

## **Exemption of Certain Earnings of Writers, Composers and Artists**

### **Part 07-01-10**

This document should be read in conjunction with section 195 of the Taxes Consolidation Act 1997

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## 1. Introduction

Income earned by writers, composers, visual artists and sculptors from the publication, production or sale of their works is exempt from income tax in Ireland in certain circumstances. For the year 2015 and subsequent years the maximum amount of income which is exempt is €50,000 per annum.

## 2. Overview of the scheme

Section 195, Taxes Consolidation Act, 1997 empowers the Revenue Commissioners to make a determination that certain artistic works are original and creative and generally recognised as having cultural or artistic merit.

Earnings derived from such works are exempt from income tax from the year in which the application was made. The exemption does not apply to Pay Related Social Insurance (PRSI) and Universal Social Charge (USC).

Guidelines have been drawn up by the Arts Council and Minister for Arts, Heritage and the Gaeltacht, with the consent of the Minister for Finance, for determining for the purposes of section 195 whether a work is an original and creative work and whether it has or is generally recognised as having cultural or artistic merit. The Revenue Commissioners may consult with a person or body of persons, such as The Arts Council, which may be of assistance to them in reaching decisions in relation to Artists' Exemption. The [guidelines](#) are available on the Revenue website and at the [appendix](#) to this manual.

The scheme provides that the Revenue Commissioners can make determinations in respect of artistic works in the following categories only:

- (a) a book or other writing;
- (b) a play;
- (c) a musical composition;
- (d) a painting or other like picture;
- (e) a sculpture.

To be eligible for a determination under the scheme an individual must be resident or ordinarily resident and domiciled in one or more EU Member States, in another EEA state or in the United Kingdom, and not resident elsewhere.

### 3. How to apply for the exemption

Writers, composers, visual artists and sculptors seeking Artists' Exemption should submit an [application form](#) to the Revenue Commissioners together with samples of their work and any supporting documentation which they consider appropriate.

The following samples and supporting documents are required for each category.

- (a) **a book or other writing** – full electronic version or 3 published copies of the book;
- (b) **a play** – a copy of the script along with a signed production contract;
- (c) **a musical composition** – a link to a download of the music/lyrics or a CD (the individual must be accredited with the music/lyrics) and any other relevant information;
- (d) **a painting or other like picture** – 6 good quality photographs of the works and a brief CV of artistic career to date;
- (e) **a sculpture** – as at (d) above.

Applications should be submitted by email to the Artists' Exemption Unit at [dtadmin@revenue.ie](mailto:dtadmin@revenue.ie)

Alternatively, applications may be posted to:

Office of the Revenue Commissioners  
Artists Exemption Unit  
1<sup>st</sup> Floor New Stamping Building  
Dublin Castle  
Dublin 2  
D02 HW86.

If further assistance is required the Artists' Exemption Unit may be contacted by email or by telephone at +353 1 8589820, 8589825 and 8589832

Applications received are examined by the Revenue Commissioners and where necessary the Revenue Commissioners will consult with appropriate bodies. If the work comes within the legislation and satisfies the criteria set out in the guidelines, the Revenue Commissioners will make a determination and income up to a maximum of €50,000 per annum deriving from the work will be exempt from tax.

A determination generally covers both the original work submitted as well as any future work in the same category provided that the future work comes within the guidelines.

However, a fresh application must be made to Revenue in respect of work produced in a different category and for all non-fiction books. For example, if a determination is granted in respect of category (a) “a book or other writing” and subsequently the individual writes a play, the play must be submitted for a determination in category (b) “a play”.

Any income earned from a work before the tax year in which the application is made is **not** exempt.

#### 4. Types of exempt payments

In addition to income from the sale of works, the following payments also qualify as exempt income, subject to the overall maximum relief figure:

- Arts Council Bursaries for a qualifying work when paid directly to individuals by the Arts Council.
- Residencies when paid directly to the individual by the Arts Council for the purposes of producing a qualifying work. (Income from residencies which relate to teaching art or facilitating other individuals to create works of art or similar type practices do not qualify for exemption.)
- Cnuas payments under the Aosdana Scheme.
- Payments from abroad from the sale of qualifying works.
- Advance royalties (see section 5 below).

#### The following should also be noted:

- For fine art prints and photography, income from limited editions signed and numbered, qualify for the exemption. Reproductions do not qualify.
- Where a sculptural cast is made, income from up to a maximum of 10 reproductions where each one is signed and numbered qualify for the exemption.
- Mechanical royalties paid under a recording contract qualify for Artists Exemption if they derive from a musical composition.

#### 5. Advance royalties

Where an individual receives advance royalties, which are attributed to the subsequent publication of a book or other work, an application must be submitted to Revenue in the tax year in which the royalties are paid, if the advance royalties are to be exempt. Confirmation from the publisher that the book will be published must accompany the application.

Where an application is received in the tax year in which the advance royalty is received, and where a determination has not yet been granted, any tax liability arising on the advance royalty must be paid. If a determination is subsequently granted by Revenue, on publication of the book in a subsequent year, the individual's tax liability will be reviewed, and any overpayment of tax will be repaid. Advance royalties paid before the year of the application are not exempt.

## 6. High Income Individuals' Restriction

With effect from 1 January 2007 artistic income is regarded as a "specified relief" and may be affected by the High Income Individuals' Restriction.

Broadly, the reliefs affected are the various property-based tax incentives and certain other reliefs, which include the Artists' Exemption Relief.

The provision works so that the "specified reliefs" which an individual can use to reduce their tax bill in any one year are limited. The aim of the relief is that individuals who earn over €400,000 will pay an effective rate of income tax of approximately 30% on a combination of adjusted income and ring-fenced income. Those earning between €125,000 and €400,000 will be affected by a partial restriction

Individuals who have income in any one year which does not exceed the threshold amount of €125,000 or who claim total "specified reliefs" of less than €80,000 (which would include exempt artists income) are not affected by this measure.

Detailed information regarding the High Income Individuals' Restriction is available in [Part 15-02A-05](#) of Income Tax Capital Gains Tax Corporation Tax manual.

Individuals in receipt of Artists' Exemption are required to submit a self-assessment tax return by the return filing date for the tax year involved. In addition, individuals affected by the restriction are required to submit a statement on a prescribed form (Form RR1) with their tax return.

## 7. Right of appeal

An individual has a right of appeal if the Revenue Commissioners do not make a determination that a work qualifies for the scheme. An appeal must be made to the Tax Appeals Commission (TAC), by completing and submitting a Notice of Appeal and it must be made no more than 30 days after the expiry of six months after the submission of the original application.

The 'Notice of Appeal' form is available on the TAC's website [www.taxappeals.ie](http://www.taxappeals.ie) and a copy of the refusal notification from the Revenue Commissioners must be submitted with the 'Notice of Appeal'. The TAC can be contacted by email at [info@taxappeals.ie](mailto:info@taxappeals.ie).

The Artists' Exemption Unit in Business Taxes Policy & Legislation Division will deal with all aspects of such appeals. The Tax Appeals Unit will notify the Artists' Exemption Unit of all appeals received. Divisional Offices or Units who become aware of any appeals should notify the Artists' Exemption Unit.

## 8. Release of information under the Freedom of Information Act 2014

Under the terms of the scheme, details of individuals who have received a [determination](#) in respect of their work are published on the Revenue website in accordance with the terms of the Freedom of Information Act.

## 9. Information for Revenue Divisions

The Artists' Exemption Unit process all applications, deal with all enquiries and all appeals regarding the scheme.

Revenue staff receiving queries should inform individuals that details regarding the scheme are available on the [Revenue website](#).

In cases where the exemption is granted, CRS notes will be updated for each individual, by the Artists' Exemption Unit.

An individual who has been granted the Artists' Exemption is still required in all circumstances to submit an annual return of income. In no circumstances should individuals who have been given Artists Exemption be excluded, under section 951(6) TCA 1997, from the obligation to make a return of income.

## Appendix

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-
  - (l) 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.**