

# Taxes for the Performing Artist FAQs

Below are answers to some of the most-asked questions during the recent PTEOE Taxes for the Performing Artist with Sandra Karas, Esq. webinar.

The information provided is given for informational purposes and is not a suitable substitute for the advice of a tax preparer/professional, legal or financial counsel. Please talk to your tax professional about your individual situation.

## COVID RELIEF

**Q / Are we going to have to pay taxes in 2021 on the \$1,200 stimulus check?**

No. This payment is considered a “refundable credit,” which is not a taxable distribution to you.

## DEDUCTIONS

**Q / Since the tax law changed in 2018 that previously stated we could write off business expenses on our federal taxes, are we now able to write off those same expenses on our state taxes? And if so, would that raise any red flags with the IRS that might prompt an audit?**

Most states conform with federal rules with state-specific adjustments. Some states have determined that they will allow the 2017 state law to apply, allowing taxpayers to deduct the same itemized deductions that were allowed in 2017. The various allowances may differ slightly from state to state, but the following states have made allowances for miscellaneous deductions (your show biz expenses): CA, HI, KY, ME, MN, NY.

For complete information as applies to your taxes, consult a tax expert or your own accountant.

For more information, you may refer to your home state’s website, available here: [sagaftra.org](http://sagaftra.org).

**Q / Can you give an overview of how charitable contributions are now accounted for?**

Charitable contributions are still available as itemized deductions, but many may not qualify for the tax reduction benefit as the standard deduction has been increased. If you have medical expenses, state and local taxes, real estate taxes, mortgage interest, charitable gifts, or any combination of those that will exceed the standard deduction, then you may use them as deductions on your return. Check with your own tax expert to determine if this applies to you.

**Q / If I had an accountant prepare my taxes last year, is the fee I paid the accountant deductible on my tax form?**

It qualifies as a deduction, depending on how you earn your income. For self-employed/freelance workers, landlords, other small business owners, etc., it can be deducted. For others, it depends on whether or not your state allows these fees as itemized deductions and, if so, you can use them as a deduction in that state.

**Q / Can you give an overview of deductible miles?**

Transportation to look for work has historically been a tax deduction, but it has been eliminated, along with all of your other show biz expenses, as itemized deductions on federal returns. To the extent that your state allows miscellaneous itemized deductions, you may deduct these expenses on that state's return. Or, if you earn income as a self-employed/freelance worker, you may deduct your related show biz expenses against that income on both your federal and state returns.

**Q / What is the best way to deduct management fees?**

Either as an independent contractor, if your circumstances warrant this (check with a tax expert for your own situation), or on your state return as an itemized deduction, if your state allows this.

**Q / Are moving expenses deductible?**

Since 2018, moving expenses are only deductible for military personnel.

**Q / What amounts can we deduct if income is low and we spend more than 25% of our income towards health insurance premiums, co-pays and unreimbursed healthcare expenses?**

It depends on your total AGI - adjusted gross income - and whether or not you can itemize on your federal return. Check with a tax accountant to determine if you qualify. If you use the IRS Free File Program, the software will automatically calculate your medical expenses and your other deductions and use the most advantageous method for you.

**Q / Can we use the Lifetime Learning Credit if we have been taking acting classes? If so, what can we deduct and how do we do it?**

In order to qualify for Lifetime Learning or other college credits, the institution must be on the list of eligible educational institutions, which most studio classes are not. But check first to see if your school might qualify for this.

**Q / Is it accurate to say that actors' exemptions are only allowed for those whose adjusted income is under \$16k?**

The Qualified Performing Artist statute allows performers to deduct their show biz expenses if their total income is below \$16,000. For those of us whose incomes are higher (and that's most of us), and are employees (and that's most of us, too), we can only deduct our business expenses on our state returns if our home state allows it. If you also have 1099 or independent contractor earnings (e.g. print work, some voiceover contracts, etc.), you may be able to deduct some or all of your expenses against those earnings.

**Q / Is high school or college tuition ever deductible?**

High school tuition is not a tax deductible expense, but college costs to approved institutions may yield you valuable credits against tax. There are several ways to get these credits depending on what year of college, how much you earn, etc., so check on the IRS website ([irs.gov](http://irs.gov)) or ask a tax accountant if your situation may qualify for one of these.

**Q / Are Medicare payments deductible?**

If your itemized deductions of medical, charitable, mortgage interest, real estate taxes exceed your standard deduction (\$12,200 for single; \$24,400 for married joint), then you can claim those as deductions. Additionally, your medical expenses must also exceed 7.5% of your adjusted gross income (AGI) to be included with your itemized deductions. Most taxpayers don't exceed that threshold, but some do. It is suggested to get advice from someone who can guide you on your own taxes. If you are filing on your own through IRS' Free File program, it will automatically compare your own deductions with the standard deduction and take the higher one for you.

**Q / Where/how do we deduct apartment space and/or payments as office space?**

If you qualify to claim home office deduction, you will include this information on Form 8829. Your office must be the place where you actually work and must meet specific requirements.

**Q / Can we deduct a percentage of my cable use?**

If you can reasonably calculate your business use of items that you also use personally (e.g. phone, computer, internet, cable), you may claim the business use percentage. There is no percentage that applies to members of our industry. It is incumbent upon each taxpayer to calculate her or his own business use.

**Q / Can we deduct memberships in organizations like NYWIFT or LPTW?**

Dues or membership fees paid to any business or professional organization that can enhance your income and is part of your industry network may be considered a business deduction.

**Q / Is a theatrical per diem tax deductible? Does it need to be declared, and do expenses need to be declared to offset it?**

Per diem payments are generally made to workers to cover meals, housing, transportation, and other daily expenses of the job when the worker is out of town or on a special, short-term assignment. The employer

and the worker, under a collective bargaining agreement, have agreed that these payments are made under an accountable plan, which means that, as long as you spend the money on those travel expenses, none of them will be taxed. They generally do not report per diem on the W-2, but if they do, then the amounts are treated as fully tax deductible.

**Q / Where do you include rental income from a unit or a room which you rent out on your tax return?**

If you are a landlord and rent property to others, you report rental income and expenses on Schedule E.

If you are sharing a place with someone else (e.g.: a roommate), you don't have to report that income if all you are doing is collecting it and sending it on to your landlord.

**Q / Can you just take a standard deduction for auto expenses?**

The government allows a standard mileage rate for business, medical, moving, and charitable miles driven.

For 2019, the business rate was 58 cents/mile, medical and moving miles were 20 cents/mile, and charitable mileage was 14 cents/mile.

**Q / Didn't the threshold for medical expenses go up to 10% of AGI from 7.5%, or did it go back again to 7.5% due to COVID-19?**

For 2019, the medical "floor" is 7.5% of your adjusted gross income (AGI). For 2020, the floor goes to 10%.

**Q / It used to be an expense under \$25 did not require a receipt but could be deducted with a notation in a journal? Is that still the case? Has that \$25 changed and is there a different ceiling?**

It depends on the expense. The general rule is that you should get and retain paid receipts for any expense you plan on claiming on your tax returns. For those expenses that are not receipt able (e.g.: tips and gratuities), make the entry in your calendar to indicate the date, the vendor, the amount, and the purpose of the expense. The \$25 "no receipt" rule has been increased to \$75 for some kinds of expenses (e.g.: small items) and you must make a calendar entry to indicate the date, the vendor, the amount, and the purpose of the expense. Bear in mind that this is for federal purposes only. If you have to undergo a state audit of your tax return, you may not be able to rely on a "no receipt" rule. It is advised to save every receipt (unless you cannot get one and have to rely on a calendar entry), because it's just easier than making calendar entries and if you are audited by a state taxing authority, you may need them.

**Q / Do wardrobe, meal, smoke bumps and other incidentals that are added to our paychecks as income count towards our total W-2 income and if so, for things like meal bumps, wardrobe, auto, etc...how do we best deduct that from our W-2s without having to itemize (off the gross income, not adjusted)?**

The best advice on what is considered part of your wages comes from your union rep who can outline what has been negotiated. Many bumps are considered wages and are included in your taxable income. Expenses that are considered a reimbursement to you for your meal, your wardrobe, etc. are not included in your wages as they are paid to you as a reimbursement of an expense you had to pay for, and not considered part of your services rendered.

**Q / Does the list of deductions apply for W-2 income or are they solely for 1099s?**

Unless you receive 1099 income, your expenses will not be included on your federal return. But they might be deductible on your state return. Consult your home state's website (available at [sagaftra.org](http://sagaftra.org)) and see if this applies to you.

**Q / What are medical miles?**

If you have medical expenses that might qualify for itemized deductions, you may add the miles driven to doctors, pharmacy, therapy, tests, treatments, etc. to those costs. The rate is 20 cents/mile for medical mileage driven.

**Q / How are monthly auto lease payment deductions calculated? I presume mileage calculations supplement the monthly auto lease payment?**

Expenses to lease a car that you use for business are calculated either using the standard mileage deduction (58 cents/mile for 2019) or using the actual expense method whereby you compare your business miles to your total miles driven during the year and apply that percentage to your auto expenses. Many take the standard mileage rate. However, figure it out both ways and see if you are one of those rare individuals who might be better off using the actual expense method. Caveat: you may not use both methods! It's one or the other.

**Q / Agents get their commission on the paychecks GROSS not NET...is this evened out by "claiming" it as a deduction?**

If you are able to claim your business expenses, the agent's commission is certainly an ordinary and necessary expense for your profession.

**Q / If we are deducting a laptop or voiceover equipment, how does depreciation work?**

Most taxpayers may deduct the entire amount in the year of purchase by "expensing" the item on Form 4562, which is the IRS depreciation form. You won't have to take a part of it over several years if you elect to expense it.

**Q / Are dance classes and voice lessons deductible expenses? Or only if related to a specific job?**

All classes and continuing education in your field may be deductible if the class maintains or improves your current job skills. They do not have to be tied to a specific job.

**Q / What if your expenses exceed the income in a given year for no contract work (like print)?**

It is not unusual for many performers to spend a lot of money in any given year, especially if you have received many contracts (agents' fees and higher dues), or if you are taking steps to increase your visibility, take more classes, or just have your usual show biz expenses and not very much income in any given year. Sometimes you operate at a loss, which is allowed as long as you don't claim that status more than two out of five consecutive years. If you are consistently spending more than you earn, you will not be allowed to continue to deduct more expenses than income.

**Q / It is my understanding that we can only deduct if we have 1099s. All of my work came through W-2 work. Can I not deduct agent/manager's fee from that? Where CAN that be deducted anyway?**

Since employee deductions were eliminated from the itemized deductions on the federal return, the only place where employees may claim those deductions is on their state return, if their state allows these deductions. NY, CA, PA and a few others still made accommodations for show biz expenses, but not all states do. Check with your home state and see if you may do this.

**Q / In regards to out of town expenses, I know VITA (Volunteer Income Tax Assistance) takes the standard daily meal deductions. If we decide to do our own taxes where can we find those deductions per state?**

There are no state meal allowances, unless your state allows the federal amounts. We find that, in state audits, performers must provide actual receipts for meals and for the last several years, we have been advising them to save all receipts for meals in the event of a state audit.

## FILING

**Q / Is there a way to access past years W-2s and 1099s to file old claims?**

You may file a request for a transcript of your income by going to [irs.gov](https://www.irs.gov) and you can get a copy of all of your income for a given tax year online.

**Q / Does the IRS free file option allow a person to file federal and state taxes?**

Yes and you may file multiple state returns if you have worked or earned money in several states.

**Q / Approximately what percentage of my Unemployment Insurance/Pandemic Unemployment Insurance payment should I be setting aside for the next tax year in NYC?**

Since you can't have more than 10% federal and 2.5% state withholding in NY, it is advised to hold some additional money aside to cover whatever tax difference you may owe. Check with your accountant to see what your fed and state tax brackets are and make up the difference accordingly. If you don't have an accountant and don't know your brackets, put aside another 10% for federal and 5% for state. This may or may not be sufficient if you have other income from which there is little or no tax withheld, so you should also consider those earnings as well.

**Q / Can you clarify use of the 1095-A form? If we had insurance through SAG-AFTRA the entire year we would not be getting that form, correct?**

SAG-AFTRA health insurance does not report on the 1095-A. Only those who purchase health insurance on the marketplace will receive a 1095-A and they will have to report this on their tax returns.

**Q / Does it matter what your income level was in 2019 to qualify for free NY VITA (Volunteer Income Tax Assistance) services?**

The VITA office in New York has an income threshold of \$100,000 for single filers and \$200,000 for married joint filers.

## **Q / How do I file if I worked in two different states?**

When you file taxes, you include your home state (if your state requires it) and any other states in which you've worked. Those outside states may or may not require you to file and you might just be filing to get a refund of any taxes withheld. Check with your own tax expert or accountant, or if you are filing on your own through IRS' Free File program, it will automatically file the additional states at no cost.

## **Q / What if you never received a Form W-2 from the employer and they have been closed due to COVID-19 and there is no online option. They are not responding to requests by phone/ email. What can be submitted to the IRS from that paycheck and voucher info?**

This is not uncommon. You may still file your tax returns using something called a "Substitute W-2" which is Form 4852. It may be used if you have made efforts to obtain the document and the employer has not responded, and has made no provision for you otherwise. The easiest way to complete the form is to use your last paystub. It shows the gross amount paid, federal and state and city income tax withholdings, Social Security and Medicare. Simply enter the amounts as you would for any W-2 and indicate that you obtained those figures from your last payroll check stub.

## **FOREIGN EARNED INCOME**

### **Q / If a performer made money but does not have 1099s for foreign earned acting income (cash) and foreign acting expenses (receipts in a foreign currency), but does have credit card statements, is it more beneficial to report the income? What is the best way to handle these kinds of expenses where the paper trail is less than optimal?**

All US citizens are required to report worldwide income on their personal tax returns, so you must report that income on your returns. Entertainment professionals who work abroad have special tax situations that usually require a professional to handle. I would advise you to seek the services of a tax accountant who is familiar with and has handled foreign earned income. Depending on how it is reported, your expenses may be deductible in full. As far as receipts are concerned, the rule is that you should have proof of your expenses in receipt form. Credit card statements are not proof of payment for audit purposes. Do the best you can in reconstructing your purchases, including going through all emails that confirmed payment of any expense (those are acceptable as paid receipts), contacting any vendors or businesses from which you purchased goods or services for duplicate receipts or proofs of purchase, your calendar entries for local transportation, etc.

## **LOAN OUTS**

### **Q / Can you discuss the pros and cons and process of filing as a corporation?**

Forming a business entity involves many considerations: Which entity is appropriate for the business? What is the best tax treatment of the entity options from which you may choose? What are the potential costs and operational fees associated with the various entities? In how many states and local jurisdictions will you be operating (if known)? In short, there are many pros and cons to each entity choice and it's advised that you consult with a tax attorney or a lawyer and an accountant who can advise you as to the best entity choice

for your business activities. In short, the amount of annual income and the consistency of that income on a repeated basis is usually a consideration when forming a business entity.

**Q / Will anything change if you have an S Corp. or C Corp. and you're using it as a loan out corporation for your acting?**

There are some differences between C and S Corporations (e.g.: annual vs fiscal years, pass through and stand-alone status, consideration of dividend taxation vs payroll, etc.). This is something that would be determined on a case-by-case basis with consideration to the individual goals, income and expenses, and the needs of the business. Many performers use the S Corp for ease of the pass-through structure. Some performers prefer the C Corp for other reasons. Consult an expert such as a tax attorney, lawyer, accountant, etc. to determine what may be best for your situation.

**Q / Are Coogan payments considered income if your child is not yet 18? Is the total amount deposited included in your loan out company's profit amount and split between shareholders?**

The earnings are taxable when earned and the 15% mandatory amount deposited into the Coogan account may generate taxable income (interest, dividends, capital gains) until the funds are withdrawn by the emancipated child. If the funds remain invested, taxable income may continue to accrue.

**Q / If we have filed a corporate return, how much of this information (on the worksheets) is necessary for our personal returns. What is the best way to proceed if you are still getting a lot of W-2s from before becoming incorporated?**

Your corporate returns are for your business income and expenses that are attributed to the corporation. If you also earn income as an employee (and receive W-2s), those must be reported on your personal tax returns. The checklist that is included at <https://sagaftra.org/2019taxresources> is a good tool to help you organize the items that can apply to your personal returns.

## LOBBYING EFFORTS

**Q / How has SAG-AFTRA and other organizations worked to lobby Congress to restore the ability for performing artists to take deductions for employee-related expenses, such as agent fees and union dues? This has really hurt performing artists this tax season. It has been frustrating to see Congress pass tax relief packages on real estate transactions that benefit the top 1% of earners while performing artists, many of whom are struggling to make ends meet, had an increase in their tax obligation.**

SAG-AFTRA has been working on a tax reform bill that will help most of our members across the country. We have bi-partisan support and continue to lobby on your behalf. We are optimistic that we can get some relief with continued Congressional support, but can't predict when that will happen. Stay tuned for updates on this issue and union efforts to mobilize when the time is right.

## RESIDUALS

**Q / If my 2019 income was only residual checks from previous year's work (and a very modest unearned income from interest) could I still qualify for the Earned Income Credit off residual checks?**

Yes. Residuals are considered earnings for work performed and included as wages for purposes of calculating the EIC.

**Q / For those who are no longer acting, how do you suggest handling residuals?**

This is not passive income in that it is payment for the services you performed previously. This is in accordance with your collectively bargained agreements and must continue to be reported as wages on W-2 forms.

## VITA (Volunteer Income Tax Assistance)

**Q / During the shutdown, are VITA services available virtually?**

VITA services will not be available virtually while the office is closed.

**Q / When will the New York VITA office re-open?**

A date is not available for VITA's re-opening. This will depend on many factors including when the NY stay-at-home order is lifted. A notice will go out to members as soon as the office re-opens.

**Q / To file my 2019 return myself, I would like to download and print my entire 2018 return that VITA prepared. How can I locate this? I have forgotten the website to go to and the formula to enter regarding my personal return.**

VITA sent your copies via email last year. Take a look at your emails from around the time that you had your taxes prepared last year. You will see the instructions for opening the attachment in the body of the email.

## OTHER

**Q / What are the most important tax law changes for our industry since 2017?**

The most important of the changes for our industry is the elimination of the miscellaneous itemized deductions for employees. For performing arts professionals, especially those whose incomes are modest (working- and middle-income workers). Taxpayers also saw the elimination of the personal and dependent exemption amounts which, in addition to the former itemized deductions, would function to lower taxable income for these same taxpayers.

**Q / When work is done out of state, what is the protocol for filing? Do I end up paying state taxes to that state (where I don't live) in addition to the state I live in?**

Almost all states that impose income and other earnings taxes on their residents impose similar taxes on non-residents who visit and work in their jurisdiction. The earnings from the non-resident states are almost always taxable to the earner (e.g.: you shoot a commercial, a feature, or a web series in another state and you

receive a W-2 early the next year showing the amount of money you earned in that state and the taxes that were withheld). States also have reciprocal agreements that allow taxpayers to claim credit for taxes paid to another jurisdiction other than their home state. Generally, you will not pay double tax on the same income as a result of this reciprocity, but you still may have an obligation to file in the other state in order to claim refunds or credit in your home state.

**Q / Could you review how to file taxes for a job that doesn't give a 1099 or any other tax forms but considers you an independent contractor? Is it true I don't have to pay taxes on independent contractor income if gross annual income is less than \$600?**

Whether or not you receive a 1099, your earnings as an independent contractor are taxable income and must be reported on your tax return(s), regardless of how low or high that income may be. The \$600 figure only applies to the entity that pays you; it must report any payments to independent contractors that exceed \$599 in the calendar year. So, if you earn \$350 for a gig, the payer does not have to file a 1099, but you are still required to include it on your tax return as taxable income. You may reduce that income by your ordinary and necessary expenses, however, and end up paying very little or no taxes on those earnings.

**Q / On W-2 forms, if the employer checked "retirement plan" and included a dollar amount, do we put this on our 1040? Where?**

The retirement plan participation is reflected on your W-2 to indicate that the employer contributed to a plan to which you may be or become a participant. You don't need to do anything in particular on the 1040, but the code for the employer's participation must be checked on the W-2 data entry for your return. This flags the IRS that you are not eligible for unlimited self-directed retirement plans. If you have your own Traditional or Roth IRA, you may have some restrictions on your contributions based on the employer plan. This is usually of little concern to most members because they usually qualify for their own retirement plans in addition to the participation through their union or other employee jobs.

**Q / What letter do we need to request from agents/managers as proof of commissions/fees?**

Whatever they can provide that shows their business name, describes the representation, and totals the commissions paid during the previous calendar year.

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