Filing your taxes FAQs

**DISCLAIMER:**

The following information is provided as a cursory introduction to filing your income tax return as a self-employed artist. IT IS JUST A GUIDELINE. ACTRA Montreal urges you to avail yourself of the services of a qualified accountant if you need help filing your income tax return. ACTRA cannot provide you with more help beyond the information provided here. Many thanks to Frank La Posta, C.A. for providing ACTRA with this information.

**TO INCORPORATE OR NOT TO INCORPORATE**

**When should I incorporate?**

When you have reached top personal tax bracket. Incorporating requires you to keep proper books and records for everything. Being incorporated, you must also pass annual resolutions.

**What are the advantages of incorporating?**

* Lower tax rates.
* Limited liability.
* Can achieve deferral of taxes by paying bonuses.
* Can select your first year end.

**Are there any disadvantages?**

* Increased filing fees.
* Increased professional fees, i.e. legal and accounting.

**What are the advantages of NOT incorporating?**

* No need to maintain the formalities of a corporation.
* You only need to file a personal tax return.

**What are the disadvantages?**

* Higher rates of taxes.

**WHEN TO REGISTER FOR GST/QST**

Whether or not you are incorporated, you MUST register for GST/QST numbers (and collect GST/QST) if you have earned $30,000 (in one year) as a self-employed artist. If you are under $30,000, the decision to register is voluntary. However, if you choose to register, you must comply with the rules like any other registrant.

**WHEN DO I FILE A RETURN?**

**If you ARE incorporated…**
You must file a return within 6 months after the company’s year end at your local tax services office.

**If you are NOT incorporated…**

As a self-employed individual you must file a return by June 15th. However, you must send in your taxes by April 30th. Employees must file a return by April 30th and pay their balance owing by April 30th.

**TIMING OF REMITTANCES**

Whether or not you are incorporated…

* You can file monthly, quarterly or yearly if your gross business income is under $500,000.
* If you file monthly or quarterly, you must pay in the month following the month or quarter end.
* If you file annually and your estimated net sales tax liability is $1,500 or more, you must send quarterly instalments and the final form 3 months after your year end.
* If your net sales tax liability is under $1,500, you may remit the entire amount 3 months after your year end.

**CASH MANAGEMENT & PERSONAL INSTALLMENTS**

If you are registered for GST/QST it is a good idea to take 15% of the money you collected and put it aside in a separate bank account. This will ensure that the money is available when it is time for you to pay your sales tax instalments or your sales tax liability.

When paying your personal income taxes, you should remit instalments on the following dates:

March 15

June 15

September 15

December 15

You will be advised by the tax department every year as to the minimum of each instalment. These minimum instalments are based on your income in the previous year. Keep in mind that if, at the end of the year, your income is higher than the previous year, you will be required to pay the difference when filing your return.

If you are incorporated…

You should be making monthly corporate instalments, due on the last day of each month.

**INPUT TAX CREDITS…WHAT CAN I CLAIM?**

Basically, you can claim Input Tax Credits on all your expenses – necessary to your business as a self-employed artist – except for the following:

* Expenses in which no GST/QST was charged.
* Insurance.
* 50% of meals and entertainment.
* GST/QST on vehicles in excess of $30,000.
* GST/QST on car leases in excess of $800, starting January 1, 2001.

**EMPLOYEE OR SELF-EMPLOYED**

Many factors must be taken into consideration in establishing whether an individual is an employee or is self-employed. The question to be decided is whether the contract between the parties is a contract OF service that exists between an employer and an employee, or is a contract FOR services, that is, the engagement of a self-employed individual. A contract of service generally exists if the person for whom the services are performed has the right to control the amount, the nature, and the management of the work to be done and the manner of doing it. A contract for services exists when a person is engaged to achieve a defined objective and is given all the freedom required to attain the desired result. For example, being engaged by a producer to perform a role in a project.

The determination of whether or not an artist is under a contract of service or a contract for services is a question of fact, and will depend on the nature and the terms of the contract or arrangement (written or oral), its duration, and all the elements that constitute the relationship between the parties.

**REASONABLE EXPECTATION OF PROFIT**

If you are self-employed, making deductions from your income is contingent on your self-employed business having a reasonable expectation of profit. You have to be able to show that being a performer is your career – something that earns you your living, not just your hobby.

Section 9 of the Act provides that a taxpayer’s income for a taxation year from a business (self-employment) is the profit therefrom for the year. The concept of profit is critical in determining whether a taxpayer’s artistic activity constitutes the carrying on of a business or is merely the furtherance of a hobby or interest of the taxpayer that is of a personal nature.

Generally, any undertaking or activity of a taxpayer that results in profits or has a reasonable prospect of profits would be viewed as the carrying on of a business. On the other hand, where the activity has no reasonable expectation of producing profits, a business would not be considered to have been carried on and any losses that resulted would not be deductible for income tax purposes.

The nature of art is such that a considerable period of time may pass before an artist becomes established and profitable. Although the existence of a reasonable expectation of profit is relevant in determining the deductibility of losses, in the case of artists, it is recognized that a longer period of time may be required in establishing that such reasonable expectation does exist.

Factors which will be considered by the Department in determining whether or not an artist has a reasonable expectation of profit include:

**(1)**the amount of time devoted to artistic endeavours;

**(2)** the extent to which an artist has presented his or her own works in public and private settings including, but not limited to, exhibiting, publishing and reading as is appropriate to the nature of the work;

**(3)**the extent to which an artist is represented by an agent;

**(4)**the amount of time devoted to, and type of activity normally pursued in promoting and marketing the artist’s own works;

**(5)** the amount of revenue received that is relevant to the artist’s own works including, but not limited to, revenue from sales, commissions, royalties, fees, grants and awards which may reasonably be included in business income;

**(6)** the historical record, spanning a significant number of years, of annual profits or losses relevant to the artist’s exploitation of his or her own works;

**(7)**a variation, over a period of time, in the value of popularity of the individual’s artistic works;

**(8)** the artist’s qualifications as an artist, as evidenced by education and also by public and peer recognition received in the form of honours, awards, prizes and/or critical .appraisal;

**(9)** membership in any professional association of artists whose membership or categories of membership are limited under standards established by that association (i.e. ACTRA); and the significance of the amount of gross revenue derived by an artist, from the exploitation of that individual’s own works and the growth of such gross revenue over time. In applying this factor, external influences such as economic conditions, changes in the public mood, etc., which may affect the sale of artistic works will be taken into consideration.

**WORK SPACE IN HOME EXPENSES**

Subsection 18(12) restricts the deduction, in computing income from a business, of expenses in respect of an office, studio or other work space in the home of an individual. Such expenses will be deductible only if the work space is either:

**(1)** the individual’s principal place of business, or

**(2)** used exclusively by the artist to earn business income and also used on a regular and continuous basis to meet clients or customers. Expenses otherwise deductible relating to the work space cannot create or increase a loss from the business for which the space is used, but the expenses not allowed because of this restriction in a year are treated as expenses related to the work space incurred in the immediate following year.

This permits the carry-forward of such expenses to the next year providing either condition (1) or (2) above is met in that next year. Where either condition (1) or (2) above is met on a continuous basis such expenses not deductible in a year may be carried forward indefinitely.

**EXPENSES OF EMPLOYED ARTISTS**

An artist who is an employee is not allowed any deductions in computing income from an office or employment, other than those provided in section 8. In particular, paragraph 9(1)(q) allows a deduction for a taxpayer’s expenses paid to earn employment income from an artistic activity that falls into any of the following categories (hereinafter referred to as a “qualifying artistic activity”):

**(1)** creating (but not reproducing) paintings, prints, etchings, drawings, sculptures or similar works of art;

**(2)** composing a dramatic, musical or literary work;

**(3)** performing a dramatic or musical work as an actor, dancer, singer or musician;

**(4)** an artistic activity in respect of which the taxpayer is a member of a professional artists’ association that is certified by the Minister of Communications, now the Minister of Canadian Heritage.

The expenses which can be deducted under paragraph 8(1)(q) cannot exceed a limit for each taxation year. The limit is calculated by taking the lesser of:

**(1)** $1,000; and

**(2)** 20% of all the taxpayer’s employment income for the year, before claiming any deductions under section 8 from all qualifying artistic activities; and then subtracting the amounts deducted for the year, in calculating employment income from those qualifying artistic activities, under paragraphs 8(1)0) (interest or capital cost allowance for motor vehicles or aircrafts) and 8(1)(P) (musical instrument costs).

Any expenses paid in the year to earn employment income from qualifying artistic activities that are not deductible for the year under paragraph 8(1)(q) because they exceed the limit described in paragraph 20 above, and that are also not deductible under any other provision of the Act, are carried forward to the immediately subsequent year by virtue of paragraph 8(1)(q). In the subsequent year, the expenses carried forward plus any new expenses paid in the year (to earn employment income from qualifying artistic activities) are subject to the paragraph 8 (1)(q) limit, as calculated for that year. Again, any non-deductible amount would be carried forward.

**EXPENSES OF SELF-EMPLOYED ARTISTS**

Where an artist is self-employed, the expenses incurred to earn professional income are deductible, to the extent that they are reasonable in the circumstances.

Examples of such expenses are as follows:

**(1)** insurance premiums on equipment;

**(2)** the cost of repairs to instruments and equipment, including the cost of new reeds, strings, pads and accessories;

**(3)** legal and accounting fees;

**(4)** union dues and professional membership dues;

**(5)** an agent’s commission;

**(6)** remuneration paid to a substitute or assistant;

**(7)**the cost of makeup and hair styling required for public appearances;

**(8)**publicity expenses consisting generally of the cost of having photographs made and sent with a descriptive commentary to producers and the media, and including the cost of advertisements in talent magazines;

**(9)** transportation expenses related to an engagement (including an audition) in a situation where

(a) the engagement is out of town, in which case, board and lodging would also be allowed;

(b) a large instrument or equipment must be carried to the engagement;

(c) dress clothes must be worn from a residence to the place of engagement, or;

(d) one engagement follows another so closely that a car or taxi is the only means by which the engagement can be fulfilled.

**(10)** the cost of videotaping or recording performances where required for their preparation or presentation;

**(11)** telephone expenses, including an applicable portion of the cost of a telephone in a residence where the number is listed as a business phone;

**(12)** capital cost allowance (CCA) (class 8 20% declining balance) on equipment;

(a) CCA (class 8- -20% declining balance) on wardrobe that is acquired by the artist specifically to earn self-employment income and that is used solely for performances, when the cost of such wardrobe gives rise to an enduring benefit to the artist;

(b) the cost of wardrobe used solely for performances when such cost does not give rise to an enduring benefit to the artist.

**(13)** the cost of repairs, alterations, and cleaning of clothes for the purpose of their use in self-employment, or required as a result of such use;

**(14)** costs to maintain that part of the artist’s residence used for professional purposes;

**(15)** the cost of acting or other lessons incurred for a particular role or part or for the purpose of general self-improvement in the individual’s artistic field;

**(16)** the cost of industry-related periodicals;

**(17)**where the artist uses a personal motor vehicle to earn self-employed income, they will be entitled to deduct their car expenses; and

**(18)** where, under different contracts or arrangements during a year, an artist is self-employed for one period and an employee for another period and the expenses incurred apply to both periods, an allocation should be made, on a time basis, to determine the portion of expenses which are deductible for purposes of calculating the self-employment income. The amount of expenses so deductible will be that proportion of the total expenses otherwise allowable that the working time to earn income from self-employment is of the total working time. While the Department normally adopts time as the basis for allocating expenses, it will consider any other justifiable basis.

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