

## Income Tax

IMP. 80-3/R5

The fiscal status of an artist working in one of the fields of artistic endeavour covered by the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*

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Reference(s): *Taxation Act* (CQLR, c. I-3), sections 59, 78.4, 80, 752.0.18.3 and 752.0.18.8

*This version of interpretation bulletin IMP. 80-3 supersedes the version of December 28, 2006. The bulletin was revised to take into account the abolishment of the Commission de reconnaissance des associations d'artistes et des associations de producteurs and the transfer of its functions to the Commission des relations du travail as of July 1, 2009.*

This bulletin applies to a person who acts as a host for a variety program or who works as a performer in the following fields: the stage (including the theatre, the opera, music, dance and variety entertainment), multimedia, the making of films, the recording of discs and other modes of sound recording, dubbing, and the recording of commercial advertisements. The work of a host or a performer also includes work done for radio, television, film or video.

This bulletin also applies to a creative artist working in one of the fields of artistic endeavour covered by the *Act respecting the professional status and conditions of engagement of performing, recording and film artists* (CQLR, chapter S-32.1). Section 1 of that Act lists the fields of artistic endeavour covered, which are the same ones specified in the paragraph above. Most of the activities carried on by these creative artists are listed on the website of the Commission des relations du travail (the Commission) at [www.crt.gouv.qc.ca](http://www.crt.gouv.qc.ca).

### APPLICATION OF THE ACT

1. For the purposes of the *Taxation Act* (TA), it is important to determine the fiscal status of an artist. The income computation rules differ according to whether a person is an employee or a self-employed person. Where, in a taxation year, an artist's earnings derive partly from employment and partly from a business, the rules pertaining to each source of income must be applied.

## **EMPLOYEE ARTIST**

2. Artists who are employed in such a capacity must include in computing their income from an office or employment, the salary, wages or other remuneration they received during the taxation year, including all bonuses, in the course of that office or employment. Moreover, under section 59 of the TA, individuals cannot, in computing their income for a given taxation year from an office or employment, deduct any amount except as provided in Chapter III of Title II of Book III of Part I of the TA (sections 59 to 79). Thus, under section 78.4 of the TA, musicians may be entitled to deductions for the maintenance, rental or insurance of a musical instrument used in the course of their employment as well as for capital cost allowance on the instrument (see the current version of bulletin IMP. 130-9).

3. Moreover, section 752.0.18.3 of the TA provides for a non-refundable tax credit specifically for artists. Pursuant to this section, artists may deduct, from their tax otherwise payable for the year under Part I of the TA, an amount in respect of an amount paid by them as annual dues, the payment of which was necessary to maintain membership in an artists' association recognized by the Minister of Revenue on the recommendation of the Minister of Culture, Communications and the Status of Women, to the extent that the individuals have not been reimbursed, and are not entitled to be reimbursed, by the entity to which the amount is paid.

## **SELF-EMPLOYED ARTIST**

4. Artists who are self-employed are considered to be carrying on a business. They must, for the purpose of computing their income from their business, use the accrual basis of accounting, which means that their accounting must be based on revenues and expenses rather than on cash receipts and disbursements. In general, for the purposes of the TA, a taxpayer's income from a business is the profit the taxpayer makes from it. Thus, artists who carry on a business may deduct in computing their income from that business the reasonable expenses relating to their business, other than personal or living expenses and capital expenditures. The current version of bulletin IMP. 128-12 should be consulted in this respect.

5. In addition, section 752.0.18.8 of the TA provides for a non-refundable tax credit in respect of any amount paid by an individual in the year, or payable by him or her in respect of that year, as annual dues, the payment of which was necessary to maintain membership in an artists' association recognized by the Minister of Revenue on the recommendation of the Minister of Culture, Communications and the Status of Women, to the extent that that amount has not been taken into account in determining an amount deducted under that section in computing the individual's tax payable for a preceding taxation year.

## **DETERMINATION OF STATUS**

6. In order to determine the fiscal status of an artist in respect of an engagement (employee or self-employed), the entire context of the relationship between the artist and another party must be examined. The current version of bulletin RRQ. 1-1 should be consulted in this respect.

7. An artist may have the status of employee under one contract and the status of self-employed person under another engagement. However, an artist cannot be an employee and self-employed at the same time under the same contract or engagement.

8. Despite the above rules, an artist referred to in this bulletin who, during a year, has entered into several engagements with one or more producers in that year in a sector of negotiations and in duties defined by the Commission (on the website of the Commission, click on **Registres** and then on **Associations reconnues**) may generally be considered, in respect of these engagements, to be self-employed. Artists who intend to avail themselves of this presumption must consider themselves self-employed for the purposes of any fiscal law administered by Revenu Québec.

9. Moreover, where an artist reports a loss in respect of his or her artistic activity, the Minister of Revenue may rebut the presumption provided for in point 8 above if the facts show that the artist was an employee.