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Paying Bands, Issuing 1099's and Managing Tax Implications for Bluegrass Associations

By Dwight Worden

As your bluegrass association embarks on the fun process of hiring a band, of course you must negotiate the terms of the contract with the musicians. But, it is also important to manage the reporting and tax related issues that will apply to your association and the band. This brochure will help you address these issues.

To Learn More:
Visit the IRS web site at www.irs.gov [1] or call 1-866 ?455-7438?Contact IBMA, which can provide help to IBMA member associations.

Practical Tips for Hiring and Paying Bands and Filing Form 1099?s

- Have a written contract: A written contract protects the association and the band. Many bands will propose their own contract which is fine, provided you read it carefully, understand it and make any revisions needed to protect the association.
- Pay by check, or if by cash, get a signed receipt. Payment by check is best for the association as it gives you a clear record of the payment. Some bands insist on being paid cash. If you have to pay in cash, make sure you get a signed receipt with the necessary information. Pay only the bandleader or the person designated in the contract, not individual band members or agents.
- Issue IRS Form 1099 miscellaneous. Generally, (there are exceptions), any person or entity paid more than $600 in a calendar year must be issued an IRS Form 1099 Miscellaneous. It is recommended that you note in your contract hiring the band that your association will issue a 1099-M where required so there is no ?surprise? about this. Review the requirements for form 1099 in advance and be sure to collect the necessary information from the band to fill one out. Form 1099-Ms are due by February 28 (March 31 if filed electronically), with copies to the payee by January 31 of each year.

Hiring Bluegrass Bands and Musicians: Some Basic Tips
Once you have negotiated the price to be paid by your association to the band, it is important to know who will be paid. Will your payment be to the band as an entity, to the bandleader, or to each band member for their share? This issue should be addressed at the time the contract is negotiated. It is perfectly appropriate to specify that your association?s policy is to pay by check to either the band as an entity or to the bandleader, who is then responsible for paying the rest of the band. It is recommended that whenever possible associations pay the band as an entity or, if that is not possible, that the entire amount be paid to the band leader so that the band leader, and not the association, deals with how the funds are shared. This should be specified in the contract of hire so that your association does not get dragged into payment disputes between band leaders, their band members and any special guests and to

avoid a situation where the band leader fails to pay the band members.

Paying by Check or Cash
It is best for the association to pay by check, which gives you a good record of the transaction. Many bands, however, request to be paid in cash. If you do pay in cash, be sure to have the band leader sign an appropriate receipt which becomes your record of the transaction. The receipt should show the amount paid, the date, the name of the band, and it should note that it reflects payment in full, that tax reporting is the responsibility of the band, and that payment of the other band members and any special guests is the responsibility of the band leader.

Issuing 1099?s
Uncle Sam wants to be sure that the bands you pay report and pay the proper income tax on these earnings. Accordingly, your association is required to issue a form 1099 miscellaneous (1099-M) to any band, musician, sound person, etc. to whom you pay (with some exceptions) more than $600 in any given year. Review the instructions for Form 1099-M for specifics on exceptions. In order to complete the form 1099-M you will need the name, taxpayer identification number (TIN), and other information about the person or band being paid. You can get copies of form 1099-M from the IRS website, along with instructions, which you should review before signing a contract with your band so you can be sure to get the information needed to complete the 1099-M. The IRS suggests that you have your payees who do not already have a TIN file Form W-9 (W-8 for foreigners) to get one. Note: you may be required to withhold 28% of the payment if the TIN is not provided.

It is also good practice to mention in your contract that your association will be issuing a 1099-M if payment exceeds the limits as this alerts the band that the IRS will know of the payment. You must also file a form 1096 (basically a cover memo entitled Annual Summary and Transmittal of US Information Returns) with the 1099?s you file.

Due Date for 1099?s
The current due date for filing form 1099-M is February 28 (March 31 if filed electronically) and you must send a copy to the band or bandleader to whom you reported the money was paid by anuary 31. There are also provisions for filing both forms electronically if you file Form 4419 at least 30 days before the due date. There are penalties for late filing ranging from $15 to $50 per 1099 depending on how late you file. For help on all these issues call the IRS toll free at: 866-4557438.

Paying Foreign Bands
Special rules apply to payments to non-U.S. foreign bands earning income in the US. Uncle Sam wants his cut of payments to foreign bands just like from U.S. bands. So, foreign bands earning money in the U.S. are required to file a tax return of that income, and your association is required to file form 1042-S, relating to payments to a foreign entity or person. In short, unless certain exemptions apply (they might), your association may be required to withhold 30% of the pay due to the foreign band until it clears the matter through the IRS. When hiring a foreign band it is strongly recommended that you address this issue in advance and cover it in your contract. Seek help if needed.

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