

## The Artists Tax Exemption Ireland

27<sup>th</sup> July 2007

The Artists Tax Exemption was introduced in Ireland with the aim to create an environment in which the arts could flourish and to encourage those Irish artists living abroad to return home. Under this unique piece of legislation, income earned by Irish resident artists, writers, composers and sculptors from the sale of their work (books, plays, musical compositions, paintings and sculptures) is exempt from income tax in Ireland. (The exemption only applies to income taxes and does not extend to VAT.) The introduction of the legislation was viewed positively by the arts sector, especially given that most artists, especially those on low incomes have an unpredictable income stream.

The exemption was introduced as part of the Finance Act, 1969 and applies to all creative artists. To qualify artists must meet the residency criteria<sup>1</sup> as defined by the Revenue Commission, who are also given the power under the Taxes Consolidation Act 1997 to determine whether works have artistic or cultural merit and are original or creative.

The Department of Finance Internal Review of tax schemes February 2006<sup>2</sup> states

“It can certainly be argued that the existence of the exemption has:

- helped create an environment in Ireland in which the arts could flourish
- encouraged new artists, and those artists on very low to moderate income to continue in their field, individuals who would otherwise have had to earn their income elsewhere
- encouraged artists living abroad to come and live in Ireland
- generated employment in terms of the support industry that has developed around the more successful artists and
- been beneficial for the arts in Ireland from both an economic and cultural perspective.

It is, however, difficult to measure many of these benefits.”

The Irish Arts Council stated in their review of the policy and it's implications in October 2005 that “The Arts Council is of the view that the Artists' Exemption

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<sup>1</sup> The tests for determination of residence in Ireland, introduced by the Finance Act of 1994 are either that the individual spends 183 days or more in Ireland in the tax year or that the individual spends 280 days in Ireland, combining the number of days spent in the State in that tax year and in the preceding tax year. The Revenue also provide 'advanced opinions' for exemption to artists who are currently living abroad but wish to take up Irish residency in the future. In 2001 there were 10 applications from non-residents.

<sup>2</sup> The Department of Finance, February 2006. Budget 2006: Review of Tax Schemes Volume III: Internal Review of certain tax schemes page E.2

<http://www.finance.gov.ie/documents/publications/other/revtaxreliefsvol3.pdf>

Scheme has made a major contribution to the creative arts in Ireland and delivered considerable socio-economic benefits to the Irish people as a whole.”

## Perceived problems with the tax exemption in Ireland

There are a number of perceived problems relating to the tax exemption.

1. It is estimated the scheme cost the Irish Exchequer €37.1 million in 1999/2000 a figure which has risen from €6.5m since 1994/95.
2. The exemption has no upper limit. Therefore the best rewarded artists under the schemes are those who are already a commercial success. In 2002 the top 26 claimants received a tax rebate of €12.93m from work with an estimated value of €39m. While these figures vary from year to year, in 2002 this rebate represents nearly 57% of the total tax exempted for all 1540 claimants.
3. There is a bias within art forms created by the legislation. As the exemption does not extend to performing artists, for example dancers or actors, they are unable to gain any tax exemption from their artistic output, likewise musicians are unable to benefit from proceeds of their performances. “Arguably, they most ‘deserve’ entitlement as being the group who legitimately must be present in Ireland in order for others to enjoy their work.”<sup>3</sup>
4. Throughout the years of the exemption there has been debate over the stretching of the exemption to cover earnings of journalists and writers of factual texts. The appeals system introduced in 1989 ruled that professional law books and junior certificate texts that contained no new facts or insights did qualify under the exemption as they contained elements of creativity and originality in presentation and commentary. As a result the 1994 Finance Act set out guidelines aimed at returning to the original focus of the exemption and excluding specific works including, study books, journalistic articles, functional sculpture and artistic work created for advertising purposes.

## Review of the tax exemption in Ireland

The Department of Finance Internal Review of tax schemes February 2006 examined the various policy options open to the government in relation to the exemption. The report suggested these options included abolishment of the tax exemption, retaining the exemption or retaining the exemption with a cap on the amount of earnings that may be exempted under the scheme.

Clare McAndrew<sup>4</sup> in her research paper for the Arts Council in England discusses the Irish tax exemption, suggesting that rather than the current exemption system that she views as creating a tax haven for wealthy artists the Irish government should introduce a direct or indirect artists’ subsidy, in order to better aid struggling artists.

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<sup>3</sup> McAndrew, C. December 2002 Artists, taxes and benefits an internal review. Research Report 28. page 44  
[http://www.artscouncil.org.uk/publications/publication\\_detail.php?rid=0&sid=&browse=recent&id=132](http://www.artscouncil.org.uk/publications/publication_detail.php?rid=0&sid=&browse=recent&id=132)

<sup>4</sup> McAndrew, C. December 2002 Artists, taxes and benefits an internal review. Research Report 28.  
[http://www.artscouncil.org.uk/publications/publication\\_detail.php?rid=0&sid=&browse=recent&id=132](http://www.artscouncil.org.uk/publications/publication_detail.php?rid=0&sid=&browse=recent&id=132)

The Irish Arts Council also commissioned a research paper<sup>5</sup> into the Artists exemption scheme when it was under review by the Irish Exchequer. Their belief was that the exemption was supported by the Irish people and that its abolition would necessitate a major refiguring of government policy around arts funding.

Furthermore they suggest repealing the exemption would have negative cultural and socio-economic effects on the nation.

They also counter the idea of subsidy by highlighting that the public good would not be served by transferring from the open market to the Irish government the burden of providing for artists income.

The Irish Arts Council state that rather than contributing to Revenue receipts the removal of the exemption would decrease the tax take from the sector. They estimate the immediate saving to the Irish government would be around €13.3m per annum, but that this would be short lived as while the scheme keeps artistic talent in Ireland it's abolition or the introduction of a cap on non-taxable earnings would lead to an outflow of artists and therefore the benefit to the nation of creative artistic income will fall gradually over time. More importantly the non-exempt incomes of these artists would also be lost. The Irish Arts Council believe that a conservative estimate shows the non-exempt income of artists yield more than €105 m per annum to the Irish exchequer in tax revenues.

By way of counter argument the Department of Finance report states "while places like London, New York and Paris might be regarded as artistic hubs where artists tend to locate themselves for the purposes of being at the centre of their work, it appears that these jurisdictions are not providing any more favourable a tax regime for artists. In the circumstances, in reality, it is impossible to predict how many artists would locate elsewhere if the exemption were terminated."

## **Provision for artists in Northern Ireland**

The Arts Council of Northern Ireland runs a Support for the Individual Artist Programme (SIAP) which includes both locally based projects and international projects.<sup>6</sup>

International awards are given to enable individual artists to travel from Northern Ireland to develop their skills and expertise. Applicants are required to provide evidence of an invitation by a host organization in the destination country.

The ACNI website currently outlines three categories for local awards.

1. General arts awards, which are funded through the National Lottery and may be used for projects, research, artistic development and in some circumstances for materials or equipment. These are open to Artists of all disciplines and in all types of working practice and the maximum award is £5,000.

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<sup>5</sup> The Arts Council October 2005, Artists' Exemption Scheme Budget 2006  
[http://www.artscouncil.ie/Publications/artists\\_tax\\_exemption\\_budget2006.pdf](http://www.artscouncil.ie/Publications/artists_tax_exemption_budget2006.pdf)

<sup>6</sup> <http://www.artscouncil-ni.org/award/award.htm>

2. Major individual awards, which are designed to aid artists of national or international recognition develop extended or ambitious work. Each year one of these awards is discipline-specific.
3. The young musicians platform, which offers awards to young exceptionally talented musicians who have finished graduate level qualifications and are entering the professional world as artists. The financial award will allow for learning abroad.

As these grants involve training and/or research and development they are tax exempt. All other grants available to artists are taxable in the UK.

## **Tax exemptions in other countries**

The Department of Finance report found no evidence of similar artists' tax exemptions existing in other jurisdictions. However it did find some examples of tax supports in other regions, which follow the similar lines to the Irish model.

Other jurisdictions with tax support for artists:

- Artists in the Canadian province of Nova Scotia receive an exemption from rates.
- Artists in the US state of Rhode Island are exempt from state tax on income from sales of their work, however this exemption does not extend to federal taxes.
- A tax treaty between the USA and Germany permits visiting artists and performers to avoid local taxes if income is below US\$ 20,000 a year.

### Scottish Nationalist Party Manifesto<sup>7</sup>

In the manifesto for their successful 2007 election campaign the SNP proposed aiding Scottish artists with an Irish style tax exemption.

#### “Supporting Scottish artists”

The SNP favours the introduction of a limited tax exemption scheme for artists. At present the Scottish Parliament does not have the fiscal powers to deliver this directly. We will therefore introduce a new grant enabling artists to reclaim the cost of the tax paid on work they have sold up to a maximum of £15,000. We will also expand the range of funding options available to artists. As well as non-repayable grants we will introduce a system of loans. A third type of funding will be made available in the form of the government taking a stake in the artist's next work, with the government's share of any profits being reinvested in the creative sector.”

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<sup>7</sup> SNP Manifesto 2007 page 55  
<http://www.snp.org/policies>