Payments to Loan-Out Companies

XR requirements for payments to Loan-Out Companies

- The company must be active and currently registered. Status must be confirmed by a check of the Secretary of State website of the state where the company was organized (created).
- The company must have only a single owner.
  - **Exception**: A married couple (e.g. husband and wife) may both be loan-out employees of the same corporation. A Loan-out Corporation may also consist of multiple members of a band or other performance group.
- The single owner must own all shares of the company.
- The engagement agreement must be with the loan-out company for services of the performer - not with the individual performer.
- XR will only pay the company for the services of that single owner.

Documentation required for payments to Loan-Out Companies

All Corporations need:

- Contract / Engagement Agreement
- Wage Theft Notice (check work state’s guidelines)
- Form I-9 (with SSN Completed and Signed)
- Form W-9 (with FEIN Completed and Signed)

The following Classifications also need:

- Single or Multiple Member LLCs*: The Acceptance Letter form the IRS for Form 8832 or 2553, approving the ‘S’ or ‘C’ corporation election status
- Partnerships*: Partnership Agreement or a recent 1065 Tax Return
- C-Corp or S-Corp: No additional documents are needed, unless the state of incorporation does not supply the required information

* *Only married couples or members of a band or other performance group.*

Note: In certain circumstances, the Articles of Incorporation, Articles of Organization or the Partnership Agreement may be required.

XR cannot pay Loan Out Companies identified by the Internal Revenue Service as:

- Individual
- Sole proprietorships
- Single member LLCs that have not elected to be taxed as a corporation (not filed an 8832 or 2553 form)
- Multiple Member or any entity that is not single owned, unless members are a married couple or a performance group

The IRS has determined that these are “disregarded entities”. We must therefore pay the owners of these entities as individuals subject to ordinary withholding.

The IRS requires that when an employer pays an individual employee for work performed, employment taxes must be withheld and remitted to the IRS. Employers who do not comply with the employment tax laws may be subject to criminal and civil sanctions for willfully failing to pay employment taxes.

Please note that there may be circumstances that even a properly documented loan out company will be subject to state tax withholding. Some states require withholding when a company is a “foreign” company. And some states require withholding when a producer is accessing tax incentives.