

## Information Bulletin

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

#### General

France provides for certain exemptions, under its various double taxation agreements, for activities mainly supported by public funds as well as providing a threshold of US\$10,000 or the Euro equivalent in the key United States Double Taxation Agreement.

VAT on ticket sales is 5.5% with show costs subject to varying rates from 2.1%, 5.5%, 10% on up to 20%.

Withholding tax is levied on Artist earnings from touring revenue generated in France at a rate of 15%. The United States treaty provides 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. This does not apply to the United Kingdom treaty but the on the ground treatment is to provide relief also to United Kingdom artists.

It is 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 and of paramount importance to provide the appropriate production cost documentation to support any such claim exemption.

Note that there are numerous other taxes and social charges levied on Artist fees and sometimes crew fees where social security forms are not provided for all staff.



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#### Sales Tax/VAT Rates in the France

The following are the VAT rates applicable to touring activities in France:

- Ticket Sales – 5.5% (divisive tax) Note that ticket sales are also subject to 3.50% Parafiscale and 0.16% Organic Taxes
- Costs – 20% (certain costs are at the lower 2.1%, 5.5% and 10% rates)
- Merchandise
  - o Standard – T-Shirts etc. 20%
  - o Books 5.5%
  - o Programs 5.5%

## Withholding Tax Rates in the France

|                 |     |  |
|-----------------|-----|--|
| Artist Fees     | 15% | (In most cases a 10% deduction is also provided in the taxable amount) |
| Production Fees | 0%  |  |
| Promotion Fees  | 0%  |  |
| Royalties       | 0%  | (United States)  |
| Royalties       | 0%  | (United Kingdom)   |

### Double Taxation Treaties

#### France—United States

The France-United States Tax Treaty has a section (Article 17) devoted to income derived by Artistes and Sportsmen. 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 or borne on his behalf from such activities, does not exceed US\$10,000 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 that detailed production costs backup needs to be provided to support the exemption.

Note also the exemption for projects supported by public funds of the Artiste's or Sportsman's state of residence.

The full Article reads as follows:-

#### ARTICLE 17 Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 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 a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. However, the provisions of this paragraph shall not apply where the amount of the gross receipts derived by such entertainer or sportsman from such activities, including expenses reimbursed to him or borne on his behalf, does not exceed 10,000 United States dollars or its equivalent in euros for the taxable period concerned.
2. Where income in respect of personal activities exercised by an entertainer or sportsman in his capacity as such accrues not to the entertainer or sportsman but to another person, whether or not a resident of a Contracting State, 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 sportsman are exercised. However, the provisions of this paragraph shall not apply where it is established that neither the entertainer or sportsman nor persons related to him derive from that other person any income, directly or indirectly, in respect of such activities that in the aggregate exceeds the amount specified in paragraph 1 for the taxable period concerned.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived by a resident of a Contracting State as an entertainer or a sportsman from his personal activities as such exercised in the other Contracting State if the visit to that other State is principally supported, directly or indirectly, by public funds of the first-mentioned State or a political subdivision (in the case of the United States) or local authority thereof. In such case the income shall be taxable only in the first-mentioned State.

## Double Taxation Treaties (continued)

### United Kingdom – France

The France - United Kingdom Tax Treaty has a section (Article 17) devoted to income derived by Artistes and Sportsmen. 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 France - United States Tax Treaty, this also applies where the income accrues not just to the Artiste or Sportsman but also to a non-resident third party. There are provisions, as in the United States Treaty, which would exclude such amounts from withholding tax on the Artiste or Sportsman where such activities are supported by public funds from the Artiste's or Sportsman's state of residence. The earnings will then only be taxed in that State of residence.

There is no de minimis earnings limit.

However, the practical on the ground treatment provides for exemption for production costs on the same basis as the United States treaty where detailed production costs backup is provided.

The full Article reads as follows:-

#### ARTICLE 17 Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7 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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13, 15 and 23, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State as an entertainer or a sportsman from his personal activities as such exercised in the other Contracting State shall be taxable only in the first-mentioned State if those activities in the other State are supported mainly by public funds of the first-mentioned State, local authorities of that State or statutory bodies of that State or of a local authority of that State.
4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or a sportsman, who is a resident of a Contracting State, in his capacity as such in the other Contracting State accrues not to the entertainer or sportsman himself but to another person, that income, notwithstanding the provisions of Articles 7 and 15, shall be taxable only in the first-mentioned State, if that other person is supported mainly by public funds of the first-mentioned State, local authorities of that State or statutory bodies of that State or of a local authority of that State.

*“The France Double Taxation Treaty with the United States provides an earnings threshold of US\$10,000 or Euro equivalent below which income earned on activities in France is not taxable for non-resident Artistes/ Sportsmen 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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