

Income Tax

IMP. 80-5/R5 **Taxpayer working in the field of visual arts, arts and crafts, or literature**
Date of publication: **December 29, 2011**

Reference(s): *Taxation Act* (CQLR, c. I-3), sections 28, 80 and 81

This version of interpretation bulletin IMP. 80-5 supersedes the version of September 29, 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 describes how Revenu Québec determines whether a taxpayer working in the field of visual arts, arts and crafts, or literature is carrying on a business, with regard to certain loss-generating activities.

APPLICATION OF THE ACT

DEFINITIONS

1. In this bulletin,

“arts and crafts” means the production of original works that are unique or in multiple copies, intended for a utilitarian, decorative or expressive purpose and conveyed by the practice of a craft related to the working of wood, leather, textiles, metals, silicates or any other material;

“literature” means the creation and the translation of original literary works such as novels, stories, short stories, dramatic works, poetry, essays or any other written works of the same nature;

“visual arts” means the production of original works of research or expression that are unique or in limited copies and are conveyed by painting, sculpture, engraving, drawing, illustration, photography, textile arts, installation work, performance, art video or any other form of expression of the same nature.

GENERAL

2. As a rule, where a business loss is involved, the existence of a source of income must first be established from a fiscal point of view in order to allow for the deduction of expenses from the related revenue and to determine the extent of the loss that may be deducted in computing either

the income for the year in which the loss was incurred or the taxable income for another taxation year.

3. In order to determine whether a source of income exists, the commerciality of the venture must, as a rule, be established. If there is no personal or hobby element, the commerciality of the venture is conceded and a source of income is established. If there is a personal or hobby element, the commercial intent must be predominant in order to concede the commerciality of the venture and consider that a source of income exists. For more information in this respect, refer to the current version of bulletin IMP. 81-2.

4. Specifically, a taxpayer working in the field of visual arts, arts and crafts, or literature must also be able to establish the commerciality or the predominant commercial intent of his or her venture in order to establish that the business constitutes a source of income.

5. In the field of visual arts, arts and crafts, or literature, commerciality is not necessarily the norm, nor is it the norm under all circumstances, and it is recognized that it may take longer for the business to become profitable compared with other business sectors.

6. In this context, Revenu Québec presumes the commerciality or the predominant commercial intent of a taxpayer's venture in respect of a particular period where the taxpayer, in his or her professional capacity, is a member for that period of an association recognized by the Commission des relations du travail, which was established under section 112 of the *Labour Code* (CQLR, chapter C-27). The presumption is made only with regard to the activities the taxpayer carries out in that capacity during the particular period.

7. A list of the associations recognized by the Commission des relations du travail may be consulted on the Commission's website at www.crt.gouv.qc.ca.

As of the date of publication of this bulletin, the following associations are on the list:

- the Association québécoise des auteurs dramatiques (AQAD);
- the Conseil des métiers d'art du Québec (CMAQ);
- the Regroupement des artistes en arts visuels du Québec (RAAV);
- the Union des écrivaines et des écrivains québécois (UNEQ).