



DOES THE INS TALK WITH THE IRS?

Yes! A copy of the I-797 Approval Notice(s) is sent to the Internal Revenue Service. While this guide is not about taxes, foreign artists entering the United States should be aware of the basics.

In many instances, a U.S. presenter, in the absence of a Social Security Number or Federal ID Number for a foreign artist, must withhold any applicable federal and state taxes from gross fees to be paid to the artist. The Foreign Withholding Tax (Federal) is currently 30 percent. **Canadian** residents who are contracted by the presenter as *independent contractors* and who tour the United States frequently may not be subject to the Foreign Withholding Tax. A **Canadian** not-for-profit company is exempt. Be sure to supply the presenter with a copy of the corporate papers that demonstrate proof of not-for-profit status.

Whether a U.S. presenter withholds the Foreign Withholding Tax from gross fees is dependent on the tax treaties in effect with the artist's country at the time and/or whether the artist is exempt from withholding taxes for other reasons.

In addition to Federal Withholding Tax, some states have a Non-Resident State Tax. This was begun by California several years ago, and many states have since followed suit. The Non-Resident State Tax, if applicable, is withheld by the presenter and varies from state to state; it is generally between 4 percent and 7 percent of gross fees. There are no exemptions; however, an artist can apply for a reduction or waiver. This is generally done through a tax agent.

Regardless of what taxes are withheld, artists performing in the United States should file a U.S. tax return on U.S. earned income. Any exemption from this should accompany the tax return; or provide the appropriate form indicating an exemption.

Artists are strongly encouraged to seek advice about their U.S. income tax liability from a tax attorney or agent who is familiar with the tax treaties between the United States and his/her country.

FREQUENTLY ASKED QUESTIONS

What is Premium Processing?

The Premium Processing Service was introduced by the INS in June 2001. It guarantees adjudication of a petition within 15 calendar days or your money back. The fee is US\$1,000 per petition (separate cheque) in addition to any other applicable petition fees.

Can I request Premium Processing for a pending petition?

Yes. File INS Form I-907, together with the required US\$1,000 fee per petition. The 15 calendar day processing period begins on the date the INS receives the I-907 and fee.

Is anyone exempt from the Premium Processing Service fee?

No. There are no exemptions. While not-for-profit petitioners are exempt from the US\$1,000 fee, this does not mean they can file a Form I-907 and receive its benefits. They must pursue the traditional expedite process, based on five criteria:

- severe financial loss to a company or individual;
- extreme emergent situation;