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Artist Tax Exemption - easy when you know how . . .

There has been much controversy in recent times about tax exemptions with some calls for the abandonment of the schemes. This is not good news for those who have received or are intending to apply for Artist Tax Exemption. Lobby groups such as the Arts Council and the Sculpture Society are of course advocating strongly for the scheme to be maintained. For those of us struggling to make even a meagre profit the idea of super-rich artists availing of huge tax breaks seems largely irrelevant. Indeed if the current statistics from the Crafts Council are anything to go by the majority of craft based artists have very poor turnover never mind to say profits. The Minister of Finance is currently reviewing the Artist Tax Exemption scheme and while many feel that a ceiling will be placed on exempt income we will have to wait until the end of the year for the outcome of his review. With this in mind, it would seem prudent (if you are eligible for the exemption) to make your application as soon as possible.

After much deliberation and research I made my own application last December. I was surprised when I received notification that my application had been successful only a week later. While the application is still fresh in my mind I decided to save my fellow potters some time by outlining exactly what is required by Revenue in order to gain the exemption, but first the stuff of nightmares - tax law and other delights!

There are many mistruths about this scheme so here are the facts:

- An application must be made in writing to the Revenue Commissioners in Dublin Castle to avail of the exemption; it is not an automatic entitlement if you are a practising visual artist.
- Artist Tax Exemption and Tax Clearance are two entirely different things. The latter is a certificate issued by the Revenue Commissioners stating that your personal tax affairs are in order, it is a requirement when dealing with any government agency, county councils, large corporations etc. Artist Tax Exemption as defined by Revenue means that "income earned by artists (painters), writers, composers and sculptors from the sale of their works is exempt from tax in Ireland in certain circumstances."
- In the case of those of working in clay, we would qualify to apply for our sculptural work.
- "Section 195, Taxes Consolidation Act, 1997 empowers Revenue to make a determination that certain artistic works are original and creative works generally recognised as having cultural or artistic merit. Accordingly, earnings derived from such works are exempt from income tax from the year in which the claim is made." In simple terms this means that in order to avail of the exemption the artist must prove that they have personally created unique one off pieces of artwork which are deemed to enhance the life of those who contemplate them. In other words the work must be of aesthetic value, it must have merit in its own right.
- "The exemption does not extend to the sale of reproductions, commercial work or other spin offs



Orbs by Michelle Maher - example of work which qualifies for Artist Tax Exemption

associated with the work." So if you produce a limited edition of say 50 pieces, only the original piece would be exempt from tax, the other 49 pieces would be subject to normal income tax.

- Only work which is non-functional in nature is eligible for the exemption, so for example if you only create functional tableware you would not be eligible to apply, although if you make sculptures and wall pieces as well as tableware, you could claim exemption for the non-functional work you make. This distinction between functional and non-functional pieces means that many potters are not eligible to apply, the fact that their work enormously enhances the lives of anyone who indeed contemplates it is not deemed to be of artistic merit.
- Claimants for Artists Exemption must be resident, or ordinarily resident and domiciled, in the State and not resident elsewhere.
- You must have sold work through a gallery or shop before you are eligible to apply for the exemption and you must provide proof of the sale. There is only a requirement to give evidence of a single sale. The outlet should write a letter or invoice simply stating that they sold a piece on your behalf for say €300. If you have not sold work through a gallery or shop but have sold work through private commissions, then you need to get your clients to write a letter stating that they commissioned and paid you to create work on their behalf. In the case of sales through small private clients the Revenue requires that you have proof of two separate sales, an invoice for the sales in addition to the letters would be useful.
- It is important to note that you are liable to pay income tax on other sources of income such as income from teaching etc. and that you are only exempt from income tax and not from PRSI and VAT payments. PRSI is due if your income exceeds €3,175 per year and is calculated at 3% of your total income or profit. A further health contribution of 2% is due where annual income exceeds €18,512. At any rate even if you have no income in a tax year there is a minimum annual PRSI contribution of €253 due. PRSI for artists is collected in July of each year and is dealt with by the Department of Social, Community & Family Affairs in Cork Street, Waterford (ph. 051-356000). If your sales/turnover exceeds €51,000 you must register for VAT.
- In order to apply for the exemption you must be registered as self employed (complete Form TR1) with the

Revenue Commissioners. You cannot set yourself up as say a limited company and then claim Artist Tax Exemption. This is not to be confused with registering a business name, which you should do if you trade using anything other than your first name and surname.



Abstract Form by Adrian Wistreich - example of work which qualifies for Artist Tax Exemption

- It is important to note that as a self-employed person with or without Artist Tax Exemption you are obliged to file an annual tax return (Form 11) before 31st October of each year to the Revenue Commissioners, even if you have no tax due. If you are granted Artist Tax Exemption you must keep accounts for your sales and expenses from your artworks separately from your other accounts, and you then declare in Form 11 what your profit was as an exempt artist. Obviously this profit is not subject to income tax but you must still make a declaration regardless.
- If the exemption is granted it is back dated to the beginning of the tax year in which you applied, so for instance if you apply in November 2005, all income derived from your artwork is exempt from January 2005, but not prior to this date.
- If you have previously been granted exemption under a different category for instance as a painter you need to reapply if you are seeking exemption practicing as a sculptor.
- If they do not grant you the exemption you have the right to appeal the decision to an independent body within 7 months of your original application. At any rate you can simply re-apply with new material if you fail in your first attempt.

Once you are satisfied that you are eligible to apply it is vital that you put together a professional application. The Revenue Commissioners often consult qualified third parties to judge the merits of your work so make no mistake you and your work will be under scrutiny so represent yourself well. As with any proposal/application you should make life easy for the reader by providing all the information that is required in a clear, concise and logical way. The application should be preceded by a table of contents and should include the following:

1. A fully completed claim form - Artist 2 which can be downloaded at www.revenue.ie/pdf/artist2.pdf or is available from the Direct Taxes Branch of the Revenue Commissioners in Dublin Castle 01-6475000.
2. Evidence of sale as outlined above, it would be helpful to attach a photograph of the actual piece with the letter from the gallery/client.
3. 8-10 high quality photographs/slides of your sculptural, non-functional work. Do not send them 6 or 12 photos they are very succinct about wanting between 8-10 photographs. Remember to label your photos with title, medium, dimensions etc.
4. Provide a typed up to date artist statement and CV (these can be combined in one document).

5. Additional information to further support your claim is welcomed, for instance a catalogue where your work was featured, details of an award/bursary/residency you received, copy of a newspaper/magazine article written about you. Anything that you feel will convince them that you are an artist of cultural and/or artistic merit.

Your photographs/slides and documentation will be returned to you after they have assessed your application. If you wish to contact the Revenue directly about a claim you can call Marian Murtagh at the Office of the Revenue Commissioners, Direct Taxes Business Income Tax (Artists Exemption) in Dublin Castle her number is 01-6748683, I found her to be very helpful. Their website is also very good www.revenue.ie there is an information booklet available on this site in the leaflets and guide section.

In all honesty it might all sound like a lot of work, but the benefit of being tax free is not a luxury enjoyed by many so it is worth the effort. After all you only have to do this once and then you have the exemption for all works of a similar nature. If you are still apprehensive, think of it like this - we have the ability to make a bag of muck into something beautiful, so compared to this applying for Artist Tax Exemption is easy, especially when you know how.

Michelle Maher

April 2005

Check List for Application

CLAIM FORM ARTIST 2

EVIDENCE OF SALE

8-10 PHOTOGRAPHS/SLIDES

ARTIST STATEMENT & CV

ADDITIONAL INFORMATION

Criteria in Brief

MUST BE SELF EMPLOYED

WORK MUST BE ORIGINAL & CREATIVE

WORK MUST HAVE CULTURAL OR ARTISTIC MERIT

WORK MUST BE NON-FUNCTIONAL

MUST BE RESIDENT IN IRELAND

MUST HAVE SOLD WORK

MUST PAY PRSI & TAX ON OTHER EARNINGS