

# **Guidelines drawn up under Section 195 (12) of the Taxes Consolidation Act 1997 for the Artists Exemption Scheme by An Comhairle Ealaíon and the Minister for Arts, Heritage and the Gaeltacht.**

## **Introduction**

These Guidelines have been drawn up under the provisions of section 195 of the Taxes Consolidation Act 1997 for the purposes of determining whether a work within a category specified in subsection (1) is an original and creative work and whether it has, or is generally recognised as having cultural or artistic merit.

## **General**

1. Section 195(1) provides that a “work” for the purposes of the section must be both an original and creative work in one of the following categories, namely:
  - (a) a book or other writing,
  - (b) a play,
  - (c) a musical composition,
  - (d) a painting or other like picture,
  - (e) a sculpture.
2. To secure exemption under section 195, a work must be determined by the Revenue Commissioners to be a work which is both original and creative and a work which has, or is generally recognised as having, either cultural or artistic merit.
3. In making a determination under section 195, the Revenue Commissioners may, as provided for in that section, consult with such person or body of persons as may, in their opinion, be of assistance to them.

## **Original and Creative**

4. A work shall be regarded as original and creative only if it is a unique work of creative quality brought into existence by the exercise of its creator’s imagination.

## **Cultural Merit**

5. A work shall be regarded as having cultural merit only if by reason of its quality of form and/or content it enhances to a significant degree one or more aspects of national or international culture.

## **Artistic Merit**

6. A work shall be regarded as having artistic merit only if its quality of form and/or content enhances to a significant degree the canon of work in the relevant category.

## **Criteria for Non-fiction Work**

7. (1) This paragraph specifies criteria, in accordance with subsection (12)(b)(ii) of section 195, by reference to which the questions whether a work, being a non-fiction book or other non-fiction writing, is original and creative and whether it has, or is generally recognised as having, cultural or artistic merit are to be determined.

(2) The criteria are:

- (a) that the work, in the opinion of the Revenue Commissioners, following consultation with the Arts Council, is a work in one or more of the following categories:

- (i) arts criticism,
- (ii) arts history,
- (iii) arts subject work, being a work the subject matter of which is, or is any combination of, visual arts, theatre, literature, music, dance, opera, film, circus or architecture,
- (iv) artists' diaries,
- (v) belles-lettres essays,
- (vi) literary translation,
- (vii) literary criticism,
- (viii) literary history,
- (ix) literary diaries,

that incorporates the author's unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it,

or

- (b) that the work, in the opinion of the Revenue Commissioners, is a work in one of the following categories:

- (i) a biography,
- (ii) an autobiography,

that incorporates the author's unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on the person or by changing the generally accepted understanding of the person,  
or

(c) that the work, in the opinion of the Revenue Commissioners following consultation with the Heritage Council,

(i) is a work related to a function or functions of the Heritage Council as described in the Heritage Act 1995, and

(ii) incorporates the author's unique insight into the subject matter and is regarded as a pioneering work that makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it,

or

(d) that the work, in the opinion of the Revenue Commissioners, relates to archives which are more than 30 years old relating to Ireland or Irish people, is based largely on research from such archives, incorporates the author's unique insight into the subject matter, and is regarded as a pioneering work that makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it,

or

(e) any combination of (a), (b), (c) or (d) above.

### **Types of Works Excluded from the Artists Exemption Scheme.**

8. Notwithstanding anything else in these Guidelines, a work-

(a) shall not be an original and creative work, and

(b) shall not have, or shall not be generally recognised as having, cultural or artistic merit

if, in the opinion of the Revenue Commissioners following, where appropriate, consultation with the Arts Council, it is a work of any of the types or a combination of the types, specified in subparagraphs (i) to (vi) below –

(i) a book or other writing published primarily for, or which is or will be used primarily by-

(I) students pursuing a course of study, or

- (II) persons engaged in any trade, business, profession, vocation or branch of learning as an aid to trade or business related practice, or to professional, vocational or other practise in connection with a trade, business, profession, vocation or branch of learning,
- (ii) any work of journalism, published in a newspaper, journal, magazine, or other similar medium or published on the internet or on any other similar medium,
- (iii) any writing, visual or musical work, or other like work, created for advertising or publicity purposes,
- (iv) any arrangement, adaptation or version of musical composition, or other like work, which is not of such musical significance as to amount to an original composition,
- (v) types or kinds of photographic, drawing, painting or other like works which are primarily of record, or which primarily serve a utilitarian function, or which are created primarily for advertising, publicity, information, decorative or other similar purposes,
- (vi) types or kinds of works of sculpture which primarily serve a utilitarian function.

**The above Guidelines were drawn up by An Comhairle Ealaíon and the Minister of Arts Heritage and the Gaeltacht, with the consent of the Minister for Finance, in accordance with section 195(12) of the Taxes Consolidation Act 1997 and are effective for all determinations made by the Revenue Commissioners on or after 30 November 2013.**