

WRITERS & ARTISTS EXEMPTION

Why was it brought in?

To encourage the development of art and culture in Ireland. Only original work with an artistic or cultural merit is exempt.

Has it succeeded?

Yes. Ireland has a strong reputation for producing and nurturing artistic talent in the areas of literature, visual arts, sculpture, theatre and music. The most recent Bord Failte tourism material calls Dublin a 'culture capital' and refers to the fact that it has produced 4 Nobel Prize winners for Literature.

Why should it be scrapped?

Because everyone should pay income tax.

Why should it be retained?

Because artists **do** pay income tax and PRSI and although certain areas of their income may be tax exempt under the current scheme by no means all of their income is exempt.

The income stream for artists and writers is erratic and unpredictable and not easily adjusted for seasonal variations which means that annual assessment is not usually a fair method of assessing income over a longer period.

Artists and writers themselves feel an enormous responsibility towards the sectors which distribute their work and are acutely aware that the livelihoods of people in those sectors depend on them. The exemption is, for most writers and artists, an acknowledgement of that fact.

What is the benefit to the economy if it is scrapped?

An as yet undetermined additional take to the tax net.

What is the benefit to the economy if it is retained?

- A continuing cultural and tourism link to Ireland as a destination where creativity is valued.
- A domestic publishing sector which, supported by the revenues accrued by higher-earning writers, is able to continue to publish non-mainstream works by

lesser known writers thus enhancing our cultural reputation

- A domestic print sector which is supported by domestic publishers
- Employment in both of those sectors remaining at current levels if not increasing. Over the past 3 years two overseas publishers have also set up business in Ireland because of the talent pool of creative writers here

What are the benefits to writers and artists if the exemption is scrapped?

The media will stop calling them spongers and threatening to 'reveal' them as though they were availing of a tax loophole instead of a legitimate relief.

What are the specific benefits to writers if the exemption is retained?

- The knowledge that they do not have to sell millions of books to be able to earn a living writing them. A writer earns an average of 45 cent per book published.
- All writers are self-employed people. Their income derives solely from their creative talents and they therefore rely completely on their own ingenuity and creativity to earn their living. They do not receive holidays or time off or sick pay. The exemption helps to recognise this.
- Most writers have second careers as they do not earn enough from writing to support themselves. Retaining the exemption means that income from writing is not added to other income thus pushing someone into a higher tax bracket. It acknowledges the huge amount of personal time already spent by writers in perfecting their craft. Those who earn their living solely from writing are aware of how precarious their income is.

How do writers earn money?

Writers receive payment for their work in two ways:

- By advances against royalties and then royalties after the work is published
- By royalties after the work is published with no advance payment

Since it can take anything from 6 months to 5 years (and sometimes even longer) to produce a novel the writer's stream of income can be erratic. If, after the novel is published, it does not sell particularly well, the stream of income can be minimal. Even if the novel does sell well, the proportion of the proceeds generated which goes to the writer is extremely small. Advances against royalties, while given at the start of the writing process, may take over ten years to 'earn out'. Therefore money given at the beginning of the process may be amortised over a considerable period of time following that.

Case Study

A novelist signs a contract for 2 books. The value of the contract is €100,000 (generally reported in the press as a 'six figure sum which can lead the reader to assume a much greater value!) but certainly a reasonable sum in most people's eyes. This is therefore a contract worth €50,000 per book.

The standard terms of the contract are: 1/5 of the contract price paid on signing, 1/5 on acceptance of the first manuscript, 1/5 on publication of first book, 1/5 on acceptance of second manuscript, 1/5 on publication of second book. Therefore the writer is going to be paid in tranches of €20,000.

On 1 January Year 1 she receives €20,000.

On 1 December Year 1 the manuscript is accepted for publication and she receives another €20,000.

On 1 January Year 2 the publishers confirm publication date for Year 3. The author receives no income in Year 2.

On 1 January Year 3 author receives the third tranche of €20,000.

On 1 January Year 4 she delivers the second manuscript and receives €20,000

On 1 January Year 5 she receives the final €20,000 when the second book is published.

So she has received €40,000 in Year 1, €0 in Year 2, €20,000 in Year 3, €20,000 in Year 4 and €20,000 in year 5.

The average industrial wage is €27,000 which, over five years, equals €135,000 which is higher than the writer has received.

If the books do not sell enough to cover the cost of the advance, the writer may have to return the unearned advance (if the publisher decides not to reprint the book) or it may be set against the next contract (if any) or it may continue to be set against royalties for the lifetime of the printing of the book.

Of course the worker on the average industrial wage is paying income tax and PRSI.

The writer is also paying PRSI. However she does not have paid holidays or sick leave entitlements as the worker does and she is acutely aware that it is her own creativity that is paying the bills. If, for some reason, she is unable to write, she will not earn any money. If she misses a deadline she may have to return a portion of the advance (although if the exemption is abolished she have paid tax on money that she no longer has.) She also has to engage in careful financial planning so that she has income to live on in Year 2 when she receives no income at all. She is also aware that to 'earn out' the advance the book will need to sell over 100,000 copies over the lifetime of its print run.

It is, of course, possible that publication happens more quickly and that the income stream above could be concentrated into a shorter time frame. In this case the writer could receive the total contract value of €100,000 in 3 years which would be a better outcome. Equally, because of the time it takes to write or issues within the publishing industry, the 5 year stretch could turn out to be even longer. Thus it is difficult for the writer to be assured of a certain income level each year. There may be one very good year followed by two lean ones. In which case how will the tax authorities treat an annual income of €50,000 followed by two years of no income at all? The writer can hardly be considered as being 'unemployed' during that period since there is a contract in place but her resources will be very limited.

There is also the situation where the writer does not receive any advance and therefore does not receive any money until after the book is published. Publishers pay royalties 6 months in arrears and so, having spent a year writing the book and perhaps a further year while it is with the publisher, it will be another six months before the writer sees any money. In this case can the writer set the monies then received against the years of actually working on the book when she wasn't getting any income?

This is why writers like the exemption. At least they know that when they receive the money it is theirs to spend without having to engage in complicated tax planning procedures to amortise their income over the time spent writing the book (and possibly receiving no income) and the period of time when the book is being sold and thus generating income. They do not have to spend time assessing how much money they spend on utilities and other expenditure that can be offset against their eventual taxable income.

What impact will scrapping the exemption have on writers?

- If most writers are also PAYE workers and income from their artistic work is added to that, then there is very little incentive to write anything since the return for the effort involved is simply not worth it.
- For higher earning writers, it will be necessary to engage in more detailed tax planning and contract negotiations to take account of the resources expended in supporting writing at home and attempting to smooth their income over a number of years. The possible introduction of a cap on exempt earnings will probably only leave a writer more in the firing line of media intrusion; because to have any impact it would have to be set at a high level which would probably generate further dissent from those who do not believe the exemption is worthwhile in the first place. Additionally, there would have to be clarification with regard to the years when income is below the level of the cap against years when income exceeds it. Can one be offset against the other? If not, this is unfair. If so, it is very complicated.
- For those extremely highly paid writers and artists who already have expert tax planning advice the choice will be to relocate as other high-income individuals and entrepreneurs have done before.

Conclusion

- This exemption was not brought in to help 'struggling' artists. It was brought in to encourage the arts. It has achieved this. Scrapping it will bring in limited income to the exchequer and will alienate those people for whom it has been a real benefit.
- More work needs to be done on the actual cost of this exemption to the exchequer at the moment, the likely increase in tax to the exchequer in the future and the ramifications for the artists concerned were the scheme to be changed. It is not reasonable to make immediate changes based on no information.
- If it is concluded that the benefits of scrapping the exemption outweigh the merits of keeping it, then a detailed consultation with the relevant representative bodies should take place before any changes are made.
- At the very least, a lead in period of 3 to 5 years should be put in place to enable artists and writers to plan their tax affairs for the future, as many

will have commitments and outgoings based on a level of income which would be unrealistic in a different taxation environment.

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