

## Information Bulletin

### Tax Information for Overseas Touring Artists performing in Austria—Sales/VAT Taxes and Withholding Tax Regimes

#### General

**Austria** provides for certain exemptions, under its various double taxation agreements, for cultural activities and activities by non-profit organizations as well as providing a threshold of US\$20,000 or the Euro equivalent and also a partial refund procedure in the key United States Double Taxation Agreement.

VAT on ticket sales is now 13% (up from 10%) with show costs subject to varying rates from 10%, 13% up to 20%.

Withholding tax is levied on Artist earnings from touring revenue generated in Austria at a rate of 20%. Some of the double taxation agreements entered into by Austria provide that income accruing not to the entertainer but to a non-resident third party, can be exempt from withholding tax, where it can be shown that the Artist does not participate directly or indirectly in such receipts or profits.

It is certainly preferable in this regard to prepare split contracts between the local promoter and the independent production company, on the one hand, and the Artist company on the other. It is also of paramount importance to provide the appropriate production cost documentation to support any such claim exemption.



#### Sales Tax/VAT Rates in Austria

The following are the VAT (**Mehrwertsteuer**) rates applicable to touring activities in Austria:

- Ticket Sales – 13% divisive tax
- Costs – 20% (certain costs are at the lower 10% and 13% rates)
- Merchandise
  - Standard – T-Shirts etc. 20%
  - Books 10%
  - Programs 10%

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## Withholding Tax Rates in Austria

Artist Fees	20%	
Production Fees	0%	
Promotion Fees	0%	
Royalties	10% (Film)/0%	(United States)
Royalties	0%/10% (<50% ownership)	(United Kingdom)

### Double Taxation Treaties

#### Austria—United States

The Austria-United States Tax Treaty has a section (Article 17) devoted to income derived by Artistes and Athletes. The Article is transcribed below and provides for withholding tax to be levied, except where the amount of the gross receipts derived by the Artist, including expenses reimbursed to him/her or borne on his/her behalf from such activities, does not exceed US\$20,000 or the Euro equivalent, for the taxable year concerned. This also applies where the income accrues not just to the entertainer but also to a non-resident third party in certain circumstances, unless it can be shown that the Artist does not participate directly or indirectly in such receipts or profits. Note also the refund procedure in Paragraph 3 of the Article.

The full Article reads as follows:-

#### Article 17 – Artistes and Athletes

1. Notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his or her personal activities as such exercised in the other Contracting State, may be taxed in that other State, except where the amount of the gross receipts derived by such entertainer or athlete, including expenses reimbursed to him or her or borne on his or her behalf, from such activities do not exceed twenty thousand United States dollars (\$20,000) or its equivalent in Euros for the taxable year concerned.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his or her capacity as such accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services) and 15 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. The preceding sentence, shall not apply if it is established that neither the entertainer or athlete, nor persons related thereto, participate directly or indirectly in the profits of such other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions or other distributions.
3. Where, in cases other than those dealt with in the first sentence of paragraph 2, payment in respect of activities exercised by an entertainer or an athlete in his or her capacity as such is made not to that entertainer or athlete but to another person, that payment may, notwithstanding the provisions of Articles 7 (Business Profits), (Independent Personal Services), be subject to a withholding tax in the Contracting State in which the activities of the entertainer or athlete are exercised; upon request of that other person the withholding tax shall be refunded insofar as the amount of tax withheld exceeds the tax liability of the entertainer or athlete as determined under Paragraph 1. Refund claims must be accompanied by documentation required by that Contracting State.

## Double Taxation Treaties (continued)

### United Kingdom – Austria

The Austria - United Kingdom Tax Treaty has a section (Article 17) devoted to income derived by Artistes and Athletes. The Article is transcribed below and provides for withholding tax to be levied by the State in which the activities of the Artist are exercised. Again, as with the Austria - United States Tax Treaty, this also applies where the income accrues not just to the entertainer but also to a non-resident third party. However, there are no provisions, as in the United States Treaty, which would exclude such amounts from withholding tax on the Artist.

Note, however, that paragraph 3 of the Article provides for an exemption from withholding tax where the activity is performed under a cultural agreement or arrangement between the Contracting States or is derived by an approved non-profit making organisation.

The full Article reads as follows:-

#### Article 17 - Artistes and Athletes

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived from activities as defined in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States or derived by a non-profit making organisation accepted as such on application to the competent authority of the Contracting State of which it is a resident under Article 27 of this Convention, or by an entertainer or athlete in respect of services provided to such an organisation shall be exempt from tax in the Contracting State in which those activities are exercised.

*“The Austrian Double Taxation Treaty with the United States provides an earnings threshold of US\$20,000 or Euro equivalent below which income earned on activities in Austria is not taxable for non-resident Artists/Entertainers for the relevant taxable year”*



***tmi business management*** — providers of *Financial and Taxation Services to International Touring Artists*

*We are based in Ireland, with associates in The Netherlands and Canada.*

*If you would like some more information please contact our President, Philip Brennan, directly using the contact details provided.*

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*Philip*

The enclosed taxation information is for the user's guidance only. The information is designed to outline certain tax rates and tax issues in the countries concerned. It is not intended to be a definitive guide to action but should you need more information or more advice please do not hesitate to contact us at the details noted above. We hope you will find this information helpful.

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