



## TAXATION OF NON-RESIDENT ENTERTAINERS

1. Non-resident entertainers are:
  - (a) Actors, entertainers, musicians, singers, dancers, comperes or other artists, whether alone or in a group.
  - (b) Sportspeople and athletes.
  - (c) Lecturers and speakers.
2. A non-resident entertainer can be an individual, company, partnership, trust or any other entity. (People who work behind the scenes, such as crew or directors are treated as contractors, not entertainers.)
3. There is an exemption from New Zealand income tax for payments to non-resident entertainers who meet specified requirements (see below).
4. Non-resident entertainers who do not meet the specified requirements will have withholding tax deducted from payments, unless they are entitled to tax relief under a double tax agreement.
5. The Inland Revenue Department requires a non-resident entertainer who is entitled to an exemption under NZ tax law, or to tax relief under a double tax agreement to apply for a tax waiver. The application, setting out the details, can be either be e-mailed to the non-resident entertainers unit at [nr.entertainers@ird.govt.nz](mailto:nr.entertainers@ird.govt.nz), or posted to PO Box 5542, Auckland.

### **Withholding tax on payments to non-resident entertainers**

6. A payment to a non-resident entertainer is a schedular payment from which tax must be withheld under the Pay As You Earn (PAYE) rules. Tax must be withheld at the rate of 0.20 on the gross amount of a payment to a non-resident entertainer, who
  - (a) Undertakes *specified activities*; and
  - (b) Does not meet the requirements for *specified exclusions*.
7. The specified activities are: an activity or performance connected with:
  - (a) A sporting event or competition.
  - (b) Making speeches of giving lectures or talks for any purpose.
  - (c) Acting, singing, playing, music, dancing, or entertaining generally, for any purpose and whether alone or not.

8. The specified exclusions are any of the following:
- (a) The non-resident entertainer is fully or partly sponsored under a cultural program of an overseas government or the Government of New Zealand.
  - (b) The non-resident entertainer is an official representative of the body that administers a game or sport in overseas countries.
  - (c) The nonresident entertainer is undertaking an activity or performance under a program of a foundation, trust organization outside New Zealand that exists for the promotion of cultural activities and is not carried on for the individual profit of the member or shareholder.
9. If the non-resident entertainer is an employee, officer, or principle of a company, firm or other person, the reference to “non-resident entertainer” in the above requirements includes the company, firm or other person.
10. The withholding tax at the rate of 0.20 applies regardless of whether the payment is to:
- (a) The non-resident entertainer.
  - (b) An agent of the non-resident entertainer.
  - (c) To a person acting on behalf of the non-resident entertainer.

[Sections RD 8(1)(a)(i), RD 3(1)(a)(iii), RD 10(3) & Schedule 4 Part F]

### **NZ tax exemptions**

11. Income of a non-resident entertainer from carrying out their activity or performance during a visit to New Zealand is exempt income if any one of the following criteria is met:
- (a) The activity of performance occurs under a cultural program of the New Zealand government or an overseas government.
  - (b) The activity or performance occurs under a cultural program wholly or partly sponsored by the New Zealand government or an overseas government.
  - (c) The activity or performance occurs as part of a program of an overseas foundation, trust or other organization that–
    - (i) Exists wholly or partly to promote cultural activity; and
    - (ii) Is not carried on for the private pecuniary profit of any member, proprietor or shareholder.
  - (d) The activity or performance relates to a game or sport in New Zealand and the participants are official representatives of the body that administers the game or sport in an overseas country.

12. If the income derived by a non-resident entertainer would be exempt on the basis of one of the above criteria, then that income is also exempt if it is derived by the person who provides the services of a non-resident entertainer during their visit to New Zealand and who is one of the following:
- (a) The entertainer's employer.
  - (b) A company of which the entertainer is an officer.
  - (c) A firm of which the entertainer is a principle.
13. For the purposes of this exemption, a non-resident entertainer is defined as a person who carries out an activity or performance in connection with any of the following:
- (a) A solo or group performance by actors, comperes, dancers, entertainers, musicians, singers, or other artists, whether for cultural, educational, entertainment, religious, or other purposes.
  - (b) Lectures, speeches, or talks for any purpose.
  - (c) A sporting event or sporting competition of any nature.
- [Section CW 20]

#### **Exemptions under double tax agreements**

14. Around 15 of the 38 double tax agreements NZ has entered into, contain provisions that exempt a non-resident entertainer or sportsperson from tax in New Zealand in specified circumstances.
15. A number of the double tax agreements provide for an exemption from tax for income derived by an enterprise of a non-resident entertainer or athlete, where that enterprise is substantially supported by public funds of the other Contracting State. The double tax agreements with the following countries provide for this: Canada, France, India, Indonesia, Korea, Malaysia, Mexico, the Philippines, Singapore, Turkey and the United Arab Emirates.
16. Other double tax agreements provide that income derived by an entertainer or sportsperson that accrues to a non-profit entity will be exempt from tax in NZ. The double tax agreements with the following countries provide for this: Austria, Canada, France, Korea and the Philippines.
17. It can be seen from the above that agreements with a few countries provide for an exemption in both the above cases: Canada, France, Korea and the Philippines.
18. The double tax agreements with China and Norway provide for an exemption for income from activities that take place under an arrangement of cultural exchange between the governments of the Contracting States.
19. The double tax agreement with the US provides for an exemption from NZ tax on income derived by a US entertainer or an athlete from personal activities exercised in NZ, if the gross receipts, including expenses reimbursed, does not exceed US \$10,000. The IRD has stated that this exemption will not apply if the gross proceeds exceed US \$10,000, in which case, the entire gross receipts will be taxable in NZ.

20. The double tax agreement with the US also provides for an exemption from NZ income tax for income that accrues to a person other than the entertainer, if neither the entertainer nor any persons related with them participate directly or indirectly in any profits of that other person in any manner whatsoever.
21. Finally, the double tax agreement with Australia provides for a special exemption, that speaks for itself, for “income derived in respect of personal activities exercised by a sportsperson as a member of a recognized team regularly playing in a *league competition* organized and conducted in both Australia and New Zealand, except in respect of performance as a member of a national representative team of either Contracting State, in which case the provisions of Article 7 (Business profits) or Article 14 (Income from employment) as the case may be, shall apply.”