tax as specified in sections 143.191–143.265 and 285.230, RSMo.

(1) Nonresident Professional Entertainers Defined.

(A) Nonresident professional entertainer means a corporation registered outside this state, or a person who is not a resident of Missouri as defined by section 143.101, RSMo, who, for compensation paid to an individual or other entity, performs any vocal,

instrumental, musical, comedy, dramatic, dance, or other performance in Missouri before a live audience. Nonresident professional entertainer also includes any person traveling with the entertainer and performing services on behalf of the nonresident entertainer. For purposes of this definition, a “performance” does not include a presentation for educational purposes for which no admission fee, cover charge, purchase minimum, or other fee for admission is charged.

(2) Personal Service Income of Nonresident Professional Entertainers Defined.

(A) All nonresident professional entertainers shall be subject to withholding on that portion of their personal service income allocable to Missouri.

(B) Personal service income shall include the total compensation received during the calendar year for entertainment performed in Missouri.

(3) Any nonresident entertainer outside of Missouri that does not comply with section 143.183.2., RSMo, shall be considered transient employers as defined in section 285.230, RSMo, and shall be required to file a financial assurance instrument pursuant to section 285.230, RSMo, and 12 CSR 10-2.017.

(4) Withholding and Reporting Obligations.

(A) Any individual or entity who pays annual compensation in excess of three hundred dollars (\$300) to a nonresident professional entertainer(s) is required to withhold Missouri income taxes, as a prepayment of tax, an amount equal to two percent (2%) of the total compensation paid to the nonresident entertainer for entertainment performed in Missouri, as set forth in sections 143.183 and 285.230, RSMo. This requirement does not apply if the person making the payment is exempt from taxation under 26 U.S.C. Section 501(c)(3), as amended, and that pays an

amount to the nonresident entertainer for the entertainer's appearance but receives no benefit from the entertainer's appearance other than the entertainer's performance.

(B) Every individual or entity required to deduct and withhold tax from a nonresident entertainer, shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, file Form MO-1ENT, Income Tax Payments for Nonresident Entertainers, with copies of Form MO-2ENT, Statement of Income Tax Payments for Nonresident Entertainers attached and pay the taxes withheld to the Director of Revenue as set forth in sections 143.183 and 285.230, RSMo.

(5) The Department of Revenue forms mentioned in this rule can be found at www.dor.mo.gov or at the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO 65105.

AUTHORITY: section 143.183, RSMo Supp. 2023, and section 285.230, RSMo 2016.* Emergency rule filed Aug. 18, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Emergency rule filed Dec. 9, 1994, effective Dec. 26, 1994, expired April 24, 1995. Original rule filed Aug. 18, 1994, effective Feb. 26, 1995. Amended: Filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed Aug. 7, 2023, effective March 30, 2024.

*Original authority: 143.183, RSMo 1994, amended 1998, 2003, 2006, 2009, 2011, 2014, 2018, and 285.230, RSMo 1988, amended 1994, 1997, 1998, 2008, 2014.