

TAXATION

Some Important Preliminary Advice

1. Find a **good accountant** - one who understands “royalty” accounting principles.

Arts Law Centre can refer and give preliminary free advice to Members
(Telephone: 02 9356 2566)
2. Like any other business, the music business requires you to **keep good records** on what your income and expenses are. It all helps when tax return time comes along - to ensure that you are:-
 - * not evading your tax obligations (even unintentionally); and
 - * only paying the tax you really need to pay - i.e. getting all the deductions you can.
3. Tax Year - 1 July to 30 June
4. If your income in any Tax Year is over \$5,400, you must lodge a tax return.
5. Income Tax, Sales Tax, Provisional Tax (etc.) collected by Federal Government.

BASIC TAXATION PRINCIPLES

How Much Tax Will I Have to Pay? (FOR AUSTRALIANS)

Determined according to what your TAXABLE INCOME is.

Tax is only payable on TAXABLE INCOME.

How is taxable income calculated?

ASSESSABLE INCOME less

ALLOWABLE DEDUCTIONS equals

TAXABLE INCOME (You only pay tax on this figure)

Tax payable at **progressive rates** on that taxable income.

<u>Taxable Income (as at May, 1996)</u>	<u>Tax Payable (as at May, 1996)</u>
NIL to \$5,400	NIL tax
On each \$ of Taxable Income over \$5,400	
Up to a Taxable Income of \$20,700	20 cents in every dollar (i.e. 20%)
On each \$ of Taxable Income over \$20,700	
Up to a Taxable Income of \$38,000	34 cents in every dollar (i.e. 34%)
On each \$ of Taxable Income over \$38,000	
Up to a Taxable Income of \$50,000	46 cents in every dollar (i.e. 43%)
On each \$ over \$50,000	47 cents in every dollar (i.e. 47%)

PLUS A MEDICARE LEVY OF 1.25% OF TAXABLE INCOME

EXAMPLE:	
\$25,000 of Taxable Income Tax Payable is:-	
On the first \$5,400	\$ NIL
On the next \$15,300 up to \$20,700 (20%)	\$3,060
On the next \$4,300 up to \$25,000 (34%)	\$1,462
	—————
TOTAL TAX PAYABLE ON \$25,000	\$4,522

WHAT IS “ASSESSABLE INCOME”? Just about everything!

Includes:-

* **salaries and wages**

- earned as an **employee**

eg. if you are employed and are paid “wages”

(eg. employed to perform at a club/pub on a regular basis; employed to be a back-up muso/vocalist for particular gigs; employed by a recording studio - in-house)

* **most work benefits and allowances**

* **fees for services rendered**

- earned as an independent contractor

(i.e. on a project basis to go in and “do your expert thing” and then “out of there”)

eg. if you are hired as a record producer for specific tracks

* **commissions**

eg. fees/royalties paid under a commissioned music contract

* **royalties and advances** (self-explanatory)

* **grants**

* **prizes won from industry competitions entered AND Prizes related to Your Profession or Occupation (eg. Music Industry Prizes)**

* **most social security receipts** (Including unemployment benefits **unless** it is your only source of income during that tax period)

- * Unearned Income (eg. interest, dividends and rental income)
- * Overseas Income of an Australian eg. Royalties earned in respect of a foreign Territory

BUT not if you have paid tax on that income in that other country - must be able to show this. (i.e. Not Double Taxation)

This is where a good accountant (who understands royalty accounting) is invaluable!

BUT NOT

- * **Gifts or Loans**
- * **Prizes received by chance (eg. Lotto wins)**

WHAT DEDUCTIONS CAN BE CLAIMED AS ALLOWABLE DEDUCTIONS?

Any expense which is

- **incurred in gaining your ASSESSABLE income**

OR

- **in carrying on a BUSINESS (as an INDIVIDUAL or in PARTNERSHIP) with a view to profit.**

BUT

- * **must actually be incurred** (i.e. you must have actually paid money out)

AND

- * **must have a valid receipt/record** for that expense to back up your claim.
- * **NOT private expenses**
- * **APPORTIONMENT** is possible (eg. where your TELEPHONE is used partly for your income generating activities and partly for private purposes)

* **SUBSTANTIATION** of Deductions is necessary

Invoices and Receipts are necessary for most “expenses” except for some
(eg. expenses of \$10.00 each up to a total of \$200 - **a diary entry is sufficient**)

Substantiation Rules can vary depending on the type of deduction.

Generally, you should have an invoice/ receipt which contains details of:-

- * the date of payment
- * who was paid
- * the amount paid
- * what the payment was for

2. TYPES OF ALLOWABLE DEDUCTIONS

(a) Capital Expenses

(b) Recurrent Expenses

1. **CAPITAL EXPENSES**

- eg. For purchase of equipment, instruments, midi-systems etc.
- is an expense of a capital nature
- cost must be **spread out** over a number of years (based on the loss of value in each year)
- called "**depreciation**"
- eg. equipment costing \$2,000 can be deducted from your income at \$400 per year over 5 years
- **check with accountant for current depreciation rates**

2. **RECURRENT EXPENSES** - Are **FULLY** deductible in year of income

Examples

- **Agent's fees/commissions**
- **Cost of Books** related to your profession (eg. Music Business!!)
- **Commissions** - eg. paid to your Managers (eg. under your management agreement)
- **Cost of seminars and Lessons** etc. related to your profession
- **Demo Tape** costs
- **Photography/Video** & other recording or **promotional** tool for you and your work
- **Hire charges** - eg. studio hire charges, (for recording/mixing etc.) and equipment hire costs
- **Insurance Premiums** - for You and Your equipment (esp. when on tour)

- **Interest charges on loans** related to funding your business costs (eg. to buy your business equipment)
- **Legal expenses** - for your music professional activities (eg. advice on record contracts - BUT NOT for buying your house)
- **Subscriptions to Professional Organisations** (eg. subscription/ membership fees for Musicians Union/ MEAA etc.)
- **Travel and Accommodation Costs within Australia and Overseas** (for You, Your Manager (subject to contract - i.e. if your Manager's costs for such travel related to You are payable by you under your contract then You can deduct) and any other persons who must come along to enable you to earn your income) - **but only if** it is for the purpose of gaining income or carrying on a business

AND

must be able to **substantiate** the expense being claimed

- **royalties and fees paid to others** for use of material/works.

HOBBYIST OR PROFESSIONAL

Deductions only available against income earned if you are classified a "professional". Useful as it allows the deductions to be off-set against all of your other assessable income.

Problem for those who keep "regular" salaried jobs to help them maintain their profession as musicians/performers.

Each case judged on its merits.

Tax Commissioner looks at:-

- * Do you perform regularly?
- * Do you perform with a view to make a profit in the long term?
- * Have you trained/qualified or undertaken specific education relevant to your musical “profession”?
- * Are you keeping proper work diary, records and books (like any other business)? (i.e. acting in a business-like manner).
- * Have you consistently submitted tax returns detailing your income from your music activities as well as other sources?

You can always OBJECT if a Tax Commissioner disallows your claim as a “professional”. BUT GET ADVICE ON HOW TO DO THIS (from your accountant or lawyer)

INCOME AVERAGING FOR ARTISTS, COMPOSERS, PERFORMERS (etc.)

- A **special scheme** especially for certain classes of “eligible persons” including musicians, performers, composers, artists, writers.
- recognises the **inconsistent and fluctuating nature of income** for such persons on a year to year basis.
- Applies only to **individuals** (with limited exceptions)
- Calculates how much of the income in a good year is, in effect, “abnormal or above average” for that person (based on average income for prior years) and calculates tax payable on that “extra” amount in a special way so as to reflect the fact that in the previous year(s) and the subsequent year(s) he/she has and will earn less income - i.e. the income will go back to its more “normal” range.
- **YOU** need to **APPLY** to the Tax Commissioner for this special scheme.

A GOOD ACCOUNTANT NECESSARY

OBLIGATION TO PAY TAX

1. INDIVIDUALS

(a) Employee

The employer must deduct tax from your income earned as an employee.

(b) Individual Contracted for a one-off Gig/Performance/Job

If the payment is under a contract which is **principally for the labour of an individual then**, even if NOT an employee, **PAYE tax must be deducted** by the party paying you. **This catches most individual performers/musicians.**

(c) Individual Carrying on a Business

Tax not deducted by the Party paying your **FEE** - Tax payable by the **INDIVIDUAL** on the Taxable Income (i.e. after allowable deductions have been deducted)

2. PARTNERSHIPS (eg. Bands - often in partnership)

- Partnerships are made up of 2 or more individuals carrying on a business with a view to profit.
- Partnerships NOT taxed per se

BUT

Must lodge a Tax Return

- Partnership income divided amongst the partners - **EACH PARTNER** then pays personal income tax on their share of the income received.
- Payments made by others to a Partnership do not have tax deducted.

(i.e. If a Band in partnership (with business name etc.) then the **Party paying the fees (etc.) for performances (etc.) does not deduct PAYE tax**)

3. COMPANIES

- Taxed as a **separate legal entity** (as distinct from the company's shareholders) - **different rates of tax apply**
- A Company **must lodge a Tax Return**
- **Dividends paid to Shareholders** - Dividends become "Assessable Income" in hands of Shareholder and are taxed (again) - Tax payable by Shareholder.

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TYPES OF ALLOWABLE DEDUCTIONS

- (a) **Capital Expenses** - “depreciation” principles apply.
- (b) **Recurrent Expenses** - can be fully deducted in the taxable income year in which they were incurred.