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Artists, taxes and benefits

an international review

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List of acronyms

AbaF Australian Business and Arts Foundation

ABN Australian Business Number

AB Algemene Bijstandswet, National Assistance Act, Netherlands

AK Arbeitskreis Kultursponsoring

AM ArbejdsMarkeds, Labour Market Contribution, Denmark

ANAT Australian Network for Art and Technology

ANW Algemene Nabestaandenwet, Widows and Orphans Benefit, the Netherlands

AOW Algemene Ouderdomswet, Old Age Pension, the Netherlands

ATO Australian Tax Office

ATP Arbejdsmarkedets Tillægspension, Labour Market Supplementary Pension Scheme, the Netherlands

AUD Australian Dollar

AWBZ Algemene Wet Bizondere Ziekosten, the Exceptional Medical Expenses Benefit, the Netherlands

BAS Business Activity Statement, Australia

BKVB Fonds voor Beeldende Kunsten, Vormgeving en Bouwkunst, Fund for Visual Arts, Design and Architecture, the Netherlands

CAD Canadian Dollar

CCA Canada Council for the Arts

CISAC Confederation Internationale de Sociedades D'Auteurs et Compositores, The International Confederation of Authors and Composers Societies

CPP Canada Pension Plan

DCITA Department of Communications, Information Technology and the Arts, Australia

DCMS Department for Culture, Media and Sport, England

DM German Deutsch Mark

DKK Danish Kroner

ECA European Council of **Artists**

EEC European Economic Community

EHT Employer Health Taxes, Canada

EI Employment Insurance, Canada

ERDF European Regional and Development Fund

ESF European Social Fund

EU European Union

GST Goods and Services Tax, Australia

HST Harmonised Services Tax, Canada

IE Irish Punt

JSA (C) Job Seekers Allowance (Contributions-based), **United Kingdom**

JSA (IB) Job Seekers Allowance (Income Based), **United Kingdom**

KSK Kunslter Sozialkasse (social security systems for **artists**), Germany

KSVG Künstlersozialversicherungsgesetz (law including creators in the social security system), Germany

KVB Kostenvergoedingsbeschikking (expenses exemption), the Netherlands

NAVA National Association of the Visual Arts, Australia

NIC National Insurance Contributions, **United Kingdom**

NLG Netherlands Guilder

NLPVF Nederlands Literair Produktie-En Vertalingenfonds, Netherlands Association for Literary Production and Translation

NDfM New Deal for Musicians, UK

OECD Organisation of Economic Cooperation and Development

PAYE Pay As You Earn

PAYG Pay As You Go, Australia

PKW Podiumkunstwerk, Arts Platform Foundation, the Netherlands

PLR Public Lending Right

PRSI Pay Related Social Insurance, Ireland

PS1 Public School One, Contemporary Arts Centre

SP Special Pension Savings Scheme, Denmark

UNESCO **United** Nations Educational Scientific and Cultural Organisation

UEL Upper Earnings Limit

UK **United Kingdom**

VAT Value Added Tax

VvK Voorzieningsfonds vor Kunstenaars, Provision Fund for **Artists**, the Netherlands

WAZ Wet Arbeidsongeschiktheidsverzekering Zelfstandigen, Invalidity Insurance for the Self-employed, the Netherlands

WIK Wet Inkomensvoorziening Kunstenaars, Income Provision for Artist Act, the Netherlands

WFTC Working Family Tax Credit, **United Kingdom**

Executive summary

Since 1999, the Arts Council of England has recognised 'the centrality of the individual artist, creator or maker' within one of its five strategic priorities and is committed to developing the necessary infrastructure and environment to support 'new work, experimentation and risk'. The Arts Council and the then 10 Regional Arts Boards[1] together developed a National Framework Plan for individual **artists** (National Steering Group for **Artists**' Development, 2002) which addressed four key development areas: advocacy, professional development, resources and production.

This report forms part of a programme of research designed to provide a sound evidence base to underpin the Arts Council's work with the individual artist, creator or maker. A key concern for those working to support individual **artists** is their engagement with the tax and benefits systems. In 2002, the Arts Council of England commissioned a comparative review of the main features of tax and social security policies in relation to **artists** in Australia, Canada, Denmark, Germany, Ireland, and the Netherlands.

The review aims to identify models of best practice from these international case studies which can be used to improve UK tax and social security initiatives for **artists**. It also provides recommendations for **artists** within the UK system for improving access, and using their financial rights, to support themselves as **artists** in a viable and sustainable career. The study covers **artists** working in the visual arts, crafts, literature, dance, drama and design-related areas.

The research involved an intensive search of the literature on **artists**' rights in a European and international context based on desk research and contact with various European and international organisations. It then collected information on six countries via correspondence and data gathering from various government ministries, national arts councils and organisations, and specific **artists** organisations in different artistic disciplines. Once the national profiles were completed, the final stage of the project involved developing recommendations for the UK context, based on the country studies.

Concurrently with this review, two related research projects were carried out for the Arts Council of England by the Institute for Employment Research at the University of Warwick. The first was a quantitative analysis of **artists**' labour markets, examining employment status, working patterns, earnings and take-up of social security benefits. The second comprised a series of focus groups with practising **artists**, which explored in a qualitative way their experiences of employment – both in artistic practice and in other fields. The **artists** discussed the impact of UK tax and social security legislation and practice on their career and business choices, and their ability to sustain viable careers and businesses.

Their opinions and views on alternative systems and approaches that may be more beneficial to their career or help them to overcome the barriers they faced were also canvassed. The results of that research informed the conclusions and recommendations of this international review.

The main findings of the country research are summarised in Table 1. There were, however, a number of common issues arising from the country studies. These included:

- the often ambiguous employment status of many **artists**, who can be simultaneously employed and self-employed, makes it difficult for them to fit into both tax and social security legislation
- large fluctuations in income levels are common, which can lead to inadequate levels of social insurance and difficulty in distributing the tax burden between tax periods
- the necessity for **artists** to devote long periods of unpaid time to artistic research and their own personal development often means that they are not recognised as 'job-less', even though they are income-less. This means they cannot claim unemployment and other associated benefits
- there are both advantages and drawbacks of special measures designed to support **artists**. Even in those countries which have special tax exemptions in place for **artists**, the resulting distribution of benefits may not be optimal. The need to combine artistic work with non-artistic labour can also limit the extent to which **artists** can avail themselves of exemptions
- the problem of unavoidable mobility in artistic professions can result in unequal treatment of non-resident **artists**. Withholding taxes often means that international **artists** are subject to excessive taxation

Table 1: Summary of tax and benefit treatment of artists in seven countries

	Australia	**Canada**	**Denmark**	**Germany**	**Irelan**
Income averaging	Yes	No	No	Yes	No
Special tax exemptions	Indigenous **artists** in remote areas (until 2001)	Quebec exemption from tax on copyright income	No	No	Creati exem incom
Withholding tax	Yes, except when there is a double taxation treaty	Yes, except when there is a double taxation treaty	Yes, except when there is a double taxation treaty	Sliding scale withholding tax	Yes, e when doubl treaty
Public Lending Rights	Since 1974	Since 1986	Since 1982	Yes. Distributed between collecting	No

				societies	
Social Security Schemes	No special benefits or allowances for **artists**	No special benefits or allowances for **artists**	No special benefits or allowances for **artists**	KSK Social Security Scheme for self-employed **artists**	Aosda Pensi Cnuas annui
Direct financial aid	Grants from the Australia Council are subject to Goods and Services Tax	Canada Council, local and provincial grants: varying tax liabilities	Various state grants including life-long maintenance	Many tax-exempt general or career grants	Arts C direct gover grants tax lia
Private and corporate aid	Tax incentives for donations of significant items	Tax deductions for corporate sponsorship of arts	Tax incentives for corporate sponsorship and purchases of art works	Private awards and foundations plus tax incentives for sponsorship	Tax ir donat corpo spons Other
Tax treatment of the self-employed	Goods and Services Tax. Australian Business Number	Double pension contributions, Goods and Services Tax, Harmonised Sales Tax	Labour Market Contributions scheme. Special Pension Savings Scheme (SP)	Social Security Scheme for **artists** (KSK)	Unem Assist availa
Tax treatment of employees	Pay as you Earn	Pay as you Earn	Pay as you Earn	Pay as you Earn	Pay a

Based on the experience of the countries discussed in the report and the examination of problems identified by UK **artists**, the following recommendations can be made:

- there is a need for clear information for **artists**, in a language and medium that they can understand and access, about their status, obligations, and entitlements in relation to taxes and benefits

- the feasibility of having a central information system or special section of the Inland Revenue which understands and can advise on the particular needs of **artists** should be explored
- increased flexibility in reporting both incomes and employment status, including the possibility of claiming dual status for **artists** who are simultaneously employees and self employed
- the possibility of greater deductions for professional expenses, especially those for training and professional development, for self-employed **artists** and employees should be investigated
- consideration should be given to extending income averaging and to introducing some form of averaging system for benefits
- the feasibility of paying tax in arrears on actual earnings should be explored
- reduced business rates for **artists**, particularly in the start-up and early business phases, could be investigated
- there is a clear need for the recognition by the welfare system of artist as a profession. National or preferably EU-wide definitions of **artists** would assist in attempting to redress the biases evident in the UK and many of the national systems
- the possibility of adapting the social welfare system to the particular needs of **artists**, for example by allowing them stay on benefits during short trips abroad, should be considered
- tax and benefit measures to assist **artists**' incomes should focus on both the demand and the supply side of the market
- for **artists** starting out, innovative and flexible credit schemes such as credit schemes, start-up programmes, cash or in-kind assistance to finance material and equipment, low interest or interest-free loans, and reducing security requirements for **artists**' loans could be investigated

1 Introduction

Since 1999, the Arts Council of England has recognised 'the centrality of the individual artist, creator or maker' within one of its five strategic priorities and is committed to developing the necessary infrastructure and environment to support 'new work, experimentation and risk'. The Arts Council and the then 10 Regional Arts Boards[2] together developed a National Framework Plan for individual **artists** (National Steering Group for **Artists**' Development, 2002) which addressed four key development areas: advocacy, professional development, resources and production.

This report forms part of a programme of research designed to provide a sound evidence base to underpin the Arts Council's work with the individual artist, creator or maker. Earlier this year, the Arts Council published *Implementing Droit de Suite (**artists**' resale rights) in England* (McAndrew and Dallas-Conte, 2002). This provided a context for the introduction in 2006 of a European Directive which will, for the first time, give visual **artists** in the UK the right to a percentage of the revenue from the resale of their works in the art market. That report reviewed practice in six countries which currently operate Droit de Suite, which has enabled the Arts Council to engage in debate about the implementation of the Directive from an informed position.

A key concern for those working to support individual **artists** is **artists**' engagement with the tax and benefits system. This report performs a similar function to that on Droit de Suite: it provides a comparative analysis of tax and social security legislation and policies in the EU and a selection of six countries internationally: Australia, Canada, Denmark, Germany, Ireland, and the Netherlands. The aim is to identify national schemes, initiatives and incentives specifically targeted at a range of individual **artists** and models of best practice, to inform methods of improving UK tax and social security initiatives in relation to **artists**. It also provides recommendations for **artists** within the existing UK system to improve access to and make use of their full financial rights with the aim of supporting themselves as **artists** in a viable and sustainable career. The study covers **artists** working in the visual arts, crafts, literature, dance, drama and design-related areas.

The employment status of **artists** can fall into a number of categories including:

- permanent full-time employee
- contracted full-time employee (eg national orchestra members or some theatre company employees)
- contracted part-time temporary or permanent
- self-employed with or without part-time supplementary work as an employee **unemployed**.

Different tax treatment and eligibilities are due to the artist, depending on their employment status as well as in the particular discipline.

For each country included in this study the following areas are analysed:

- background structure. This section gives a brief overview of the basic governing structure for arts, culture, tax and social security in each country and outlines where responsibility for arts and the artist resides
- tax treatment of **artists**. This looks at the basic tax treatment of **artists** as a group. A common feature in all of the countries analysed is a high proportion of self-employment amongst **artists**. The effects of the tax treatment of self-employment on **artists**' incomes and benefits are analysed
- specific tax treatment/special exemptions. This section looks at any specific tax treatment of particular groups of **artists**, such as **artists** from a particular discipline, or the non-resident versus domestic **artists**
- social security schemes for **artists**. This section examines the social security and benefits schemes available to **artists**, and issues associated with unemployment insurance and benefits, pensions and any other relevant social insurance issues
- direct financial aid. This section gives a brief overview of some of the ways in which government directly funds **artists** through grants, funds and various awards
- private/corporate aid. This section briefly outlines how the private and commercial sectors can also affect **artists**' incomes through sponsorship and corporate philanthropy

In many states indirect measures of financial support to **artists** have begun to partially replace direct monetary contributions that were more popular in the 1970s and 1980s. Direct funding such as grants and awards is now based on excellence, merit or contributions to a particular artistic discipline, rather than social welfare or income-based criteria. It is important that any research into the impact of taxation on **artists** does not, however, draw the boundary of analysis too narrowly. There is a variety of ways in which the government can affect the flow of money to **artists** and ultimately their economic well-being. Although the focus of this research is on indirect financial aid to **artists**, direct funding is addressed briefly so that indirect aid is not viewed in isolation, but as part of a package of direct and indirect artist support policies.[3]

1.1 Methodology

This research commenced with a review of the literature and reports available on **artists**' rights in a European and international context. This was based on desk research and internet searches, and by initiating contacts with various European and international bodies. Important sources of information in the European context came from the Directorate Generals of Education and Culture, Customs and Taxation, Employment and Social Affairs. The European Council of **Artists** was also an important source of reference. International arts research organisations were contacted, along with various international **artists** associations involved both with **artists** generally and in particular art forms.

After the initial background research and data collection, the project focused on the specific countries included in the study. Correspondence was initiated with the EU appointed cultural contact points for each country and the national Ministries of Culture. Ministries of Tax, Finance, Social Welfare and Employment were also contacted, as were the National Trade Union Confederations. The research then focused on intensive correspondence via email, telephone and personal interviews with national arts councils, national **artists** organisations and specific **artists** organisations involved in the various disciplines included in the study. In many cases these organisations were able to supply relevant information for the study directly or referred to other relevant sources within each country.

Concurrently with this review, two related research projects were carried out for the Arts Council of England by the Institute for Employment Research at the University of Warwick. The first was a quantitative analysis of **artists**' labour markets, examining employment status, working patterns, earnings and take-up of social security benefits. The second comprised a series of focus groups with practising **artists**, which explored in a qualitative way their experiences of employment – both in artistic practice and in other fields. The **artists** discussed the impact of UK tax and social security legislation and practice on their career and business choices, and their ability to sustain viable careers and businesses, as well as giving their opinions and views on alternative systems and approaches that may be more beneficial to their career or help them to overcome the barriers they face. The results of that research informed the conclusions and recommendations of this international review.

2 Artists' tax and social welfare rights in the European Union

The principle of subsidiarity dominates the cultural context within the EU, with each member state having the sovereign right to decide on its own cultural policies without interference from other countries or the EU. There have been very few attempts to collect or compare professional and financial legislation applying to **artists** in the EU. Tax, social welfare and other associated policies are widely divergent not only between, but also within EU States, which has brought about difficulties in attempting any form of consistent or integrated European structural framework. There is currently no comprehensive framework or strategy which takes into consideration all of the particular social, economic and legal needs of **artists** in their working lives, despite the explosion in the number of creative professionals and professions over the last 20 years, doubling in number in some EU states, making such frameworks more important than ever (ERICarts, 2001).

Taxation of **artists**' and all citizens' income is the responsibility of the relevant government departments in individual member states. The EU plays only a subsidiary role with regard to taxes and social security contributions and has no power to create or levy taxes. It has never aimed to standardise national systems of income taxes and contributions, but it does attempt to ensure that they are compatible with each other and with the aims of the Treaty establishing the European Community, such as free movement of goods, services and labour, the promotion of a competitive market, and the rights of establishment of individuals or companies. There is a range of heterogeneous systems of taxation for **artists** between member states as well as disparate treatment of differing **artists** and art disciplines within each state. In Ireland and the Nordic countries, for example, **artists** can enjoy relatively favourable tax treatment, with specific **artists**' tax exemptions. Yet within these countries, tax exemptions are only available to certain art forms, for example to creative **artists** but not to interpretive **artists**. In all states tax arrangements for the self-employed artist differ from those on a wage or employees, and tax conditions for the former in particular are often far removed from the realities of artistic life. Self-employed **artists** often have very irregular incomes, which penalises them in a system of incremental taxation based on stable incomes, yet only certain states such as Germany, Denmark, the Netherlands and the **United Kingdom** allow for flexible tax arrangements such as income averaging.

2.1 Value added tax

A wide divergence also exists in Value-Added Tax rates on the sales of **artists**' work, both across countries in the EU as well as within artistic disciplines. The table below gives the VAT rates applicable on different **artists** work for the sample of EU States included in this study (Table 2).

Table 2: VAT rates in arts in a selection of EU States

	Regular	Books	Press	Sound	Video	Film	Freelance	Visual

	rate			recordings		receipts	authors	Artists
	Percentage							
Denmark	25	7	0/7	15	15	7[a]	7[b]	7[b]
Germany	16	7	7	7	15	7	15	7
Ireland	21	0	0/21[c]	21	21	12.5	21[d]	21[d]
The Netherlands	19	6	6	19	19	19[a]	na	6
United Kingdom	17.5	0	0	17.5	17.5	17.5	17.5[d]	17.5[d]

Source: ERICarts, 2001

a. On net revenues
b. Regarding authors rights contracts otherwise regular rates
c. Political magazines are free
d. Generous allowances for all freelances (in Ireland including authors contracts with publishers inside the EU)

The divergence in VAT rates between countries and art forms can make it more difficult for **artists** to be mobile within the EU. While, in general, labour mobility has not increased extensively in the open Single Market, **artists** by the nature of their professions must often be highly geographically mobile. Meeting with others in the discipline and exchanging ideas can be fundamental to the creative process. Under Article 17 of the Organisation for Economic Co-operation and Development (OECD) Model Treaty of 1987, countries are allowed to levy taxes on the performance fees of non-resident **artists**, whether they are self-employed or employees. The reason for this exception to the official rules is that **artists**' mobility can enable them to escape from taxation by pretending to live in Monaco, Andorra or any other tax haven with low income tax rates, and understating their incomes at home.

2.2 Withholding taxes

Most countries have made a provision in their national tax law to impose a 'non-resident artist withholding tax'. The OECD allows countries to tax the artist's fee without deducting expenses, but they must then apply a lower tax rate to the gross fee. In practice many countries follow this provision, but apply their 'normal' tax rates to avoid **artists** without expenses, and coming from a relative tax haven, escaping reasonable taxation. Many countries also do not allow non-resident **artists** to file an official tax return or use a personal expenses allowance so that the withholding tax becomes the final amount they must actually pay.

Despite the OECD recommendations on equal treatment and how countries should tax non-resident **artists**, in practice there are divergent measures in the different member states, making some countries more or less appealing for the artist. There remains considerable debate (as well as various legal proceedings in the different member states) about whether withholding taxes amount to unequal treatment, forbidden under the European Treaty, of non-resident **artists** compared with other non-resident professionals and domestic taxpayers.

2.3 Social security

Within the EU, social security for **artists**, as for other citizens, is governed by Regulation (EEC) No 1408/71 of the European Council of 1971. Once it is determined whether a person is subject to a particular national legislation on social security, the internal national rules are applied when deciding whether certain rights can be obtained. Each member state is responsible for the organisation and financing of its own social protection system, which provides the bulk of expenditure on social support, health care and pensions[4].

The position of **artists** with regard to social security is defined by their employment status under the relevant national labour and social insurance laws, and their flow of income. Both of these features can be problematic; irregular work patterns may cause **artists** to be defined differently under different employment laws, for example, as self-employed while simultaneously an employee, and large fluctuations in income may lead to unsatisfactory levels of pension or sick leave compensation. It is common knowledge that **artists** have a distinct position in the labour market. Da Silva (1999) points out the following features common to many **artists**' working lives:

- a large number of employers, sporadic employment with inevitable concomitant unemployment
- poor and unpredictable income levels (on the basis of often irregular salaries, fees, royalties and resale rights etc.) plus the necessity of devoting unpaid time to research and personal development
- combining artistic work with another waged job, in order to survive financially
- an unpredictable market place and the associated risks of success and hazards linked to the effects of fashion
- unavoidable mobility
- dependence on intermediaries of various kinds such as agencies, publishers, producers, gallery owners and others

These features cause problems in applying the regular tax and social welfare regulations to **artists**. For example, in order to obtain some social security and other social and employment insurance benefits, an artist will have to be a salaried employee, have worked a minimum number of days in a given period, and have earned a minimum amount on which their employer has paid contributions. The majority of **artists** in the EU are self-employed or independent contractors so will not meet these conditions[5]. **Artists** may also combine waged labour with self-employment which can give rise to administrative complexity and financial burdens, without compensating benefits from adequate social security protection. Additional mechanisms designed specifically to meet **artists**' needs have been put in place in certain member states, either within the public tax and social welfare system or as independent programmes for **artists**. The key distinguishing features of social security systems in the EU are:

- minimum social security provisions for all citizens. These exist in all of the EU states but with substantially different conditions, durations and amounts [6],[7]
- special measures for self-employed **artists** within the general social security system, for example, in Germany
- special measures for self-employed **artists** outside the general system, such as additional benefits for sickness or supplements to old age pensions and often for **artists** who have attained a certain standing or recognition (exist in Ireland, Germany and the Netherlands)
- measures organised by **artists**' unions, associations and other outside bodies (ERICarts, 2001) (exist in Germany)

Artists are often **unemployed** or underemployed and often for extended periods, yet many will not meet the conditions for minimum income support or state unemployment benefits. For example, a self-employed artist cannot by definition be out of work and therefore may not be able to claim unemployment benefits despite earning less than the minimum income threshold. The real problem for these **artists** is that they are not 'jobless' but 'income-less' and this can be a prolonged feature of their artistic careers. The artist must be seen to be actively looking for work, therefore not pursuing their artistic creation, improving their techniques or practicing and must be willing in many cases to take any job they are offered, no matter how inappropriate.

2.4 Artists' labour market decisions

When an artist is asked about their work and motivations, many refer to non-pecuniary considerations and creative and aesthetic goals that motivate them, rather than purely striving for financial gains. At the same time, **artists** cannot be spared from the economic reality of having to earn a living. Due to insufficient financial rewards, particularly in the early phase of a career, and the often erratic nature of their employment, many **artists** have to take a second job, related or unrelated to their artistic production to obtain a basic income to survive financially. When an artist is engaged in work outside their artistic production, problems arise in relation to taxation such as defining whether the artist is a professional artist or merely conducting a hobby, or what constitutes deductible business expenses.

In labour supply decisions, **artists** behave much like any other economic agent in allocating their time and responding to economic incentives. However, Throsby (1992) points out that it is important to expand the traditional labour supply function when we consider the predicament of most **artists** forced into secondary employment due to low incomes and insufficient employment opportunities. Standard labour market theory explains the allocation of an individual's time between working and leisure in terms of relative wage rates and the trade offs between higher incomes versus increased leisure time. The theory is that people within a labour market will supply more hours of labour as wages rise, but beyond the point that an adequate income is being earned, the individual will tend to respond to increased wages by supplying decreasing amounts of labour and taking more leisure time.

For **artists**, however, the labour supply decision is broken down into two different markets: the market for their primary artistic activity, and the non-arts market to which they turn to gain income to live and sustain their artistic work. The time devoted to arts work versus non-arts work will therefore be determined by the relative wages in the arts and non-arts sectors. When considering ways in which to improve taxation and benefit systems for **artists** therefore, **artists**' incomes must be considered in light of this duality. Even with exemptions from taxes, the relative wage due to the artist should be considered in comparison to their possibilities for work in other sectors, rather than merely the absolute value of the exemption on income. If the need to work in a second job is seen as a barrier to the artist's development and success, the relative wage with associated tax benefits (and accounting for non-pecuniary utility) would have to be relatively more attractive, to encourage **artists** to devote more time to arts work.

Throsby (1992) found that **artists** do respond to economic incentives but have a marked preference for arts work, so will only spend enough time in non-arts work to support themselves and their artistic production. The more they can earn an hour in non-arts work, the less time they will spend on it and the more they will devote to their artistic profession. Finding more valuable non-arts work for **artists** could therefore be an issue, which in most cases would involve encouraging work in areas related to their discipline such as teaching where their skill would be more highly valued.

There is very little co-ordination between member states and on an EU-wide level regarding policies and actions affecting the financial situation of **artists**. It is often the case that the majority of EU-level support to **artists** in different member states comes through the European Social Fund (ESF), European Regional and Development Fund (ERDF), structural funds or some other Commission initiatives. In other words, funding indirectly is provided as a result of some general regional, training or other strategy rather than one designed specifically for **artists**. There are a variety of funding possibilities for artistic projects across various Directorate Generals, for example:

- programmes for economically disadvantaged regions (eg Interreg, Konver and Leader)
- programmes related to employment and social cohesion (eg Adapt, Horizon, Youthstart)
- education and training programmes (eg Socrates, Leonardo Da Vinci)
- information society (eg e-Culture). Since 1995 there have been certain programmes directing funds towards specific cultural objectives such as Kaleidescope (1996–1999) promoting various aspects of culture
- Ariane (1997–1999) for literature
- Raphael (1997–1999) which promoted European Cultural Heritage. The 'Culture 2000' framework programme has been established for a five-year period from 2000

to 2004, with a budget of €167 million to support various projects in areas such as education, research or cultural events

The amount dedicated to individual **artists**, however, is only approximately six per cent of the total funds (ERICarts, 2001).

3 Country case studies

3.1 Australia

Background structure

The government of Australia is based on a federal structure with central cultural bodies as well as State and Territory level structures. Federal, state and local governments direct cultural policy and have programmes that provide support to **artists**. The Federal or Commonwealth department in charge of culture is the Department of Communications, Information Technology and the Arts (DCITA)[8]. The Australia Council for the Arts is the department's key advisory body and is responsible for the administration of funding to **artists** and arts organisations in the various disciplines. A number of State and Territory arts funding agencies also supply individual funding and awards to **artists**. There are over 24 membership services or national/regional representative organisations in Australia, ranging from national organisations such as the Arts Law Centre; the National Association for the Visual Arts (NAVA); the Australian Network for Art and Technology (ANAT); Vi$copy; and Craft Australia, to specialist media-based organisations and guilds.

The Australian Tax Office (ATO) is the federal body responsible for taxation. The ATO's main role is to administer legislation for taxes and excise (other than customs duty). The ATO also works with other government departments on policy matters relating to taxation and excise. When policies are determined by the Federal Government, the ATO instructs parliamentary counsel in the preparation of necessary legislation and is responsible for the actual collection of taxes. The Department of Family and Community Services is the federal body in charge of policy and legislation in relation to social welfare. Centrelink is the agency responsible for delivering income support payments and services for the **unemployed** on behalf of the Department.

Tax treatment of artists

GST and the New Tax System

The New Tax System was brought into force in Australia in July 2000, bringing with it a number of changes for **artists**. A key element in the changes was the introduction of a Goods and Services Tax (GST), which has been in place as VAT in the EU for a number of years. GST is a broad-based tax of 10% on most supplies of goods and services including the sale of art consumed within Australia. Most **artists** have therefore had to increase the price of their work by 10% so as not to be out of pocket.

All self-employed **artists** and professional art businesses can apply for an Australian Business Number (ABN). This is the government's 'identifier' that the individual is an 'enterprise', and will be issued to any applicant who can satisfy the definition of carrying on an enterprise. This includes any activity done by a business, venture, or trading establishment, and the activities of various religious, charitable, or government entities.

Once they have an ABN, **artists** may register for GST. They *must* register for GST if their income for the previous 12 months was greater than $50,000 AUD (€28,500)[9], and income for the next 12 months is expected to be over $50,000 AUD (€28,500).[10] **Artists** who are employees or self-employed **artists** who do not have a reasonable expectation of profit cannot register for GST. The advantage of registering is that the artist can claim a credit from the Australian Tax Office (ATO) for any GST included in the price of anything that they purchase for their business, or receive an *input tax credit.* The amount then due to or from the ATO is the difference between the GST payable on supplies and the GST included in the price of acquisitions (Australian Tax Office, 2000).

When those **artists** who do not, or cannot, register for an ABN receive a payment for their goods or services, a tax of 48.5% of the payment is withheld by the paying entity. This is known as a 'Pay As You Go' tax or PAYG, which is then remitted to the tax office. PAYG is a withholding tax system, introduced with the New Tax System in 2000. The tax also arises for commissions, art prizes and artist fees for exhibitions and loans where the buyer has an ABN but the artist does not, and the art goods or services supplied are not wholly for private or domestic use. The only way for an artist without an ABN to avoid PAYG is to provide a statement to the paying entity that they are not *carrying on in business*, are a hobbyist, and therefore PAYG is not applicable. In addition, an artist who has applied for an ABN and been refused on the basis that the activity carried out does not have a reasonable expectation of profit, is entitled to a PAYG exemption. However, making a claim to the ATO that the artist is not in business for either reason means that they are not entitled to deductions for any business-related expenses associated with their artistic production, such as the cost of materials, equipment, tools, rent, freight, insurance, services, advertising, documentation, and travel expenses, from their income (NAVA, 2002).

Some **artists** may decide to get an ABN but not to register for the GST. Having an ABN may be useful because the artist is still considered to be 'in business', and other businesses with whom they deal will not be required to withhold 48.5% of income as required under PAYG. However, they may not charge GST on goods and services they provide. The decision not to register for GST is based on the artist's overall income position; their unwillingness to undertake the necessary paperwork; and their preparedness to absorb the GST component of materials, equipment, and other items related to the production of their work, including the GST component of any commission fees charged by a gallery or retail outlet[11]. Because these **artists** must absorb additional GST costs, they may earn less from each sale than those who are GST registered.

An artist working as an employee is subject to PAYE (Pay As You Earn) provisions, whereby the employer withholds the required amount of income tax from their salary to remit to the ATO on the artist's behalf. Normal income tax rates in Australia vary from zero per cent for up to $6,000 AUD (€3,420) to 47% for over $60,000 AUD (€34,201) a year. Arts Law (2002) points out that most freelance contractors working in the arts are legally regarded as employees for PAYE purposes. **Artists** are legally classed as employees if they have agreed an hourly rate, work primarily at the employer's premises or location, on days and at times determined by the employer, and cannot delegate their work to someone else.

The key concern for most **artists**, besides the increased administrative tasks that the new tax system imposes, is whether their work will qualify as an 'enterprise', the term used by the ATO to identify business rather than a hobby, private or domestic activity. After intensive lobbying by Arts Law, the National Association of Visual Arts (NAVA), and the Australia Council, the ATO agreed in 1998 that **artists** could be 'carrying on a business' for the purposes of the tax legislation even if they did not make a profit, and indeed even ran at loss for a considerable period. Guidelines were developed to ensure that a distinction could be drawn between professional practicing **artists** or **artists** carrying on a business, and those conducting art activities as a hobby.

Under the Integrity Measures Bill of 2000 there are four tests to establish whether or not a loss from a business activity is deductible or whether it has to be deferred to a later time when the business comes into profit:

- the artist must have earned an assessable income of more than $20,000 AUD (€11,400) from their artistic production
- they have made a profit in the last three to five years
- their business assets (excluding motor vehicles) are worth over $100,000 AUD (€57,000)
- the value of real property used in conducting business activity (excluding the land on which their residence is situated, and adjoining land) is worth more than $50,000 AUD (€28,500) (Arts Law, 2002)

Unfortunately, most **artists** in Australia were unable to meet the income criteria or the other tests. For example, NAVA estimated that there are around 18,000 practicing visual **artists** in Australia earning less than $10,000 AUD (€5,700) a year.[12] The Australian Bureau of Statistics (1997) estimated that the average income for professional art practitioners in 1993 was around $20,000 AUD (€11,400) but for dancers the average was as low as $12,000 AUD (€6,840). From this income, the average amount earned from arts practice and production, as opposed to from other employment, was only $9,400 AUD (€5,358). Under the Integrity Measures Bill primary producers[13] were allowed to claim expenses if they earned less than $40,000 AUD (€22,800) from a second income. In its original draft, **artists** were prevented from claiming business expenses incurred in carrying out their art business against other non-related sources of earned income. Losses that could not be offset against other income had to be carried forward to be offset in a future year when there was a profit from the business activity.

The Bill did allow for a discretionary ruling or 'safeguard test' where the Commissioner had the right to exempt an individual from the legislation. While **artists** could apply for such exemptions, the two circumstances in which this was allowed were designed for the purposes of exempting primary producers and very unlikely to be applicable to **artists**. The first is where there are circumstances outside the individual's control such as droughts, floods, or other natural disasters which are clearly of little direct relevance to **artists**. The second is where the business has only just started. Because of its nature, it cannot initially satisfy the four tests but an objective assessment, supported by independent sources, can be made as to when it will, within a period that is commercially viable for the industry concerned. It is very difficult, if not impossible, to assess objectively whether an artist, particularly one who is starting out, will become successful or to define a reasonable time to achieve success in most arts industries.

Owing to the Bill's inapplicability to **artists**, professional **artists** and arts organisations lobbied the government and the Bill was amended in 2001. It now includes a specific exemption for professional **artists** as well as primary producers. The test criteria do not apply to a business activity for an income year if the assessable income for that year (except any net capital gain) from other non-arts sources is less than $40,000 AUD (€22,800). It is worth noting, however, that although the amendments to the Bill may mean substantial improvements for some **artists**, those who cannot meet the exemption and therefore can no longer claim art expenses will be worse off under this tax system. In particular, it places **artists** and craft practitioners who work in related fields, such as teaching, in a difficult position. Their teaching positions are often dependent on their continuing as practising **artists**/craft practitioners, but the salaries they receive take them over the $40,000 AUD (€22,800) threshold, and they cannot meet any of the other criteria (NAVA, 2001). Although the amendments to the Bill have avoided what some have termed a 'cultural disaster', many arts organisations within Australia are continuing to lobby the government to abolish the threshold test and provide a complete exemption for **artists** (Arts Law, 2002).

Income averaging

An income-averaging scheme applies to professional **artists** (and certain other 'special professionals' such as inventors and sportspersons), under the Income Tax Assessment Act of 1997. This scheme is designed to prevent such taxpayers from being pushed into higher tax brackets when income from their professional work in one year fluctuates above their average income from such work. To be eligible for income averaging, an artist must be determined to be a 'special' professional. The definition of what constitutes a 'special' professional artist is in two parts:

- a *creative* artist is a 'special' professional when he or she is 'engaged or commissioned to produce one or more specified works'
- an *interpretive* artist is a 'special' professional when he or she uses 'intellectual, artistic, musical, physical or other personal skills in the presence of an audience or appears in a film, on a tape or disc or in a television or radio broadcast' (Australian

Tax Office, 2002)

The artist must also be an Australian resident and have a taxable professional income of over $2,500 AUD (€1,425) including all income from sales, fees, awards, prizes and copyright/royalties, or have been resident at any time during the preceding income year and had a taxable income for that preceding year which exceeded $2,500 AUD (€1,425). Once the artist's 'Taxable Professional Income' exceeds $2,500 AUD (€1,425) in a given year, they are eligible for averaging in later years when it falls below this level.

Specific tax treatment/special exemptions

Indigenous ***artists***

Certain concessions were available for indigenous **artists** living in remote areas[14] of Australia whose circumstances made it impossible to meet the obligations required under the New Tax System. Indigenous **artists** with an income of less than $10,000 AUD (€5,700) and who lived in remote areas were not required to have an ABN for PAYG purposes. The PAYG system required an examination of whether these indigenous Australians were carrying on an enterprise. If they were, then failure to have an ABN and quote it on sales to businesses would normally have resulted in tax of 48.5% being withheld from their payment. The ATO, on advice from representatives of indigenous organisations and art centres, estimated that only five per cent of remotely located indigenous **artists** would derive more than $10,000 AUD (€5,700) in income from their artistic activities. The effect of the exemption rule for **artists** with less than $10,000 AUD (€5,700) from artistic activities meant a variation of the rate of withholding to zero per cent. This exemption was designed as a transitional measure for the first year of the new tax system. The exemption from having to obtain an ABN was abolished in June 2001.

Visual arts inquiry

An independent inquiry into the visual arts and craft sector was being conducted in 2002, to identify key issues impacting on future development and sustainability. Among issues being canvassed were: Status of the Artist Legislation, Copyright, Droit de Suite, access to superannuation, and possible access to some form of government income support as an alternative to the current arrangements for **unemployed** persons. The inquiry is scheduled to report to the Government by the end of 2002 with options and recommendations on action that might be taken by governments and the sector to enhance its future.

Performing ***artists*** *in advertising*

After an 18-month debate the ATO agreed a change in regulations in 2002, concerning performing **artists** working in advertising. A new regulation, effective from 1 April 2002 states that advertising agents can no longer require actors to provide an ABN or deduct 48.5%. All work a performer does in the advertising industry will be deemed to be liable to

Pay As You Go (PAYG) tax. Any advertising agency which insists on an ABN will be working outside the regulation and can be reported to the Alliance (an actors’ group) or the ATO. If an actor does use an ABN it will be ineffective. Superannuation of eight per cent[15] must also be paid by the employer.

Not having to produce an ABN is expected to make life easier for **artists**. The reasoning is that, as actors are genuinely employees, they should be covered by appropriate safeguards for employees such as superannuation and workers compensation. Another advantage is the avoidance of the administration costs and time involved in preparing a Business Activity Statement (BAS), GST reporting and/or hiring a professional accountant (Alliance Online, 2002).

*Non-resident **artists**’ taxation*

The primary rules governing the taxation of non-residents provide that non-resident **artists** (and entertainers and sportspeople) are liable to Australian tax on Australian-sourced income. Assessable income of non-residents is generally taxed on the same basis as for Australian residents, ie progressive tax rates, where the average tax rate increases as the taxable income increases. Unless specifically excluded or made applicable to residents only, the same exemptions and exclusions from assessable income apply and the same business deductions and special incentives are available against gross income.

Non-residents are exempt from Australia's Medicare levy (which means that that may not claim related concessional rebates or the concessional rebate for medical expenses). Non-residents do not benefit from the tax-free threshold applying to Australian residents (currently $6,000 AUD or €3,420), tax is levied on the first dollar of Australian income. As part of Australia's business tax reform the Government is reviewing the non-resident withholding tax regime, including the tax rates applying to non-residents[16]. Non-resident **artists** are subject to a normal withholding tax rate of 30% on royalty income. Exceptions are made for a resident of a country with which Australia has a comprehensive double taxation treaty. For example, Australia and the **United Kingdom** are party to such a treaty and the withholding tax rate for UK **artists** in Australia is 10% under this agreement [17].

Public Lending Rights

Australia has had a Public Lending Right (PLR) scheme in place since 1974. The objectives of the PLR scheme are to make payments to eligible Australian creators and publishers of books in recognition of lost income from their books being available for use in public lending libraries in Australia, and to support the enrichment of Australian culture by encouraging the growth and development of Australian writing and publishing. To be eligible a creator must be: an Australian citizen; an author, editor, illustrator, translator or other book creator; and entitled to receive royalties from the sale of their books. Publishers’ business must consist wholly or substantially of the publication of books and must regularly publish in Australia; or be a self-publishing creator or a non-profit organisation that publishes to further its aims and objectives. In 2002, the PLR rates of payment under the scheme were $1.25 AUD (€0.71) per copy of each eligible book for creators and $0.31 AUD (€0.18) per copy of each book for publishers. Amounts of less than $50 AUD (€28.50) are not payable. A final PLR payment is made to the legal personal representative of an eligible creator of a book in the financial year of death (DCITA, 2002).

Social security schemes for artists

The benefits and insurance system for Australian **artists** does not vary greatly from that for other professions. **Artists** who are employed are covered by the compulsory workers' compensation cover and public liability insurances held by their employers while they are at their work place, engaged on legitimate activities associated with their employment, or during necessary travel to and from or on behalf of the place of employment.
Self-employed workers may choose to be afforded some protection under the Personal Accident and Illness (Income Protection) Scheme which provides for loss of income for self-employed persons resulting from either accident or illness. It covers the payment of (either or both) a capital sum and a weekly benefit payable up to the maximum stated period set out in the policy. This type of policy usually only applies to income made from personal exertion, not from pensions. The weekly benefit may be calculated at a percentage of the insured person's gross taxable earnings averaged over the past 12 months.

There are no special unemployment benefits or allowances for **artists** under Australia's social security system. An **unemployed** artist may be able to access *Youth Allowance* (if aged between 16 and 24) or *Newstart Allowance* (if aged over 21). The rates on both of these schemes vary, based on income and asset tests, but an average *Newstart Allowance* for a single person with no children is approximately $365 AUD (€208) a fortnight. *Youth Allowance* is also available to **artists** and others who are engaged in full-time study and considered to be living independently. The *Work for the Dole* programme helps job seekers improve their employment prospects by providing opportunities for work experience in a range of fields, including arts and heritage. *Work for the Dole* services are managed by Community Work Coordinators and delivered through community or government organisations such as local government and community groups. Although **unemployed** persons may volunteer to join this scheme, they may also be required to if they have been on benefits for a certain length of time (ranging between three to 12 months, depending on the benefit [Centre Link, 2002]). **Artists** receiving benefit could therefore be forced to work in jobs unrelated to their art form, possibly to the detriment of their artistic production and skill maintenance.

Generally speaking, there are no payments available to a self-employed person. However, financial and other forms of assistance may be available to a self-employed person experiencing particular difficulties.

Direct financial aid

Australia has a pluralist system of direct funding for **artists** with involvement at all three tiers of government: federal, state and local. For **artists**, the main avenue for direct support is through the Australia Council for the Arts, the Government's principal arts funding body. The Council is guided by two main principles: the 'arm's length principle' enshrined in the Australia Council Act of 1975 which ensures that decisions made about specific grants to

artists occur outside political processes; and 'peer assessment' whereby decisions on grants are made by **artists** and key experts in the arts community as well as legislative officials to ensure that funding is directed to **artists** and arts projects of the highest artistic merit. In 2000/01, grants to **artists** and arts projects totalled approximately $82 million AUD (€47 million) (Australia Council, 2002). Some of the main categories of funding and their 2000/01 values include:

- grants to aboriginal or Torres Strait Islander **artists**. Grants of $4.5 million AUD (€2.6 million) were given to these **artists** to promote traditional arts practices as well as to develop new forms of artistic expression. They include grants for new work, skills and artistic development, presentation and promotion, and various individual artistic awards
- grants to dance. Grants of $2.6 million AUD (€1.5 million) were directed to **artists** who excel in and are developing their area of the dance art form and practice. These grants are directed at both individual dancers and dance organisations
- literature grants. These totalled $4.3 million AUD (€2.4 million) and are made up of awards for new work for both established and developing authors, presentation, and promotion and development awards mainly to arts organisations helping to promote and develop writers and various fellowships and commissions
- grants to the performing arts. Totalling nearly $26 million AUD (€14.8 million) these are grants to the major performing arts organisations and partnership projects in music, dance and theatre
- music grants. Grants to musical **artists** totalled some $3.8 million AUD (€2.2 million). They aim to support the highest quality work across a broad range of musical practice including pop, classical, jazz and opera. Grants are aimed at individual musicians, singers and producers as well as music organisations and partnerships supporting the development of musicians
- theatre grants. Grants to individual actors and theatre organisations totalled $7 million AUD (€4 million) and focused on areas such as new work, theatre promotion and development and fellowships to support the careers of individual **artists**
- visual arts and crafts grants. These grants, which totalled $6.4 million AUD (€3.6 million) are directed at individual **artists** such as painters, sculptors and photographers to help them develop and promote their work both domestically and internationally. They also help support arts organisations who assist **artists** directly or indirectly through the promotion of the visual arts sector to the public

All grants and prizes awarded to **artists** are subject to GST as part of their income, but donations, ie a gift to the artist without any attached conditions,

are not.

Private and corporate aid

Philanthropic organisations and individuals, and corporate supporters play an important role in supporting **artists** in Australia, particularly in the contemporary arts and crafts sectors. To give an indication of the importance of the relationship, a 1996 study found that corporate support of visual arts and craft design, museums and art galleries, and community arts, totalled $17 million AUD (€9.7 million) (Australia Council, 1996). Corporate collecting is also important. In 1996 companies spent $4.2 million AUD (€2.4 million) acquiring artworks. Additionally, philanthropic organisations and individuals, and corporate supporters provide the majority of funds used by regional and State galleries to acquire works of art and craft.

The Federal Government's Cultural Gifts Programme provides tax incentives for donations of significant cultural items and collections to approved (gift deductible) public museums, art galleries and libraries. In May 2000 the Federal Government introduced a range of new measures to encourage private support of the arts. These included two major enhancements to the Cultural Gifts Programme:

- an exemption from capital gains tax for bequests and gifts of cultural items and tax deductibility for donations of assets of more than $5,000 AUD (€2,850)
- the ability to apportion donation deductions over a five-year period

The programme is an important source of acquisitions for Australia's collecting institutions: some 400 public museums, art galleries and libraries participating in the Cultural Gifts Programme benefit from it. For many regional institutions with limited acquisition budgets it is the main avenue for developing their collections. While the programme does not generally provide direct benefits to **artists**, it does play an important part in giving exposure to **artists** through the transfer of their work into public collections. Donations totalling $27 million AUD (€15.4 million) were made under the programme in 2000/01, with the largest proportion of donations being in the visual arts category (Myer, 2002). Other measures introduced in May 2000 included tax deductibility for Prescribed Private Funds which are ancillary funds established by individuals wishing to support charitable and artistic purposes.

The Australia Business Arts Foundation (AbaF) is a Commonwealth-owned company whose mission is to increase private sector support for the arts. The AbaF is supported by the Commonwealth through the Cultural Development Programme of the Department of Communications, Information Technology and the Arts, but operates at arm's length from the Government. AbaF's main focus has been on increasing the level of sponsorship and private support for the arts and increasing the numbers and quality of business arts partnerships.

Artbank is a non-profit-making government agency founded in 1980 to acquire contemporary Australian art for rental to public and private sector clients. **Artists** gain through the purchase of their work, while clients have economical access to Australia's best work in the visual arts. Artbank now has the largest collection of contemporary art in Australia and plays an important role in promoting contemporary visual arts. Artbank has over 8,600 works by more than 2,500 Australian **artists** and craftspeople for rent.

The Register of Cultural Organisations eligible to receive tax deductible donations was established in 1991. It includes 800 organisations providing services or support to the arts who will also benefit from the increased philanthropic support incentives. These organisations range from local art societies to community art centres, exhibition touring agencies and other member groups such as the NAVA. Many of these organisations use the donations to fund grants to other organisations and individuals in the form of scholarships. There are also a number of philanthropic trusts on the register which distribute grants to both organisations and individuals, including **artists**.

3.2 Canada

Background structure

Canada is composed of 10 provinces and two territories. It is a federal state whose legislative powers are divided between two levels of government: federal and provincial. Constitutionally, Canadian provinces are responsible for education and share responsibility for culture with the federal government. Canada has similar institutions supporting the arts and culture at both the federal and provincial levels. The federal department responsible for arts and culture is the Department of Canadian Heritage, formed in 1993. It is responsible to parliament for a number of independent federal agencies such as the Canada Council for the Arts as well as a number of boards and councils for different art forms. Virtually all the provinces and territories have ministries of culture whose work parallels that of the federal Department of Canadian Heritage in the area of cultural policy programmes.

The Canadian Customs and Revenue Agency is the federal body with responsibility for taxation in Canada, although the provinces have their own Ministries of Finance. Under the Canadian constitution, the federal and provincial governments share responsibility for social security. Both play important roles in the planning, administration, delivery and financing of income security, health and social service programs. Human Resource Development Canada is the primary federal agency responsible for employment insurance and benefits and other social welfare responsibilities.

Tax treatment of artists

Self-employed **artists**

It is estimated that approximately 53% of **artists** in Canada are self employed (Canada Council for the Arts, 1999). Under the Income Tax Act of 1995, a self-employed artist is differentiated from an employee on the basis of whether the contract between the parties is a contract *of* service (between an employer and an employee), or a contract *for* services, that is, the engagement of a self-employed individual. A contract of service generally exists if the person for whom the services are performed has the right to control the amount, the nature, the management of the work to be done and the manner of doing it. A contract for services exists when a person is engaged to achieve a defined objective and is given all the freedom required to attain the desired result.

Self-employed **artists** must pay a double contribution to the Canada Pension Plan or CPP (employer and employee portions) and have to make interim tax payments on a quarterly basis. They are charged the normal rates of income tax but can claim all reasonable expenses related to the earning of their income. All self-employed **artists** earning $30,000

CAN (€21,300) or more a year must register for Goods and Services Tax (GST) and Harmonised Sales Tax (HST) in their business expenses. Self-employed **artists** earning less than $30,000 CAN (€21,300) are not required to charge or pay GST. They are not covered by the Unemployment Insurance Act. Employment Insurance (EI) premiums are payable on self-employed income and an artist cannot collect EI based on self-employed earnings (Canadian Conference of the Arts, 2002).

Revenue Canada views the self-employed as small businesses. Recognising that the nature of **artists**' work means that a considerable period of time may pass before an artist or writer becomes established or profitable, the Department allows such taxpayers to deduct business losses from other income earned in the start-up phase, once there is a *reasonable expectation of profit* in the future. Factors taken into account include:

- the amount of time devoted to artistic endeavours and promotion of work
- the extent of publicly or privately presenting works (for example exhibiting, publishing or reading)
- representation by a dealer, agent or publisher and membership of professional **artists**' associations with their associated membership standards
- qualifications, evidenced by education as well as public and peer recognition
- revenue from various sources pertaining to the artistic work and expenses claimed
- the variation in popularity or value of the individual's work[18]

Employees

Canada Council for the Arts (1999) estimates that 47% of **artists** are either employees or dual status workers. **Artists** working as full-time or part-time employees are taxed under the same regulations and rates as other citizens under the Income Tax Act and can generally avail themselves of benefits such as employment insurance and workers' compensation unavailable to the self-employed. Employees have the benefit of coverage though their employers under both the Employment Insurance Act and the Canada Pension Plan. They are also allowed to deduct certain expenses incurred in earning from an artistic activity. For example, a musician may deduct a percentage of the capital cost, insurance and maintenance of their instrument. The limit on the amount deductible is the lesser of $1,000 CAN (€710) or 20% of all of their artistic employment income for the year.

Dual status

Working **artists** falling between the above two categories are classified as *dual status.* This most commonly means that the artist is self-employed in terms of their actual artistic production, but an employee in a related field such as teaching or an unrelated field to support their artistic endeavours. In a series of successive arrangements or contracts, an artist may be an employee for a certain period and, upon termination of the contract as an employee, subsequently become self-employed. In other circumstances, an individual can be an employee under one arrangement or contract and simultaneously be self-employed under a second arrangement. An individual cannot, however, be both an employee and self-employed under the same arrangement or contract. In this instance, expenses related to income as an employee are not tax deductible whereas expenses related to self-employed work are. Those expenses relating to both, for example car use, must be charged separating business from personal use.

Problems have risen in Canada with regards to certain **artists**' being classified as self-employed rather than as employees. For example, after audits by the Ontario Department of Finance in 1999, musicians and directors/conductors in the national symphony orchestras were determined to be employees rather than self-employed, for the purposes of Employer Health Taxes (EHT). The organisations became liable for thousands of dollars in back taxes. This not only meant penalising a not-for-profit cultural organisation (which the government was directly funding) but also the musicians whose contracts with the orchestra would not be enough to survive on, and who had worked in the past on the basis of multiple contracts, augmenting their remuneration through teaching and performing for many other engagers (Canadian Alliance of Dance **Artists**, 2002).

Status of the Artist Act

The **United** Nations Educational, Scientific, and Cultural Organisation (UNESCO) made a recommendation on the 'status of the artist' in 1980 which encouraged all signatories to implement policies to address the professional and socio-economic interests of **artists**. In 1992 the Canadian government became the first to implement this recommendation, which in 1995 became the Status of the Artist Act. This act was an attempt to address the economic rights of **artists** and officially recognise them as professional for the purposes of collective bargaining and taxation. A key purpose of the act was to grant **artists** professional status to distinguish them from art hobbyists, so that their income tax applications would be assessed under the same conditions as commercial enterprises.

According to the Act, an artist must meet the requirements for membership of a 'national certified association' in order to receive professional status. Once they are classified as professional, they benefit from the conditions negotiated by the certified association on their behalf, in particular, minimum wage agreements. Although the law was recognised as a positive step towards promoting a more equal economic status for **artists**, some point out that it may further marginalize 'non-professional' **artists** who do not conform to the status quo, and may encourage employers to hire such **artists** at cheaper rates than professional **artists** (Cliché, 1996).

Income averaging

Income averaging for self-employed **artists** does not currently exist for federal income taxes, despite years of lobbying from various arts organisations such as the Canadian Conference of the Arts.

Specific tax treatment/special exemptions

*The Quebec **Artists** Exemption*

Within Canada, the provinces of Ontario, Quebec and British Columbia are centres for cultural industries and the arts. Quebec, in particular, has led other provinces in increasing the levels of funding for culture, strengthened the role and mandate of its Ministry of Culture, and created the *Conseil des Arts et des Lettres*. Quebec is the only province that collects its taxes separately from federal taxes.

Quebec provides a tax exemption for **artists** from copyright income, known as the Quebec Bill 108, an amendment to the 1995 Income Tax Act. This bill originally stated that **artists** and creators in the province were entitled to an annual income tax exemption on copyright income up to $30,000 CAN (€21,300). This exemption worked on a sliding scale: all copyright income up to $15,000 CAN (€10,650) was tax exempt. After that the exemption decreases up to a value of income of $30,000 CAN (€21,300) (Mathieu, 2000). The exemption ceiling was increased to $60,000 CAN (€42,600) in 2001 and now works on a similar sliding scale basis.

The idea behind the exemption was that **artists**, creators and producers are crucially important to many economically important cultural industries such as music, sound recording, publishing and film making, yet often supply unpaid or underpaid labour. It was felt that **artists** and creators provided the equivalent of the 'research and development' for the cultural community in the national interest. As Canada has had a long history of supporting research and development in scientific, industrial and technological fields, the bill was a step towards providing the same recognition and support to cultural innovators (Standing Committee on Canadian Heritage, 1999).

The Quebec exemption is only available on the copyright income of **artists**, therefore available only to 'creators' whose artistic work results in an original literary, musical or artistic work. The reasoning behind this is the belief that creators take the most risks as they carry out research and development for which there is no payment in time, and no assurance that there will be any remuneration upon completion. It is also claimed that when remuneration is forthcoming it may be in fairly small amounts and paid over extended periods (CCA, 2002a). As in the Irish case (see section 3.5), performing **artists** are excluded from the exemption, as it is claimed that they are generally paid for work as and when they do it.

The exemption, although clearly designed to significantly improve the economic position of certain **artists**, can be criticised for ignoring the unpaid research and development work by actors and other performers. They are also often among the lowest-paid **artists**, whereas the major beneficiaries of copyright are well-known, high selling **artists**. For example, CCA (2002a) reports that the average employment income for writers is $27,942 CAN

(€19, 839) versus actors with about three-fifths that at $17,035 CAN (€12,095), dancers at $11,946 CAN (€8,482) and other performers at $14,097 CAN (€10,009)[19]. Although in theory neighbouring rights can be obtained for 'performers' performances' of a copyright work, these are not used in practice and can only be obtained through a contractual agreement. To date, no payments have been made.

The Quebec exemption has been supported by various arts organisations throughout Canada, and in 2000 the Nelson Riis' Private Members' Motion M259 was put forward to adopt the Quebec Bill throughout the country. Despite its support in the arts community, there was no political will from any party in 2002 to support it or anything similar.

*Non-resident **Artists** Tax*

The normal withholding rate of tax for non-resident **artists** is 15%. Where a non-resident can adequately demonstrate that the withholding tax normally required is in excess of their ultimate Canadian tax liability, the department may reduce or waive it accordingly. The Canada-US Treaty allows waivers to be granted for US **artists** whose gross income and benefits do not exceed $15,000 CAN (€10,650) in a taxation year and who have no fixed base in Canada. In addition, Regulation 105 states that withholding is applied to only the portion of services that are provided in Canada (Revenue Canada Taxation, 2002).

For non-resident performing **artists**, their company or agent can apply for a Temporary Employment Authorisation from Human Resources Development Canada which is an effective waiver of the regular work permit (once they are classified as a 'not-for-profit organisation'). Once this is received they must pay an entry fee of either $150 CAN (€106) for an individual artist; $450 CAN (€319) for a group of 2–15 **artists**; or nothing for groups of over 15. If the performers are paid less than $5,000 CAN (€3,550) for their performances they pay no tax. If they are paid $5,000 CAN (€3,550) or more they apply for a Regulation 105 waiver. This allows them to deduct the costs of performances such as travel, per diems, and agents' fees from their revenues. They pay the withholding rate of 15% on the remaining revenue (unless subject to a negotiated double tax agreement with their country of residence)[20].

Public Lending Rights

Canada has had a Public Lending Rights scheme in place since 1986. To be eligible the author must be a Canadian citizen and be the sole author or have made a contribution of at least 10% to the book. Editors, translators, illustrators and photographers can also avail themselves of the right, given certain eligibility criteria. A combination of public and university libraries, 10 English and five French, is sampled each year to estimate the annual amount of rights payable based on authors' holdings. Total payments to authors in 2001/02 were approximately $9.6 million CAN (€6.8 million) to 13,269 writers, translators and illustrators. There is a maximum payout to authors of $3,675 CAN (€2,609), which in 2002 was received by 414 authors (PLR Commission, 2002).

Social security schemes for artists

Artists are treated the same as other citizens under the social security system in Canada. Employees and the self-employed contribute to the Canada Pension Plan, although employees benefit from employer contributions to the plan. Self-employed workers, including **artists**, are currently not able to receive Employment Insurance (EI) to cover periods when they are not working. EI provides temporary financial support for **unemployed** employees while they are actively seeking work or upgrading their skills. To receive EI, an artist must have:

- paid into the EI account

- been without work and without pay for at least seven consecutive days
- worked the required number of insurable hours

The artist must also be available for work at all times and not be able to find a job, not confined to the artistic sphere.

Direct financial aid

The Canada Council for the Arts is the national agency that provides grant and direct funding to individual **artists**. Canada Council individual artist grants are intended to help individual **artists** pursue professional development, independent artistic creation or production. Grants for Professional **Artists** offer amounts of $3,000 CAN (€2,130) to $20,000 CAN (€14,200) or up to $34,000 CAN or €24,140 for senior visual **artists**, in increments of $1,000 CAN (€710). Grants provide a contribution towards expenses directly related to the artist’s programme of work, such as living expenses and the cost of certain materials related to their artistic practice. Travel Grants are also available, with fixed amounts of $500 CAN (€355), $1,000 CAN (€710), $1,500 CAN (€1,065) or $2,000 CAN (€1,420), to assist individual **artists** to travel on occasions important to their artistic practice or career.

Direct funding is also given by the Council as awards in the different art forms. Examples of some of the awards for specific art forms and their 2002 value include:

- Dance: the *Grants for Dance Professionals Scheme* provides professional development, creation, apprenticeship/mentorship and production support for professional Canadian dancers. The grant makes funds of up to $20,000 CAN (€14,200) a year available, with an additional $6,000 CAN (€4,260) prize for the most deserving candidate
- Visual arts/architecture: *Creation/Production Grants* and *Travel Grants to Professional **Artists*** contribute to subsistence, production and transportation expenses relating to research or creative production, including work undertaken as part of national or international artist residencies. Amounts available depend on the stage of the artist’s career. Established **artists** receive from $3,000 CAN (€2,130) to $34,000 CAN (€24,140), mid-career **artists** from $3,000 CAN (€2,130) to $15,000 CAN (€10,650), and emerging **artists** from $3,000 CAN (€2,130) to $9,000 CAN (€6,390). Fixed amounts from $500 CAN (€355) to $2,000 CAN (€1,420) are available for Travel Grants. There are similar but separate creation and production grants open to architects, with the same value criteria
- Literature: the Canada Council offers a range of grants for professional Canadian writers, collectives and publishers, including creative writing, travel and author residencies, grants to aboriginal writers, storytellers and publishers, and various book publishing support funds
- Music and performing arts: the Council offers *Grants to Professional Musicians* to cover projects, subsistence and travel expenses ranging from $3,000 CAN (€2,130) to $20,000 CAN (€14,200) a year. Similar *Grants to Theatre **Artists*** are available for Canadian performing **artists**. In both disciplines there are a range of grants also

available to arts organisations and individuals involved in production and recording of performances

In 2000/01 expenditure by the Canada Council in support of the various art forms totalled over $100 million CAN (€71 million).

In addition to funding from the Canada Council, **artists** can also receive grants from local and provincial Arts Councils and art organisations.

Private/corporate aid

Corporate and private sponsorship and support of the arts in Canada has increased dramatically during the last two decades. In the 1990s the average level of private sector support of the arts in Canada totalled some $60 million CAN (€43 million) a year. The interest of the Canadian private sector in the arts is primarily associated with the sponsorship of productions of performances, the purchase of visual arts, and the provision of operating or acquisition funds for public art galleries and museums. Canada still has relatively few foundations with extensive programmes to support and develop the arts. Corporate awareness and its potential role in this area is also relatively recent, although it has been greatly increased by the efforts of the Council for Business and the Arts in Canada.

Corporate sponsorships are the most important source of private funding to **artists** and arts organisations in Canada. A survey of the performing arts in 2000 found that corporate sponsors contributed more than eight times as much as foundations; more than four times as much as corporate donations; and more than three times as much as individual donations. Of these corporate sponsors, the leading supporting industries were media firms (eg radio, television, cable), financial institutions (eg banks, credit unions, investment firms, stockbrokers) and tobacco companies. Airlines, the tourism and hospitality sector, and brewers, distillers and vintners also contributed substantially to the performing arts. It is estimated that business and industry contributed nearly $30 million CAN (€21 million) in cash sponsorships to the major performing arts groups in Canada in 2000, which amounted to approximately 13% of the revenue they received that year. Individual donations amounted to $8.4 million CAN (€6.0 million), corporate donations to $6.2 million CAN (€4.4 million), and foundations to $3.4 million CAN (€2.4 million). The remaining private revenue of $13.1 million CAN

(€9.3 million) came from special events or projects (Canadian Conference of the Arts, 2000).

Private support is estimated to account for approximately 20% of arts organisations' revenue (50% comes from earned revenue and 30% from direct government aid). Corporate support is the largest source of private funding, and within this area, corporate sponsorships are approximately double corporate donations. The arts are not, however, the main beneficiaries of corporate support. The typical donation received by hospitals, education, health and 'other' charities is almost twice that reported by arts and culture charities. Approximately 25% of private support comes from donations from individuals. Endowment and Trust funds are the only other significant source of private funding although these, on average, tend to be relatively small with approximately 60% of funds worth less than $1.0 million CAN or €0.71 million (Statistics Canada, 2000).

In order to encourage private sector and individual support to national arts service organisations and individual **artists**, amendments were made to the Income Tax Act in 1991. Most Canadian arts organisations (performing arts companies, public galleries, museums) are 'not for profit' and qualify as charitable organisations for tax purposes. This means that private donors can claim a tax credit on their donations to a maximum of 20% of the taxpayer's income during a given year. Several small tax changes were also introduced in 1991, along with the Status of the Artist legislation, to improve the fiscal situation of **artists** and arts organisations. The tax treatment of donations of works of art to the State or to designated institutions by visual **artists** was improved and national arts service organisations, which provide diverse services to the artistic community while promoting one or more art forms or disciplines, have also been allowed to benefit from the same tax advantages as charitable organisations.

3.3 Denmark

Background structure

The Ministry of Culture is the highest cultural policy body in Denmark. There is also a large network of both public and private institutions with considerable legally regulated influence on the Ministry. The Danish system for financial support of **artists** is built around the principle of self-determination and self-government or the 'arm's length principle'. This principle is applied to establish independent arts councils, boards and committees to distribute cultural funding[21]. Members are selected by the Ministry of Culture and appropriate representatives from different artistic organisations, but the arm's length principle implies that politicians may not take actual decisions on subsidies, judge the quality of an art work or artist, or influence any such decisions based on their own opinions or taste. So although politicians and government design the overall budget and framework for financial support, they do not have a direct impact on decisions taken by committees about which specific **artists** to support and in which specific manner.

The Art Foundation is an independent institution financed with public funds to support creativity in the arts. The Ministry decides on the volume of state funds flowing to the foundation, while the foundation decides on their distribution. Other important organisations working as expert bodies and advising the Ministry on cultural policy and administration of funding include the Danish **Artists** Society, the Danish Authors Society and the Council of Danish **Artists**.

The Danish Ministry of Taxation, Skatteministeriet, is the government body responsible for legislation and tax policy in Denmark. Central Customs and Tax Administration, ToldSkat, has responsibility for administration and collection of direct taxation, VAT, and other forms of indirect taxation and customs procedures. The Ministry of Social Affairs, Socialministeriet, is responsible for the central administration of the Danish social security and benefits system. Its duties are to assist the Minister, the Government and Parliament in the drafting of bills and to initiate debate, pilot projects and research that are capable of developing the social area. Moreover, the Ministry attends to Denmark's social-policy cooperation with other nations, for instance the conclusion of agreements in the social security area.

Tax treatment of artists

Artists in Denmark are taxed according to the general system of taxation. There are no special schemes currently in place for **artists** who are liable to pay unlimited taxation. **Artists** in Denmark are divided into three categories: wage earners or employees, self-employed, and 'freelancers’. Freelancers are between employees and the self-employed, or could be described as wage-earners without any permanent employment. The income tax assessment of the three groups also differs as follows:

- the self-employed are allowed to deduct their entire expenses from their income before it is assessed for tax. For example, an income of 100,000 DKK (€13,000) [22] minus expenses of 50,000 DKK (€6,500) equals 50,000 DKK (€6,500) of taxable income. The earner then pays a gross tax of 9% on 50,000 (ie 4,500 DKK or €585) and the ordinary tax rate on the remaining 45,500 DKK (€5,915)
- freelancers pay the gross tax on their gross income and then deduct expenses and pay ordinary tax on the remainder. For example, with an income of 100,000 DKK (€13,000) they pay 9% gross tax on the whole amount (9,000 DKK or €1,170). The remaining 91,000 DKK (€11,830) of income minus expenses of 50,000 DKK (€6,500) leaves 41,000 DKK (€5,330) on which they pay ordinary tax. The result is that freelancers pay more gross tax than the self-employed
- employees also pay gross tax on their gross income but are allowed a smaller tax deduction for expenses. In 2001, employees were not allowed a deduction on the first 4,600 DKK (€598) of their expenses. For example on an income of 100,000 DKK (€13,000) employees pay 9% gross tax (9,000 DKK or €1170). From the remaining 91,000 DKK (€11,830) they can deduct expenses (for 50,000 a maximum of 45,400 DKK (€5,902). They pay ordinary tax on the 45,600 DKK. The employee therefore pays more ordinary tax than the freelancer and also more gross tax than the self-employed person

Income taxes for employees range from a starting rate of 6.25% for the basic or ‘bottom-bracket’ rate to a starting rate of 15% for the higher or ‘top-bracket’ rate. There is a tax ceiling of 59%.

Salaried **artists** and the self-employed in Denmark must pay social insurance and benefit contributions to the tax department from their income. The two main schemes are Labour Market Contributions or ArbejdsMarkeds (AM) contributions which contribute to daily benefits, training and leave of absence, and Special Pension Savings Scheme (SP), which represents 1% of the tax payer’s income (from the age of 17 to 67) saved or withheld by the employer towards an old age pension. In addition, employees pay contributions to the

Labour Market Supplementary Pension Scheme or Arbejdsmarkedets Tillægspension (ATP), an additional pension scheme of which employees pay one third (approximately 75 DKK [€9.75] a month for a full-time job) matched by a two thirds payment or saving by their employer. The ATP is payable on retirement along with the ordinary state pension (Told Skat, 2001). Freelancers can contribute to these schemes by registering as an employee for tax purposes. In 2002, a project group was set up by the Ministry of Taxation to work towards 'solving the problems of the third group of the labour market freelancers', focusing in particular on resolving issues around social security and unemployment insurance.

Income averaging

The often large variations in the annual incomes of **artists** are not dealt with under the tax system, despite many attempts by the Arts Council and arts organisations to address such issues. In 1983 a special committee on the Taxation of **Artists** Earnings was set up, which proposed various measures designed to balance fluctuating incomes and thus alleviate the difficult economic position of creative **artists**. Despite their reported findings in 1987, no alterations were made to the Danish Tax system. In 1990, another full report was issued by the committee with the same negative result. In 2002, income averaging was still not allowed for **artists** (or any other taxpayers). Any deductions for the self-employed must be used in total and can only be carried forward if there is no income from which to deduct them. The new Danish Government, in place since 2001, have drafted a bill which includes various changes for **artists**. Under this bill income averaging for self-employed **artists** will be introduced along with a significant increase in the number and type of expenses that self-employed **artists** can claim against their income taxes[23].

VAT

VAT in Denmark on general sales is 25%; however, there is a special reduced rate of five per cent on sales of visual arts and certain handicrafts. There is also a complete VAT exemption on the first sales of works of art by the artist. If their income from such sales amounts to less than 300,000 DKK or €39,000 in the current or previous year, they need not register for or charge VAT.

Specific tax treatment/special exemptions

The only special exemptions available to **artists** are scholarships for study tours, honorary prizes and awards under 11,000 DKK or €1,430, and certain tax-exempt international honorary awards.

*Non-resident **artists** taxation*

Non-resident **artists** in Denmark have a different tax position, depending on circumstances. An artist who is a resident or has been in Denmark for longer than six months is treated the same as Danish **artists** and subject to unlimited taxation. Other non-resident **artists** employed by a Danish employer will only be subject to limited taxation. The normal withholding rate for the taxation of non-resident **artists** is 25%. For income from royalties the rate is 30%, apart from those paid to **artists** from countries with which Denmark has a Double Taxation Agreement, in which case the withholding tax rate is lower than the normal rate or zero. Non-resident **artists** who are self-employed (or employed by a non-resident employer) will not be subject to any taxation in Denmark as there is no internal provision for taxation. This is in spite of the fact that the OECD Model Convention on Double Taxation grants the right of taxation to the country of performance.

Public Lending Rights

Public Lending Rights have been available in Denmark since 1982. Under Danish Law all authors (as well as **artists**) are entitled to a remuneration for the loan of their works in all Danish libraries, except for research libraries. The lending right applies to printed works and literary works on audio support. This right cannot be transferred and consequently Danish publishers do not benefit from it. An organisation controlled by the Ministry of Culture administers the allocated amount and monies are then distributed on an individual basis.

Social security schemes for artists

In Denmark **artists** are part of the common social security system open to all citizens. Public Social Aid may limit **artists**' artistic activities as, after a certain period, they will be relocated into various different public activities, aimed to give the **unemployed** work. As a principle rule self-employed activities are not allowed during the unemployment period. However, a person carrying on self-employed activities as a 'sideline' during the unemployment period can still be entitled to the benefits, if they can be done outside ordinary working hours. Self-employed activities cause a deduction in unemployment benefits, and also limit the period of unemployment benefits to 78 weeks compared with the normal four-year entitlement.

Artistic performers may be insured for unemployment insurance if they exceed the minimum amount of work necessary to maintain insurance which is often problematic. The Council of Danish **Artists** developed a special model for social security for authors (writers, composers and visual **artists**), who are never technically 'out of work' but do have periods in which they have nil or minimal income. The model has not been used but is currently being reviewed as part of an attempt to review the taxation and benefits system for **artists** in Denmark.

The general unemployment insurance system in Denmark is based on voluntary membership of an unemployment insurance fund. An unemployment insurance fund is a private organisation, but payments such as benefits or early retirement payment are fully covered by the Treasury. Members of an unemployment insurance fund have to pay a contribution both to the State and to the administration of the fund. In addition, members who are more than 30 years old can choose to pay a contribution to the voluntary early retirement scheme which offers the possibility of receiving early retirement payment on reaching the age of 60.

Membership can be full-time or part-time insured, but self-employed persons can only be full-time insured. For 2002 the monthly contribution for a full-time insured member was 242 DKK (€32) in contribution to the State and 352 DKK (€46) to the voluntary early retirement scheme. The contributions are the same for employed and self-employed members. The contribution to the administration of the unemployment insurance fund depends on its costs.

A self-employed artist who has to close their business will be entitled to benefits if a number of conditions have been satisfied, such as membership of an unemployment insurance fund for at least one year and full-time self-employed activities for at least 52 weeks within the previous three years. All the ordinary conditions for unemployment benefits, ie being available to the labour market, being registered with the public employment service and actively seeking employment also have to be met. The unemployment benefit rate for a previously self-employed person is calculated on the basis of the average income during the two most lucrative of the past five years. However they cannot receive more than 90% of their previous income, and there is a maximum limit, which in 2002 was 604 DKK (€78) a day, five days a week. This entitles the person concerned to a maximum amount of about 157,000 DKK (€20,410) a year.

In addition to the rates mentioned above, the unemployment insurance system offers a minimum rate, independent of previous income. The minimum rate is 82% of the maximum rate, which in 2002 amounted to 495 DKK (€64) a day, five days a week. In order to obtain the minimum rate, the person must have carried on self-employed activities for at least three consecutive financial years before the occurrence of unemployment, and been a member of the insurance fund for the entire three-year period (Arbejdsdirektoratet, 2002). Those who do not meet these more stringent conditions will receive less than the minimum. The maximum time limit for receiving unemployment benefits is four years.

As a form of pension it is possible for certain **artists**, selected on artistic, financial and other criteria, to be granted indefinite funding from the 'States Art Foundation.' The funding is not designed to offer complete financial subsistence to the artist, but to help support them to carry out further work in their particular field.

Artists aged over 67 are entitled to the general state pension, as are all citizens of Denmark. For many other professions, this pension is supplemented with private or employer-paid insurance. **Artists**, however, often do not have these extra supplements to their pension due to their self-employed status or salaries.

Direct financial aid

In addition to the funding mentioned above, the State also offers working grants, mainly for three years, to **artists** in the fields of literature, handicrafts, visual art, film, theatre, architecture and music. Working scholarships for **artists** average around 240,000 DKK (€31,200) a year and in 2000, grants and awards made to **artists** totalled 78.3 million DKK (€10.2 million) (Jakobsen, 2002). **Artists** are granted these funds on the basis of decisions by the Board of the Foundation with the advice of the Danish Arts Council and other relevant expert arts committees. In 2002, the Danish government was in the process of preparing an Act of Parliament to allow full tax deductions to recipients of awards presented in acknowledgement of their artistic or other distinction. Tax exemptions for study trips, travel and other grants will be introduced under the new legislation.

In the visual arts, three-year working grants are awarded as subsidies to young promising **artists**, while lifelong subsidies are awarded to **artists** recognised for long-term accomplishments in the arts. The Ministry of Culture also provides financial support via the developing fund, designed to support **artists** in 'experimental' projects and crossover art activities, as well as to set up art initiatives directly. A new kind of award was introduced in 1998 in the form of two-year starting scholarships to support creative **artists** at the beginning of their artistic career. There will be 136 starting scholarships to distribute every year within the artistic disciplines supported by the Danish Arts Foundation. The scholarships are worth 72,000 DKK (€9,360) a year and the holders can have unlimited income from their artistic work and income from other employment up to 60,000 DKK (€7,800) a year. While holding a starting scholarship the holder cannot receive unemployment benefit or other social security benefits covering living expenses.

The Council of the Danish Arts Foundation also makes recommendations to the Ministry of Culture for lifelong **artists**' grants. These can be awarded to **artists** who have completed some form of artistic production that has achieved significant distinction for them as an artist. The award is made solely on the basis of their artistic production, although all new lifelong **artists**' grants are income-linked. The minimum amount is 12,000 DKK (€1,560) and the maximum 110,000 DKK (€14,300) a year, depending on the artist's income.

The Danish Music Council provides subsidies for professional orchestras, choirs and ensembles, concerts, festivals, music drama and music tuition of an experimental nature and music schools. Subsidies to theatre and theatre companies are awarded nationally by the Danish Theatre Council and regionally by municipalities and counties. The Literature Council is responsible for administering the bulk of subsidies to writers and other literary creators, while the National Library Authority distributes funds via the public lending remuneration scheme.

Funding is also available for **artists** in Denmark via the Nordic Cultural Fund

which provides funding for **artists** and arts projects across the range of art forms that provide some form of 'Nordic Benefit'[24]. The total budget for this fund in 2001 was some 25 million DKK (€3.2 million).

Private and corporate aid

A number of long-established private patrons of the arts in Denmark, including Carlsberg Breweries and Maersk McKinney Moller, directly support **artists** as well as establishing various non-profit arts institutions. Foundations are subject to a separate tax law and are supervised by an office of the Ministry of Justice, the Fondsregister. One of the most important funds is the Egmont Fund which helps to fund the National Museum. The Ny Carlsberg Fund primarily funds contemporary Danish Art and the Louisianna Museum.

The Business Development Fund or Vaeksfonded works with private investors to make donations to a film investment fund to provide venture capital for the Danish film and media industries.

Corporate Sponsorship has also been an important source of private funding. It is estimated that in 1999 investment in sponsorship of the arts by Danish business was between 190 and 230 million DKK (€24.7–30 million), excluding foundations and funds. Nearly 60% of this funding went to the nine largest art institutes in Denmark.

In 2002, the Danish government was in the process of preparing an Act of Parliament to make it possible for firms purchasing works of art for their places of business to write off these expenses entirely for tax purposes. It is also examining new mechanisms for tax relief for supporting the arts, such as a proposal for tax write-offs for mural commissions. A key priority is also to try to strengthen the links between business and the arts. For example, the government is in the process of setting up a scheme to co-fund innovative partnerships between the arts sector, business and industry.

3.4 Germany

Background structure

The Government of Germany is based on a federal system and effectively has no Ministry of Culture at a federal level. The responsibility for cultural policy and funding generally in Germany lies with the Länder or Federal States. In 1998, the office of a *Federal Government Commissioner for Cultural Affairs and the Media* was introduced and a *Commission for Culture and Media* in the Federal Parliament was formed. The allocation of political power and responsibility for cultural affairs has, however, largely remained in the hands of the Länder. The Deutscher Kulturrat (German Arts Council) is a type of intermediary central agency connected to around 250 professional associations and organisations across the range of artistic disciplines. The Kunstrat within the Deutscher Kulturrat is made up of over 20 artistic trade unions and other artistic associations. Some of the larger organisations include:

- Industrie Gesellschaft Median (a union for both arts and media professions)
- Bundesverband Bildendender Kunsterinnen und Kunster or BBK (the largest visual arts association with around 12,500 members)
- Deutscher Musikrat. The Music Council comprises all of the representatives of the music professions with 89 associations and 16 regional music councils
- Rat der Darstellende Kunste: the Council of the Performing Arts comprising 29 theatre and dance organisations
- Deutsche Literaturkonferenz: the German literature conference, a union of 23 literary associations

The Federal body responsible for taxation is primarily the Finance Ministry or Bundesfinanzministerium. Social Welfare in general in Germany is under the control of the Federal Ministry of Labour and Social Affairs (BMA or Bundesministerium fur Arbeit und Sozialordnung). Social insurance for self-employed **artists** is, however, the responsibility of the *'Kunstler Sozialkasse'* or *KSK* (see below).

Tax treatment of artists

Artists are subject to the same general tax schemes as other workers in Germany. Four categories of artistic workers are recognised in Germany:

- assimilated wage-earners: full or part-time employees
- para-salaried employees: self-employed workers who are simultaneously involved in some form of contract with a company
- self-employed workers who are not financially successful: **artists** working for a variety of individuals and companies on a self-employed basis who are often the weakest socio-economic category
- authentic self-employed workers or para-entrepreneurs: this includes **artists** who employ permanent workers, whose economic position allows them to compete independently and who can support economic risks (Weisand and Fischer, 1998)

It is estimated that approximately 40% of **artists** in Germany fall into the last two categories. All wages, commissions and other fees are subject to tax; however rewards, funds and subsidies granted by the State and other bodies towards the professional career of the artist are tax-exempt (apart from funds or awards referring to the elaboration of specific works of art which are not tax-exempt). Self-employed **artists** are allowed to deduct professional expenses from their taxable income. In some cases it is possible for the artist to deduct a lump sum from their turnover, rather than deducting individual expenses. For example, 'occasional **artists**' may deduct five per cent of their turnover up to a maximum of 1,200 DM (€612) and self-employed writers and journalists can deduct 30% up to a maximum of 4,800 DM (€9,408). These systems are generally only used when the artist's turnover is very low.

Income averaging

Self-employed **artists** are also allowed to spread or average their income over a three-year period for tax purposes. This enables them to spread income from a large occasional piece of work over a longer period where income may be lower.

VAT

Artists are also offered a reduced rate of VAT or sales tax of seven per cent on sales of various objects of art (rather than the normal domestic rate of 15%). Revenues from all **artists**' copyright incomes are also only charged at seven per cent tax, for example books or theatre royalties. Theatres, orchestras, museums and certain other artistic institutions can be exempt from paying VAT in certain circumstances. According to the European Council of **Artists** (ECA) (2000), more than half the taxpayers in the cultural sector are individual **artists** but only 15% of taxable gains relate to them, with the main sums accruing to editors and advertising companies.

Specific tax treatment/special exemptions

*Non-resident **artists** taxation*

In Germany, there have been complaints that international **artists** often experience excessive taxation. The flat withholding tax rate for non-resident **artists** is 29%[25]. This has been a source of conflict between the Ministries of Finance and Culture. The Finance Ministry has defended the tax system as being in line with the international rules laid down by the OECD. It also argues that some **artists** have few or no expenses so that a higher tax rate is needed. The Deutscher Kulturrat has strongly opposed the artist tax system stating that performances by non-resident **artists** have gone down by 33% since 1996 and that venues throughout the country have been forced to shut down because of the tax rules (International Association of Entertainment Lawyers, 2002).

After considerable pressure from these bodies and other arts organisations the tax laws were changed in 2002 and a sliding scale of tax rates was put into place to offer relief to smaller and medium-sized **artists**. The rate was changed to zero per cent for income of 0–127 DM (€0–€250), 10% for 128 DM to 255 DM (€251–€ 500), 15% for 255 DM to 510DM (€500–€1,000), and 25% for more than 510 DM (€1,000). The Minister of State for Cultural Affairs and the Finance Committee also agreed in November 2001 to the introduction of an exemption rule for small sums and a lowering of the maximum tax rate to 20% as of 2003. The intention of an exemption rule for small sums is to create tax relief for small and medium-sized organisers who are viewed as important in cultural exchange. This will create a moderate level of taxation for non-resident **artists** in line with the tax situation of domestic **artists** (German Press and Information Office, 2001).

Public Lending Right

Germany has a Public Lending Right Scheme in place for creators and publishers. The lending right is financed by the institutions which lend the works ie the libraries. The Länder finance the lending right for municipal and regional libraries; it is financed by the Federal State for the national libraries. In accordance with agreements between the Länder, the Federal State and the writers' collecting society VG Wort, an appropriate lump sum is transferred annually to the collecting society. Income generated from the lending right is distributed between: Bild-Kunst the main collecting society for visual **artists** and photographers (6.3% for lending of graphic works); Gemma the collecting society for musicians (2.5% for lending of music partitions); and VG Wort (91.2%, of which 22.5% goes to scientific libraries and 77.5% goes to public libraries). VG Wort then distributes the income from the right as follows:

- 10% is used for a fund for authors in difficulty
- 45% is used for an authors' social security fund
- the remaining 45% is paid to authors and publishers on an individual basis, at the rate of 30% for the publisher and 70% for the author

Social security schemes for artists

There is no specific benefit available for periods of insufficient income or unemployment of **artists**, but any citizen experiencing great financial difficulties can request a housing subsidy.

*KSK: special social security system for self-employed **artists***

Employed **artists** benefit from the same social security benefits (such as health care and pensions) and unemployment payments as all other employees in Germany. Based on the results of a large empirical survey carried out among **artists** in 1975 by the Federal Parliament 'Der-Kunstler Report', Germany developed a unique, partially publicly funded social insurance scheme for self employed **artists** known as *'Kunstler Sozialkasse'* (KSK). The KSK was established by the **Artists**' Social Security Act of 1983 (Künstlersozialversicherungsgesetz or KSVG) in order to enable independent **artists** to enjoy the same degree of social protection as employees. It covers health insurance and old age pensions but not unemployment benefits.

The scheme was developed for self-employed **artists** as they were not eligible for the normal employer contribution schemes (covering health, pensions etc.), and because of their often poor incomes. The normal contribution for all German taxpayers is 19.1% of income tax for pension funds, 1.7% social funds and 13.5% for health insurance. **Artists** who are employees pay half the contribution from their income taxes and the employer pays the other half. Self-employed persons are liable to pay both shares, but under the KSK, the State and enterprises using **artists**' works such as art dealers, gallerists, auctioneers publishers, theatres, broadcasters and others also contribute to health insurance and pension schemes for living fine **artists**. Contributions towards the KSK are shared between the individual artist (50%), enterprises regularly using **artists**' work (30%) and the state (20%).

To be accepted into the KSK, **artists** have to prove that they are self-employed and that they earn a minimum income of 7,680 DM or €15,053 a year. Professional newcomers such as graduates are exempt from the minimum income criteria but must prove their freelance status. In 2000, 112,209 **artists** were registered with KSK (39% visual **artists**, 26% musicians or composers, 24% authors, translators and freelance journalists, and 11% performing **artists**) (ERICarts, 2001).

Droit de Suite

The contribution from dealers and auctioneers to the KSK for visual **artists** is organised chiefly through VG Bild-Kunst, which is also responsible for the collection and distribution of the Droit de Suite levy. To facilitate the collection of the levy, VG Bild-Kunst concluded a blanket agreement with the Association of German Art Dealers and Auctioneers in 1980 along with other gallerists and art publishers to aid the administrative process. Under this agreement each sale must be reported to a commonly instituted independent body 'Ausgleichsvereinigung Kunst' which calculates the sums due to **artists** and their successors. Sellers submit data on their earnings to Ausgleichsvereinigung which in turn provides sellers with information on **artists** and works eligible for Droit de Suite and a report on how much of the levy is due. The levy is collected as a lump sum from sellers who pay a standardised percentage of their annual net sales of fine art created after 1900.

The levy collected is made up of two parts: the Droit de Suite, or resale royalty, due plus contributions due to KSK. Ausgleichsvereinigung then transfers the money to Bild-Kunst which distributes levies due to **artists** under their distribution scheme which is guided by their obligations under the Law Of Collecting Societies. The turnover can be calculated and declared easily, as it is part of the tax declaration every art dealer has to deliver to the tax authorities. Information about the annual lump sum is provided by the galleries' auditors or galleries themselves. VG Bild-Kunst has the right to inquire with the assistance of public institutions, if the declarations are thought to be incorrect. The percentage of the annual turnover calculated under the lump sum system is negotiated every year taking into account the art market's development, the needs of social security and the views of the collecting society administering resale royalties. It varies between 0.8% and 1.3 % for galleries and between 1.8% and 2.3% for auctioneers.

After deducting 10% for their administration expenses further obligatory deductions are made for two separate funds:

- a deduction for *'Sozialwerk'* scheme. This is a separate and additional social security bond scheme which does not contribute to the official pension scheme, but is designed for those outside the official scheme or '**artists** in need'. The main recipients are elderly **artists** who are not entitled to a pension under KSK insurance because they were too old when the system came into existence and do not receive enough monthly support. Other recipients are **artists** suffering acute problems or crises, (eg accidents, studio burned down) but not for help to exhibit works. A supervisory board made up of members of VG Bild-Kunst decides which applications for support will be accepted
- a deduction for *'Kulturwerk'* scheme. This is a scheme to foster and support contemporary fine arts (eg promotions, competitions, exhibitions etc)

The distribution scheme differentiates between the various recipients of the levy as follows (after deduction of 10% administration expenses):

- for *living* ***artists***: a further 10% deduction for Sozialwerk and a 10% deduction for Kulterwerk ie the artist receives 80% of the net contribution
- for the ***artists****' estates/heirs*: a 10% deduction for Kulterwerk but no deductions for the Sozialwerk scheme ie the estate receives 90% of the net contribution
- for *non-resident* ***artists*** collecting royalties in Germany under the Confederation Internationale de Sociedades D'Auteurs et Compositores (CISAC): no further deductions are made ie the artist receives 100% of the net contribution (McAndrew and Dallas-Conte, 2002)

In 1999, the amount of Droit de Suite collected by the distribution scheme of Bild-Kunst was

4.9 million DM (€9.6 million). A further 0.34 million DM, or €0.67 million, was collected from dealers and auctioneers outside the blanket agreement ie direct payments to Bild-Kunst rather than via Ausgleichsvereinigung. From this, 0.3 million DM (€0.6 million) was directed to the Sozialwerk scheme and 0.32 million DM, or €0.63 million, to the Kulturwerk scheme (Bild-Kunst, 1999).

Alongside the KSK, a number of pension schemes and social security funds are available for the extra support of **artists**. Examples include the Pension Fund for German Theatres; the Pension Fund for para-salaried Employees in Radio-television Public Enterprises; Pension Fund for Orchestras for Medical Treatment; Sozialwerk (see above) and others. These complementary social funds often give individual assistance and grants for many aged **artists** and **artists** in particular periods of need.

Direct financial aid

In Germany there are over 2,500 regularly awarded cultural prizes, bursaries and grants with an overall value of over 25.5 million DM (€50 million) (ERICarts, 2001). General cultural grants and awards are tax-free although many competition prizes and special project grants are liable for tax. A number of grants are available to **artists** at the national, regional and local level. Some examples of public funds for the support of artistic creation include:

- Kunstfonds for visual **artists**. This is a fund to support the contemporary visual arts. It has three main groups of funding: the **Artists**' Programme (a working scholarship of 7,650 DM (€15,000) a year); the Project Scholarship (which funds specific projects of individual **artists** up to 12,750 DM [€25,000] or 75% of the cost); and **Artists** Groups (which covers specific group projects again up to 12,750 DM [€25,000] or 50% of the cost)
- the Programme for the Promotion of Music. A musical fund that offers grants directly to individual musicians and for the promotion of musical programmes and events in varied amounts
- Fonds Theatrical Arts is a fund devoted to support performing **artists** in the theatre and theatrical institutions through grants of varying amounts for theatrical projects and events
- Stiftung Kulturfonds is a federal fund to support contemporary arts and culture with specific regional priorities given to **artists** from Berlin and several regions in East Germany. This fund supports **artists** from the visual arts, photography, the performing arts, film and music. It offers work scholarships of 510 DM (€1,000) a month for three to 12 months and travel grants for purposes of furthering the artist's career
- Deutscher Literaturfonds. This is a fund for authors and other literary creators which funds **artists** up to a maximum of 790 DM (€1,550) a month for a maximum of a year for any specific literary project. The authors must be involved in writing a novel, art book, and documentary or film script. The fund also offers assistance to authors towards expenses for getting published and a number of literary prizes. Examples include the *Kranichsteiner Literaturpreis* (of 10,200 DM or €20,000); the *Paul-Celan Prize* (for translations of French to German of 5,100 DM or €10,000) and the *New York Scholarship* (which pays for the artist to visit and stay in New York to pursue

their career for two and a half months). It is estimated that the last two funds give out some 90–100 project grants and bursaries annually, ranging between 25,000 and 60,000 DM (€49,000 to €117,600) each

The Minister of the Interior also allocates grants abroad. Examples include the Villa Massimo in Rome, the Casa Baldi in Olevano and the Cite des Artes in Paris. **Artists** up to the age of 40 can apply for these grants via the cultural ministry in their respective Länders.

The Federal government is also a significant supporter of the arts as a buyer and through directly commissioning **artists** to produce works of art.

Private/corporate aid

The four main forms of private funding of the arts in Germany are:

- financial aid or donations from private households and enterprises
- financial aid from foundations
- sponsorship
- advertising

The estimated total of private arts funding in 2001 was 1.5 billion DM (€2.94 billion): 1.0 billion DM (€1.96 billion) from foundations and financial support from households and enterprises and the remaining 500 million DM (€980 million) from corporate sponsorship. The split between private and public support of the arts in Germany is estimated at 10% private sources and 90% public funding (AKS, 2002).

About 1,400 foundations outside the State support the arts in Germany. Their funding activities have become important in recent years especially in the areas of exhibitions, concerts and larger arts events, and have grown in magnitude since the passing of a law in 2001 which provided additional tax concessions for cultural foundations. In contrast to one-off donations, foundations provide long-term support for **artists** and the arts. Founders and donors do not expect any service in return from the recipient. This is the classical form of arts patronage of the arts or philanthropy.

Corporate sponsorship, on the other hand, is based on reciprocity; promotion by the sponsor in return for public relations effects from those sponsored. Arts sponsorship in Germany, rather than being product-oriented, aims to achieve an increase in market value, familiarity, the positive development of the corporate image and extra motivation for the staff of an enterprise. Corporate sponsorship is estimated to provide between 500 and 700 million DM (€980 to 1372 million) to the arts, which makes it the second largest privately-sponsored sector after sport. Monies spent on company sponsorship of the arts are tax deductible, if devoted to a revenue-generating exercise. Donations by companies for purely philanthropic purposes are not tax deductible.

There are also over 3,000 artistic awards or prizes in Germany from a range of private and semi-private sources. The highest proportion of these awards go to literature (17%) followed by 'general' cultural awards (16%), music (15%) and the visual arts (14%)[26].

3.5 Ireland

Background structure

The administration of cultural affairs in Ireland is shared between the central and the local government. Until June 2002, the main responsibility at the national level rests with the Department (Ministry) of Arts, Culture and the Gaeltacht. Its task lies in the development of cultural policy guidelines and the preparation of laws for the cultural area. It comprised four sections: cultural heritage, arts and culture, broadcasting and film, and the Gaeltacht, the preservation of the Irish-Gaelic heritage. In June 2002, a Department of Arts, Sports and Tourism was established, as a policy-making body for these areas.

Other ministries involved in cultural matters include the Department of Enterprise and Employment (copyright), Department of Non-resident Affairs (Irish art abroad), Department of Education (schools and third level), Department of the Environment (local government, including library institutions), Department of Finance (Office of Public Works), and Department of Tourism and Trade.

The Arts Act of 1951 established the Arts Council of Ireland (An Chomhairle Ealaion). The Arts Council is responsible for direct funding to individual **artists**. It is an autonomous body, the Irish State's principal instrument of arts funding and an advisory body to the Government on arts matters, operating under the Arts Acts of 1951 and 1973[27].

The Department of Finance has responsibility in relation to legislation concerning taxation, but the primary tax collecting and legislating body is the Revenue Commission. The Department of Social, Community and Family Affairs is the government department responsible for social security systems.

Tax treatment of artists

Employed **artists** are taxed under similar taxation rules as other employees in Ireland with one major exception for 'creative **artists**' (see below). Self-employment (with or without part-time supplementary work) is the most common form of **artists**' work in Ireland (Coffey, 1998). Self-employed status does not entitle **artists** (or any other self-employed workers) to short-term social welfare benefits such as unemployment, sickness or disability benefits. Under the Social Welfare Act of 1988 all self-employed persons between 16 and 66 with an income of over £IE 2,500 (€3,175) a year must pay Pay-Related Social Insurance (PRSI) Class S of three per cent of total income. This scheme is designed to give cover to self-employed **artists** and others without a means test. The contribution includes a social insurance element and cover for widows' and orphans' contributory pensions; old age pensions; maternity pensions; and adoptive benefit. Since April 2001 there is no PRSI-free threshold and no PRSI ceiling for the self-employed.

VAT

The normal rate of VAT in Ireland is 21%, however the reduced rate of 12.5% applies to sales of art works if purchased from a registered trader. Books and periodicals are VAT-exempt in Ireland, as is the promotion of, or admission to, live theatrical performances. Admissions to artistic and cultural exhibitions are liable to the lower rate of VAT of 12.5%, and exhibition publications are subject to zero VAT where they consist essentially of textual or pictorial matter, have a distinctive cover, are less than eight pages and are bound (otherwise subject to 12.5%).

Specific tax treatment/special exemptions

The 1969 ***Artists*** *Exemption*

A unique provision for **artists** in Ireland is the tax-exempt status granted to self-employed creative **artists**, that is, composers, writers and visual **artists**. The exemption was initially introduced in the 1969 Finance Act and applies to all creative **artists** who qualify for residency as defined by the Revenue Commissioners. Under Section 195 of the Taxes Consolidation Act of 1997, the Revenue Commission is empowered to make a determination that certain artistic works are *original and creative* works generally recognised as having *artistic merit.* Accordingly, any earnings derived from sales or copyright fees from such works are exempt from income tax from the year in which the claim is made. The only tax to come out of this income is PRSI at the rate of five per cent. If **artists** earn income from any other sources it is taxed the same as for other citizens at the appropriate rate. The exemption applies only to income taxes and does not extend to VAT. All **artists** are obliged to register for VAT and to charge VAT on their works sold in Ireland if their total sales exceed £IE 40,000 (€50,800) a year[28].

The tax exemption is also extended to Arts Council Bursaries, Cnuas payments (annuities paid to **artists**, see below) and payments from sales of work abroad. From 1969 to 2001, 6,941 applications were received from **artists** and 5,120 of these (74%) were granted the exemption. In 2001, there were 369 applications, including 10 from non-residents. The most recent statistics available from the Revenue in 2002 for the cost to the Exchequer are for 1999, when it is estimated the incentive cost £IE19.3 million (€24.5 million). This is nearly a four-fold increase over the five-year period from 1994 when the incentive was worth approximately £IE 5.1 million or €6.5 million (Revenue, 2002).

While similar to the Canadian exemption, the Irish scheme has no upper limit on the income eligible for exemption. The rise in the cost to the Exchequer since 1994 has been approximately 40% a year on average, and although the figures for the years 2000 and 2001 will not be available until the end of 2002, it is expected that these will show a similar or probably higher growth rate, as more **artists** from Ireland and elsewhere avail themselves of the exemption. The question of limits to **artists**' income for exemption is a matter of current and future debate for the revenue with the mounting tax loss[29].

The terms *original and creative* encompass any unique work that is brought into existence for the first time as an independent entity by exercise of its creator's imagination. A work is said to have *cultural merit* if its contemplation enhances the quality of individual or social life by virtue of that work's intellectual, spiritual or aesthetic form and content. It is said to have *artistic merit* when its combined form and content enhances or intensifies the aesthetic apprehension of those who experience or contemplate it (Inland Revenue, 2002).

In order to qualify for the exemption, it is not necessary for a work to have both artistic and cultural merit, the presence of either is sufficient. The categories of works accepted for the exemption come under one of the following: a book, a play, a musical composition, a painting or like picture, or a sculpture. In 2001, the largest category granted exemptions were paintings (with 45% of exemptions granted), followed by books (21%), musical compositions and sculptures (both at approximately 13%) and lastly plays (with an eight per cent share).

The artist must also be 'living in Ireland'. The Inland Revenue defines this as resident, or ordinarily resident and domiciled, in the State and not resident elsewhere. The two tests for determining residence, introduced by the Finance Act of 1994 are:

- if the individual spends 183 days or more in the State in the tax year
- if the individual spends 280 days in the State, combining the number of days spent in the State in that tax year and in the preceding tax year[30]

The common test applied is that the artist is in residence in Ireland for at least six months and shows signs of living there, such as owning a home permanently ready for their occupancy. This feature of the incentive in particular was criticised as running contrary to its intentions. Although this exemption appeared to be worthy in supporting low-income struggling **artists**, in practice it was criticised as doing the opposite. The incentive has encouraged already famous authors, musicians and other **artists** to set up a base in Ireland to avail themselves of the incentive, often actually living elsewhere much of the time. In the first seven years of the introduction of the exemption, half of those benefiting were not Irish.

While the Revenue decides on their qualifying criteria, there are few checks on where **artists** normally reside unless they are audited by an income tax inspector. The result of **artists** avoiding income taxes is passed on to the taxpayers in their countries of origin where the taxes are foregone. The opportunity cost in terms of a loss in tax revenue for possible infrastructure and other projects should not be discounted, given the wealth of many of the **artists** concerned.

The incentive also offers most to **artists** who are already commercially successful, as they sell more works and earn more copyright income, when these are arguably the **artists** who need it the least. It also means that those possibly most able to pay for public welfare through taxation avoid doing so, leaving the rest of the economy (locally and regionally) to pay the difference. In reality, many Irish **artists** do not earn enough to pay any substantial income tax so they gain no or very little benefit from the exemption. Some form of subsidy (whether direct or indirect) to Irish **artists** could therefore be seen as preferable to creating a tax haven for wealthy non-resident **artists**.

While this exemption can, and has, been much admired for significantly and directly assisting the financial situation of many **artists**, a glaring problem (shared with its Canadian counterpart) is that it is biased between art forms, as it is not available to performing **artists** such as actors for performances, even though this may be the sole product of their artistic production. Arguably, they most 'deserve' entitlement as being the group who legitimately must be present in Ireland in order for others to enjoy their work.

*Non-resident **artists** tax*

The normal withholding tax rate for non-resident **artists** in Ireland is 26%. Ireland has Double Taxation Agreements with over 30 countries meaning that the withholding rate is effectively reduced to 10% (eg Australia, Japan, Portugal) or zero (eg the UK, Germany , France, Denmark, Canada).

Public Lending Rights

The Irish Republic does not run a Public Lending Right scheme despite many attempts by writers' societies and associations to have one put in place.

Social security schemes for artists

Artists who are registered as self-employed in Ireland can apply for *Unemployment Assistance* if their income falls below the current level of the social welfare benefit, subject to a means test, and they are available for and actively seeking work. This has been problematic for **artists**, who may be pressured into finding work outside their creative area. In January 2002, this benefit was worth approximately £IEP 103.88 (€131.50) a week or £IEP 4,662 (€5902) a year. Unlike, *Unemployment Benefit* (which is linked to having paid Pay-Related Social Insurance contributions) any earned income causes a reduction in the Unemployment Assistance payment.

There are a number of schemes designed to provide incentives for the long-term **unemployed** to move to self-employment. The *Back to Work Scheme* and the *Area Allowance Enterprise Scheme* offer three and four years respectively of a decreasing level of unemployment benefits for those moving into self employment from a period of over 12 months unemployment. Coffey (1998) reports that a barrier to **artists** participating in these schemes is the requirement to produce a viable business plan, plus a reluctance by some local arbiters to accept **artists** as self-employed individuals and therefore capable of being financially self-sufficient at the end of the scheme.

Fas[31]

Fas, the national government agency with responsibility for training and employment, gives priority to those with the most difficulties in the labour market. Both **artists** and arts organisations have used their training and employment schemes extensively to help **artists** become better equipped for work. Fas *Community Employment Schemes (CE Schemes),* are used by **artists** to get off the unemployment register. Under these schemes the artist can be engaged in their own creative work, work on community arts projects or other related work while having access to training opportunities. Participants must carry out 19.5 hours a week with the scheme to maintain their benefits, leaving them more free time to pursue other work in their own time.

The allowance on the CE scheme is roughly the same as Unemployment Assistance (£IE105 [€133] a week for a single person with no dependents) and participants can keep all the secondary benefits of social welfare such as rent assistance and a medical card. Unlike social welfare, under a CE Scheme, the artist can top up their income through selling their works of art without affecting their benefit. Due to this added incentive these CE Schemes have been described as 'the nearest option to a basic income for **artists**' in Ireland (**Artists** Association of Ireland, 1998).

Artists are generally only allowed to stay on the scheme for a year. However, applications for a second, and (maximum) third year are considered from applicants over 35 who were previously **unemployed** for over three years. A problem with the Scheme is that there is no individual in Fas specifically to deal with the training and employment requirements of **artists**. Hence it is up to the **artists** to make their programmes fit within Fas's requirements, which is not always possible without substantial modifications. **Artists** have also complained that the schemes can be exploitative. **Artists** involved in teaching and other professional work in colleges and schools as part of their community work earn in a number of days the same rates as a professional would normally charge for a couple of hours of the same work.

Aosdana

Two important financial schemes are run by Aosdana, the affiliation of creative **artists**, established by the Arts Council in 1983. In 2002, there were approximately 189 members, comprising 90 visual **artists**, 17 musical **artists**, and 82 **artists** from the field of literature. Funding is channelled from the State through the Arts Council who also deals with its administration. The first is called *Cnuas* which works as an annuity paid to **artists** for a period of five years with the potential to be renewed for subsequent five-year periods. This scheme is designed to enable **artists** to concentrate their energies on the full-time pursuit of art. The artist must therefore satisfy the Arts Council that they are not pursuing any other part-time or full-time paid work. When the scheme commenced, its value was approximately £IE 5,000 (€6,349) for the five-year period. The value of this scheme in 2002 is approximately £IE 8,747 (€11,072). The total number of **artists** in receipt of *Cnuas* in 2002 was 100 or a total funding of £IEP 874,688 (€1.1 million).

Aosdana also runs a pension scheme, the cost of which is borne in equal parts by the Arts Council and Aosdana members. Pensions paid out to **artists** are based on the number of years they have subscribed to the scheme. To qualify for Aosdana membership, **artists** must be at least 30 years old.

Direct financial aid

The Arts Plan 1999–2001 allocated the Arts Council of Ireland £IE 37.5 million (€47.6

million) in 2001, an increase of 34% from the total of £IE 28 million (€35.6 million) at the start of the plan in 1999[32]. The Arts Council directly funds individual **artists** through exchequer funds. In 2000, the Arts Council received State funding of £IE 35.6 million (€45.1 million). Grants were paid to 478 arts organisations and 482 individual **artists**. Support to individual **artists** amounted to £IE 2.2 million (€2.8 million) or around seven per cent of the total arts expenditure (Arts Council of Ireland, 2001).

The primary method of distributing funds is via Arts Council awards and bursaries. In 2002, the Arts Council of Ireland offered general bursaries to individual **artists** of up to £IE 8,690 (€11,000) and travel grants of up to £IE 3,950 (€5,000) per artist. These awards are designed to free **artists** from other work commitments and allow them the time, space and freedom to carry out full-time pursuit of their artistic activities. The Arts Council of Ireland also funds arts organisations and individuals pursuing arts projects. For example, the *Projects* grant offers up to £IE 15,800 (€20,000) a year for projects in any art form for up to five years. The Arts Council of Ireland also directly employs **artists** through commissioning works of art (with awards ranging between £IE 790 or €1,000 to £IE 7,900 or €10,000) and directly funding a range of work opportunities involving contract work as **artists**-in-residence in schools, with community groups or in arts venues (Arts Council of Ireland, 2002).

Direct public funding is also given in awards in the different art forms. Examples of some of the more prestigious awards for specific art forms and their 2002 value include:

- Architecture: The Kevin Kieran Award offers £IE 39,500 (€50,000) to support the artistic formation and career development of graduate architects
- Dance: The Joan Denise Moriarity Scholarship offers £IE 1,975 (€2,500) to student dancers and choreographers
- Literature: The Lar Cassidy Award offers £IE 11,850 (€15,000) to individual experimental fiction writers
- Music and opera: The Margaret Arnold Scholarship offers £IE 1,975 (€2,500) towards the high level development and training of instrumentalists and singers. The Music Publications and Recording Scheme assists in the recording of Irish musicians with a grant of £IE 3,002 (€3,800)
- Visual arts: There are a large number of awards for visual **artists** for travel, exhibition assistance, studio space and others for **artists** working in Ireland. A particularly valuable award in 2002 is the PS1 Fellowship which provides studio space at the Institute for Art and Urban Resources in New York for Irish **Artists** with a grant of £IE 25,280 (€32,000). The PS1 Fellowship is named after the *Public School One Contemporary Arts Centre* which is responsible for administering the grant in the **United** States

Private/corporate aid

There are two main methods for corporate or private individuals to obtain tax relief for supporting the arts in Ireland: business sponsorship or outright donations to approved bodies. Cash sponsorship involves a payment by a business to an artist or arts organisation in exchange for promotion of the business name or products. This is deductible in calculating trading profits of the business. The result of this deductibility is an effective subsidy to the donor via the tax system at their top rate of tax (20% for companies). The payment must be for the purposes of trade and revenue rather than a one-off capital payment.

There are also a number of specific tax reliefs to help stimulate investment and contributions to the arts, namely:

- *Donations to eligible institutions.* Deductions to eligible charitable and arts institutions are tax deductible as business expenses, provided they are greater than €315 (and with no upper limit)
- *Relief for expenditure on buildings and gardens*
- *Relief for investment in films.* Deduction can be made for businesses donating funds to qualifying Irish companies producing eligible or approved films. The maximum amount eligible for relief in a given year is 80% of the actual investment made, up to a limit of £IE 25,082 or €31,750
- *Gifts to the Exchequer.* Individuals or companies can make tax-deductible gifts to the Minister of Finance for use by the Exchequer, which can in turn be used towards artistic projects. There is no limit to the amounts of money that can be contributed
- *Payment of tax by donation of heritage items.* This relief allows payment of income, corporation, capital gains and capital acquisitions tax liabilities by donating heritage items to certain approved bodies. The market value of items from a single donor must not be greater than £IE 3.0 million (€3.8 million) or less than £IE 75,248 (€95,250)

Other forms of business sponsorship of the arts and **artists** currently used in Ireland are:

- lump sum payments and loans to approved **artists** and arts institutions (which offer tax relief to the sponsor)
- direct purchasing of works of art for business premises or donation to a local gallery or museum (no tax relief)
- commissioning music or art (no tax relief)
- guarantee arrangements (involving the sponsor acting as a guarantor of the borrowings of an artist or arts promoter)
- secondment of employees to arts promoting bodies to provide additional help and specialist expertise
- provision of goods or services, such as printing programmes or exhibition tickets, offering airline tickets or providing any other goods free or cheaply that may be part of the sponsor's normal business. (Tax relief is available for some of these donations)
- **artists** or writers in residence (no tax relief unless they are exclusively for the purposes of trade or generating revenue)
- corporate membership, for example to provide seats for clients at events (for which there is no tax relief allowed) (Business to Arts, 2002)

Cothu, the Business Council for the Arts, was set up in 1988 to develop and promote business sponsorship of the arts. It organises a training programme called *Inform* which links corporate in-house training to individuals from arts organisations to assist **artists** and arts managers in achieving a more business-like approach to arts management. It also runs a mentor scheme for **artists** as well as the Arts Sponsors of the Year Awards.

3.6 The Netherlands

Background structure

Since 1994, the Ministry of Education, Culture and Science has had primary responsibility for arts and cultural policy in the Netherlands. Government Policy towards **artists** is laid down in four-yearly government bills which are written on the basis of advice from the national advisory body, the Culture Council. The Culture Council was established in 1995, based on an amalgamation of the separate councils that had previously existed in the various art forms. The council works both as an advisory body in elaborating the detail of cultural policy guidelines and as a counselling body for individual applications for subsidies. Provincial and local authorities also carry out their own cultural policy which generally has the same objectives as national policy. In most provinces and cities there is a Culture Council or privatised foundation involved in arts policy at a local level, generally responsible for its own separate budgets for culture. Since the 1990s, there has been a deliberate shift in the responsibility of the Ministry of Culture. Instead of providing across-the-board funding to **artists** and arts organisations, the government has started to offer more financial incentives and to encourage those in the arts to be more self-sufficient and concentrate more attention on their market or their audiences (Konings and Duwel, 2001).

The Ministry of Finance, Ministerie Van Financien, has responsibility for taxation in the Netherlands and the Ministry of Social Affairs and Employment, Ministerie Van Soziale Zaken en Werkegelegenleid is primarily responsible for social security.

Tax treatment of artists

Artists in the Netherlands are taxed under the regular tax system, apart from some exceptions for certain honorary prizes. Tax rates in the Netherlands are progressive and range from 32.35% to 52% (Ministry of Finance, 2001). For **artists** who are employees, tax deductions may be claimed for 'specific professional expenses' such as books, clothes, visits to performances, musical recordings and instruments. Those registered as self-employed are allowed to apply for special tax deductions for a range of expenses and other activities. However, many **artists** find it difficult to claim this status from the tax office as they may not register sufficient profit from their artistic endeavours or may have to keep up other part-time work outside their artistic profession.

Both employed and self-employed Dutch **artists** must pay social security contributions on their income. Contributions are made to three schemes whose benefits are available to all taxpayers:

- The Widows and Orphans Benefit Act or Algemene Nabestaandenwet (ANW) Benefit

- The General Old Age Pensions Act or Algemene Ouderdomswet (AOW) Benefit
- The Exceptional Medical Expenses Act or Algemene Wet Bizondere Ziekosten (AWBZ) Benefit for those who incur medical expenses not reimbursed by a health insurance fund or private insurance fund

Most salaried **artists** will be covered by other insurance and benefit schemes organised by their employers. Under the Invalidity Insurance Self Employed Persons Act of 1998 or WAZ, self-employed persons unable to work due to illness or handicap are also entitled to benefit. Self-employed **artists** who carry on at least 1,225 hours of their business a year are also allowed to offset a certain percentage of their profits towards a pension scheme. The annual contribution to this reserve may be no more than 21,753 NLG or €9,871. The amount of this deduction is inversely proportional to profits with a fixed deduction of NLG 13,207, or €5,993, allowed on profits of less than NLG 25,883 or €11,745 (and declining thereafter). Persons who have recently started a business may deduct an additional sum of NLG 3,909 or €1,774 for the first three years (Ministry of Finance, 2001).

The new Income Tax Act of 2001 introduced certain changes for **artists**. The legislation has made it generally easier to apply for an expenses exemption or 'kostenvergoedingsbeschikking (KVB)' and smaller fees are no longer taxable. The withholding tax rate on **artists**' fees under the new legislation is 20%, and **artists** are allowed to deduct certain minimal approved expenses including 300 NLG per 'show' for performing **artists** or **artists** putting on exhibitions and other public displays. The artist can also request the tax inspector to approve a KVB to exempt the production expenses, which replaces the 300 NLG per artist per show.

VAT

VAT on regular sales in the Netherlands is set at 17.5%. A reduced rate of six per cent is applied to sales of art works and tickets to performing arts events such as the theatre, concerts and cinema. The products of writers and composers are VAT-exempt. The Netherlands also lowered the VAT rate on admission tickets to public museums or collections (and on the sale of catalogues, photographs and photocopies by these museums) from 17.5% to six per cent on 1 January 1996. The sale of books and daily newspapers has been subject to the low VAT rate for many years. The high VAT rate is charged for magazines, sound media and videotapes. **Artists** who work on commission, such as text writers, composers of advertising jingles, architects and designers, are all charged the high VAT rate (Ministry of Education, Culture and Science,1998).

Specific tax treatment/special exemptions

*Non-resident **artists** taxation*

In the Netherlands, changes in the tax legislation in 2000 meant that non-resident **artists** staying less than three months were taxed under a simple withholding tax of 25% over 75% of the taxable artist fee, effectively an 18.75% **artists** tax. **Artists** were not allowed to file an income tax return or to obtain the personal expenses allowance of 7,000 NLG

(€3,150). On the other hand, higher artist fees were not subject to the 50% and 60% higher tax rates. Concert promoters and other arts organisations opposed the tax system, as in the German case, and changes were made in 2001 to add more relief. The law was changed such that:

- non-resident **artists** may apply for relief for all direct and non-direct expenses
- expenses taken over by the promoter for meals, drinks, lodging, transportation plus a remuneration to the **artists** of 300 NLG or €136 per person per performance are exempted without notice of approval by the tax administration and
- the withholding tax rate remains at 20% after these deductions[33]

Non-resident **artists** also now have the option of, but are not obliged to, file 'normal' tax returns in the Netherlands. This measure gives relief to higher earning **artists** who would have to pay additional income tax on Dutch income (after expenses) of more than 100,000 NLG (€ 45,000) a year.

Public lending right

A public lending right has existed in the Netherlands since 1987 which allows copyright owners to receive a fee for the loan or lease of their works. In the case of commercial hire, the copyright owner can determine the size of the fee charged, whereas in the case of public libraries the State determines a fixed fee. The levy comes directly from the libraries; however, these are largely financed by the state and partially through readers annual contributions. Income generated by the lending right is distributed by the Stichting Leenrecht to the copyright holders' organisations which redistribute the monies on an individual basis to the copyright holders. The organisations reserve 5-10% for a social fund for writers.

Social security schemes for artists

Artists whose incomes fall below a certain level are entitled to claim a social security benefit, as are all citizens of the Netherlands under the National Assistance Act (Algemene Bijstandswet, ABW). Benefit is awarded on the condition that the claimant acknowledges the obligation to apply for jobs and to perform suitable work. The government's policy towards the **unemployed** is, however, pro-active with regards to encouraging **unemployed** persons back into the labour market. After a period of six months, the government can insist that the person either accepts a job or returns to education.

The WIK Scheme for ***Artists***

It was realised that the ABW did not meet the needs of **artists** as those on assistance would have to retrain or apply for jobs despite their wishes to pursue their artistic profession. Because of this, **artists** were granted an exemption from this law by the Income Provision for Artist Act of 1999 or Wet Inkomensvoorziening Kunstenaars (WIK). This act is designed to support **artists** in launching their careers. **Artists** who make use of it are not obliged to apply for jobs and need not accept positions deemed to be inappropriate. **Unemployed artists** are allowed to keep up their artistic work and attempt to get themselves established after the six-month period in return for a slightly lower benefit (70% of the regular benefit under the National Assistance Act). In 2002, the entitlements were 1,014 NLG (€456) for single people, 1,428 NLG (€642) for single parents and 1,635 NLG (€736) for married or cohabiting couples.

Artists are also allowed to supplement their income by up to 125% of the national social security benefit. The sums available to the artist are therefore 1,810 NLG (€815) for singles, 2,328 NLG (€1048) for single parents, and 2,586 NLG (€116) for couples, which is considerably higher than the standard benefits for non-**artists** of 1,448 NLG (€652), 1,862 NLG(€838), and 2,069 NLG (€931) respectively (Ministerie Van Sociale Zaken en Werkgelegenheid, 2002). Professional expenses related to artistic production can be deducted from gross supplementary earnings before these are set off against the benefit. (Visual **artists** are allowed to deduct a fixed sum of expenses of 10,000 NLG (€4,500) a year while other **artists** are allowed a 5,000 NLG or €2,250 deduction).

An artist is allowed to use the WIK income provision for a maximum of four years. They do not have to be consecutive years but **artists** must claim within a period not exceeding 10 years. To be eligible for the WIK, the artist's income must be below the social minimum derived from the National Assistance Act and they must be able to prove that they practice art on a professional basis. Applicants are screened by an independent advisory body, the Provision Fund for **Artists** (Voorzieningsfonds vor Kunstenaars, VvK). Screening is based on an asset and income test and an assessment of whether the artist is a 'professional' or not. The artist must also have earned a gross turnover of more than 2,400 NLG, or €1,092, or more from their artistic endeavours in the previous year[34]. The occupational assessment is based on their artistic production, time devoted to it, participation in exhibitions and other attempts to sell their goods or services, but not on artistic quality. **Artists** who claim the benefit within 12 months of completing a professional arts education programme are screened only on the basis of holding a diploma or degree from a recognised arts education institution. In 2001, approximately 4,200 **artists** made use of the WIK scheme. Approximately 70–75% of these were creative **artists** and 25–30% performing **artists** (Holvast, 2001).

A programme known as a 'flanking policy' is attached to the WIK scheme to help support **artists** develop a remunerative and self-sufficient practice. It is run by the Arts Platform Foundation (Stitching Podiumkunstwerk, PKW) and the Provision Fund for **Artists** (VvK). Within this programme **artists** can apply for a small amount of financial support for a range of business-related activities such as legal and financial advice, education, training, or investments for their new business. Support may also be given to **artists** who develop 'mixed' professional practices, for example, supplementing the income received from their art work by giving art lessons at schools (Ministerie Van Onderwijs, Cultuur en Wetenschappen, 2002).

Alongside the WIK Scheme, there are also several hundred basic stipends up to a maximum of 60,000 NLG or €27,200 for a two-year period given to **artists** with insufficient income to carry on their artistic work. The salary may be adapted to the artist’s own income and requirements being, for example, taken up in a period of low sale. One example is the *Starter Stipend* which is a contribution to the artist at the start of their career. An amount of approximately 35,000 NLG or €19,200 is awarded for a period of up to 12 months, within two and a half years of leaving an advanced education arts institution (ERICarts, 2001).

Pensions

All citizens in the Netherlands over 64 are entitled to a pension from the government, including **artists**. As this pension provides only minimal income, most employers also offer an employer-paid pension programme. While this also holds for employers in cultural industries, a problem is that performing **artists** are often only on short contracts with different employers and so cannot avail themselves of the scheme. There are very few private pension programmes adapted to the situation of visual and other **artists** who are self-employed.

The Netherlands does have social assistance programmes for **artists** administered by the government and private **artists**’ associations. The **Artists**’ Provident Fund, for example, is used to provide a weekly minimum wage, holiday allowance, some occupational expenses and a health insurance contribution for **artists**. Funds for this programme are collected from a matching fund of government money and fees collected from **artists**’ unions.

Direct financial aid

Starting in the second half of the 1980s, a series of state-initiated and state-financed funds appeared in rapid succession, the result of the new Creative Arts Funds Act (Fondsenwet Scheppende Kunsten) which came into effect in 1981. While the national government, with the aid of the Council of Culture, has responsibility for furnishing the money and determining the specific conditions in which the fund must operate, the allocation of the budget to different **artists** and arts organisations, and any quality assessments are the responsibility of appropriate funds’ boards. The boards generally also call in external experts to advise them on matters of quality. Funding for individual **artists** is allocated via sector-specific funds set up by the government and is subsidised on a multi-annual basis. In 1998, these funds received a budget of 124 million NLG or €56.3 million, and a further 371 million NLG or €168.4 million was given in subsidies from the central government directly to art institutions.

There are a large number of funds for the various different art forms.

The Fund for Visual Arts, Design and Architecture (Fonds Voor Beeldende Kunsten, Vormgeving En Bouwkunst, 1987) is organised by The Netherlands Foundation for Fine Arts, Design and Architecture (Fonds voor Beeldende Kunsten, Vormgeving en Bouwkunst, Fonds BKVB) and is aimed at individual **artists**, architects and designers. The BKVB foundation's principal task is to promote the quality of design, which it does by awarding individual and basic grants. The Individual Grant Committee (Commissie Individuele Subsidies) assesses applications according to the criterion of ‘artistic quality’.

Individual grants enable **artists** to concentrate fully on their creative processes for a certain period of time, or to develop special projects which are important to their artistic practice. Grants are awarded to individual **artists** for a time period; for example, study or work grants, scholarships, travel allowances and funding for specific projects that **artists** feel are important to their field of artistic practice. The foundation began awarding basic grants in 1994, bringing an end to professional expense allowances previously awarded to **artists** by the then Ministry of Welfare, Health and Cultural Affairs.

Basic grants are also available for **artists** to assist with both basic professional expenses and living costs and are therefore intended for **artists** who are in principle eligible for national assistance. As with individual grants, applications for basic grants are assessed by a rotating committee of experts made up of **artists** and other professionals from the art world. The criteria here are somewhat different; in addition to the quality of the work, the artist's professional activities are also taken into account. Eligibility is based on the same low income ceiling that applies to the national assistance benefit.The grant is valid for a minimum of two years but the artist can draw the money within whatever time frame they choose, thereby determining the actual period of validity. An artist may also be awarded a basic grant no more than twice in their lifetime.

Other important funds include:

- The Performing Arts Fund (Fonds Voor De Podiumkunsten,1993). Grants are made for single productions in music, theatre, dance and drama in which **artists** usually co-operate on a temporary project basis, either for the duration of a particular production or for a series of concerts. Grants are awarded on the basis of quality, discipline, and regional distribution. In addition to project subsidies, travel and study grants are also drawn from this fund. The government subsidy for the fund is approximately 20 million NLG a year, or €9.1 million
- The Composers Fund is divided between composers and producers of contemporary music and has a budget of around 3 million NLG, or €1.4 million a year
- The Literature Fund (Fonds Voor De Letteren, 1965) encourages Dutch-language literature by offering literary writers and translators of quality the opportunity of devoting themselves to their profession on a full-time or part-time basis. When the fund was first set up it had a budget of about 300,000 NLG (€135,000); in 1988 this had risen to more than four million guilders and by the beginning of 1997 it stood at more than 9.5 million guilders. The fund gives financial backing to over three hundred literary writers and translators. Benefits are available only to writers who are published regularly by literary publishing houses and whose work meets strict quality requirements. The fund's most important instruments are work grants and supplementary fees. It also implements a scheme of honorary payments in which money is allocated to older writers with an impressive literary track record
- The Netherlands Fund for Literary Production and Translation (Nederlands Literair Produktie-En Vertalingenfonds, 1991). This fund helps subsidise a range of different publishers, including those involved with literary works, literary journals and illustrated children's and young people's books, and to support the translation policy targeting foreign countries. With regard to literary books, the NLPVF subsidises publishers to help them publish specialist high risk-bearing original Dutch and Friesian literature whose availability at affordable prices is deemed of importance

and whose sales are not expected to be cost-effective due to the limited market. The NLPVF finances literary magazines provided they meet certain quality criteria and whose publishers are receptive to promising literary talent. The NLPVF also promotes the export of Dutch literature by providing non-resident publishers with subsidies to cover translation costs
- The Creative Music Fund (Fonds Voor De Scheppende Toonkunst, 1982) commissions new work from composers
- The Architecture Promotion Fund (Stimuleringsfonds Voor Architectuur, 1993). This fund was set up in 1993 and offers support to events, exhibitions and publications; architectural competitions; projects designed to boost public interest in architecture; projects to advance quality awareness among those involved in the building process; tools for furthering expertise among principals; municipal architectural policy plans and visual quality plans, both frequently-used aids in municipal planning

Private/corporate aid

The Dutch government runs a subsidised interest-free loan scheme for the private purchase of works of art. Anyone wishing to buy a work of art from a visual artist in the Netherlands can do so by instalments. The interest costs are paid by the Ministry of Education, Science and Culture. The art work must cost between 1,000 NLG (€450) and 15,000 NLG (€6,750), and be bought from one of 140 selected art galleries. The works of art must also have been produced after 1945 by living Dutch **artists** and have been acquired by the gallery directly from the artist. Galleries participating in this scheme must have been in existence for at least three years, be open daily, achieve minimum sales of 75,000 NLG (€33,750) a year and must hold an exhibition at least six times a year. The artistic content is verified by a committee of independent experts.

Responsibility for running the scheme has been assigned to the Mondriaan Foundation. The total subsidy and implementation costs are around 1.5 million NLG or €0.68 million (four per cent of the Mondriaan Foundation's budget). The number of buyers making use of the scheme has grown from 4,000 to over 7,000 between 1997 and 2001 and the total volume of art sales grew from 8 million to 16 million NLG (€3.6 to 7.2 million) per year. The scheme is praised for assisting **artists**' economic situation, and is very cost-effective for the government. It has been criticised, however, because buyers are predominantly people with a high income, high level of education and active members of the workforce. Therefore the aims of promoting the geographical and socio-economic spread of art are only being partially met[35].

Many private institutions qualify for a reduction in, or a remission of, gift and inheritance tax for supporting the arts. For example, a full exemption from gift or inheritance tax is possible for museums and for the societies or foundations which support them, provided their collection is of national or regional importance and the acquisition serves the common good. A further measure introduced into Dutch tax law on 1 January 1997 was that payment of inheritance tax can be made by transferring art objects of cultural significance to the Netherlands or whose sale outside the Netherlands would mean a cultural loss to the nation, which form part of an inheritance to the state ('donation en lieu' or 'acceptance in lieu'). The remission of the inheritance tax on works of art transferred to the state is equal to 120% of their value.

There are two very important private arts funds in the Netherlands. The Prince Bernhard Fund and the Anjer Funds provide subsidies, commission works of art and award prizes in the broad field of culture, including music, language and literature, theatre, dance and the visual arts. The two funds spend between 25 and 30 million NLG on about 3,500 projects every year. The Prince Bernhard Fund concentrates on projects of national significance whereas the Anjer Funds consist of 12 provincial funds and three funds in major urban centres, providing a large number of smaller-scale grants to the amateur arts for the purchase of materials.

In recent years the Prince Bernhard Fund has made its expertise available through the *Fondsen op Naam*. These allow private parties and companies to set up funds in their own name for a specific cultural purpose, with management and the allocation of grants being covered by the Prince Bernhard Fund. In 1998, nearly 50 million NLG (€22.5 million) of funds were being managed under this scheme (Ministry of Education, Culture and Science, 1998). The Prince Bernhard Fund receives most of its income from different national lotteries, including the 'BankGiro', 'De Lotto' and 'Kras' lotteries. It is the most important channel for cultural funding provided by the Dutch lotteries, and the betting and gaming sector.

The Vereniging Rembrandt was founded in 1883. The purpose of this society is to preserve and increase the number of art treasures in the Netherlands held in public ownership. It assists museums to acquire works whose prices exceed the regular acquisition budgets. In addition to membership fees, donations by private parties and companies, legacies and income from its own capital, the society receives approximately 1 million NLG (€0.45 million) a year from the Prince Bernhard Fund.

A growing number of subsidised cultural institutions have 'friends' societies' or private supporting foundations. These allied organisations finance activities, such as the purchase of works of art or instruments. They derive their income from membership fees, gifts and legacies. They also provide volunteers to engage in support work at the institution.

Corporate sponsorship is of growing importance to **artists** and the arts in the Netherlands. Companies make funds or services available in exchange for the right to associate their name or the name of one of their products or services with the institution or artist. Corporate sponsorship of the arts is estimated at between 50 and 80 million NLG (€22.5 and 36 million) annually (Ministry of Education, Culture and Science, 1998). The Ministry of Culture drew up a code for sponsors of arts events, *Cultuursponsoring*, which defined various rules and stipulated the framework within which sponsorship agreements could be concluded. The code does not apply to the sponsoring of radio or television programmes or film productions. The most important aspect of the code is that the sponsor must not involve itself in the actual content of the activity organised by its cultural partner. Sponsoring must also never be at the expense of reasonable public access to the sponsored event, whether this be a performance, an exhibition or a presentation. A special foundation (Stichting Code Cultuursponsoring) has been set up to hear cases of non-compliance with the code.

4 The UK context

The Cultural Policy framework in England has undergone considerable reorganisation over the last decade. The Department for Culture, Media and Sport (DCMS) is the government department with primary responsibility for culture in England. The DCMS funds the Arts Council of England[36].

The Inland Revenue is responsible for the administration of taxes in the UK, although some policy issues are the responsibility of the Treasury. The Department of Work and Pensions, recently formed from a merger of the Department of Social Security and sections of the Department for Education and Employment, is responsible for social security. Within this department 'Job Centre Plus' is responsible for employment benefits and services and pensions are the responsibility of the Pensions Service.

Employed artists

Employed **artists** in the UK are taxed under Schedule E, the Pay As You Earn System. This is the general system of taxation for most employees in the UK, from which deductible expenses are very limited. Employed performing **artists** can deduct fees paid to an agent up to a limit of 17.5% of their taxable income.

Self employed artists

Of those in the UK with a cultural job as their main source of employment, approximately 40% are self employed[37]. Although they are taxed as self-employed, many performing **artists** pay National Insurance Contributions (NIC) and therefore effectively have dual status. The advantages of self-employment are that the artist receives substantially greater tax allowances for business expenses. Those who do pay Class 2 NIC will be entitled to a state pension. Those who do not may have to pay into their own pension scheme to receive even a basic pension. Self-employed **artists** are also not protected under any employer schemes for sick leave, maternity leave, or redundancy, and they have to bear the risks of running their own business in the often unpredictable art market.

Most self-employed **artists** are assessed under Schedule D, Case II, the section of the tax regime dealing with professionals, such as lawyers, doctors and accountants. As is the case in all of the countries analysed above, expenses incurred wholly and exclusively in the pursuance of their profession can be charged against the income earned from that activity. Income from performances, from the outright sale of work and from royalties is assessable and must be included in a tax return; however, a single sum received for the sale of the residual rights of a work can be spread forward up to six years, providing the work has been published for 10 years (Kennedy, 1998).

The regular rate of VAT in the UK is 17.5%. Some **artists**' supplies are VAT-exempt including publications, posters, and exporting goods outside the EU. Books and press are also VAT-exempt.

Public Lending Rights

Public Lending Rights have been available in the UK since the 1970s for lending from public libraries only and are financed directly by the Government. The minimum and maximum amounts payable are £GB 5 and £GB 6,000 (€8 and €9,780) respectively (McAndrew and Dallas-Conte, 2002). Fewer than 1,000 authors receive more than £GB 1,000 (€1,630) from this scheme (ERICarts, 2001).

There are no comprehensive social security measures designed for **artists** in the UK. Under the National Insurance system individuals pay into a scheme to provide for loss of income through unemployment, sickness and retirement. Individuals who have paid or been credited with enough credits are then eligible to claim from the scheme. Those who do not qualify for a contributory benefit because their contribution record is inadequate may be entitled to receive a similar means-tested non-contributory benefit, which tends to be of much lower value.

New Deal for Musicians

The New Deal for Musicians (NDfM) started in August 1999 after consultation with the music industry, as an extension of the New Deal for Young People. Initially designed for young people aged 18–24 who are claiming Jobseeker's Allowance and have been **unemployed** for six months or more, NDfM targets **unemployed** young musicians, giving them industry-specific advice, guidance and mentoring and a music-related open learning option. While on the scheme, young people receive their Job Seekers' Allowance plus a top-up payment of £GB 15.58 (€25) a week. Self-employment, which accounts for a high proportion of employment in the music industry, is an explicit expected outcome for a proportion of NDfM participants. During the first three years of the scheme, 8,500 young people enrolled on the programme, which has now been extended to those aged 25 and over.

Lower Earnings Limit

Employees earning below the Lower Earnings Limit are not required to make National Insurance Contributions (NICs) and their employers are not required to make contributions for them. In 2001/2002 this limit was set at £GB 72 (€117) each week. Employees start to pay NIC when earnings exceed the Primary Threshold of £GB 87 (€142) a week. Those with earnings between the Lower Earnings Limit and the Primary Threshold do not have to pay NIC but will be deemed to have paid contributions on their earnings to protect their contributory benefit position.

Upper Earnings Limit

There is also an Upper Earnings Limit (UEL) which was set at £GB 575 (€937) a week in 2001/02. Employees do not pay any contributions on earnings above the UEL, although their employers are still required to do so (Davies, 2002). National Insurance Contributions of one per cent will be payable by employees above the Upper Earnings Limit from April 2003.

Working Families Tax Credit

A variety of other benefits are available to those in receipt of low levels of pay, subject to various eligibility criteria. For example, Working Families Tax Credit (WFTC) is a tax credit paid to families where either the applicant or their partner works for at least 16 hours a week and is responsible for one or more children under the age of 16 (or under 19 if in full-time non-advanced education). The amount of WFTC depends largely upon the number and ages of the children, net income and savings and the number of hours worked.

Job Seekers Allowance

Job Seekers Allowance was introduced in October 1996 and replaced Unemployment Benefit and Income Support paid to **unemployed** people. It can be claimed by people who are available for and actively seeking work, including those who work for less than 16 hours a week, and by most people on government training courses. Job Seekers Allowance consists of both a contribution based element JSA(C) and an income based element JSA (IB). Those who have paid sufficient National Insurance Contributions may receive JSA(C) for six months, irrespective of capital or partners' earnings. Those who do not qualify may be eligible for JSA (IB) by way of a means test. JSA (IB) is provided for as long as it is needed, provided the qualifying conditions continue to be met. The irregular employment patterns of **artists** mean that they generally do not have enough contributions for JSA (C) so most must apply for JSA (IB). Self-employed workers cannot, by definition, be **unemployed** so can only apply for JSA (IB) if they decide to officially cease being self-employed.

The main conditions applied to receiving Job Seekers Allowance are that the **unemployed** person must be actively seeking work and willing to start a job immediately. This can cause problems for many **artists** as even if the Employment Service views their artistic activity as a hobby, rehearsal, practice and creative time is not considered time spent 'actively seeking work' although it may be of central importance to becoming a professional artist.

Grants and prizes

Artists do not pay taxes on grants or prizes received from the Arts Councils. The total amount of grants awarded by the Arts Council of England from its central government grant within each of the 10 areas covered by the then Regional Arts Boards, including money allocated by these boards, totalled £GB 232.9 million (€379.8 million) in 2000/01. The arts are one of the six recipients of lottery funding for good causes along with the Community Fund, the Heritage Lottery Fund, the Millennium Fund, the New Opportunities Fund and Sport England. Funds from the National Lottery allocated to the Arts Council of England in 2000/01 amounted to £GB 183.4 million (€299 million) (Arts Council of England, 2001). Also in 2000/01, revenue spending by local government on the arts was around £217.9 million (€355.2 million) (Jermyn and Joy, 2002).

Private and commercial investment

Over the past five years, private and commercial investment in the arts has increased steadily, reaching a total of £114.4 million (€186.5 million) for the UK during 2000/01. London generated the largest sum of business investment (49%), followed by the West Midlands (nine per cent). The most successful art forms in generating investment were museums and galleries (25%); music (11%); drama and theatre (11%) and visual arts (10%) (Arts and Business, 2002). Under the terms of the Finance Act 2000, companies making gifts of cash to charities (which covers many arts organisations) can claim a deduction for the amount in their accounts. This is a simplification of the previous system, whereby companies had to deduct tax from their donation and give the charity a Gift Aid form, leaving the charity to claim the tax from the Inland Revenue.

The Finance Act 2000 also allows individuals to claim tax deductions on donations to charities, including arts organisations, through Gift Aid. There is no lower limit to eligibility and the only upper limit on the size of donation is set by individuals' total tax liability. An individual who gives shares to a charity is not liable for capital gains tax on the value of the donated shares, and is also able to receive full income tax relief on the value of the donation. Payroll giving allows gifts to be made before deduction of PAYE. There is no ceiling to donations, and the Government is providing a 10% supplement to whatever is donated until April 2003 (DCMS, 2000; Inland Revenue, 2002).

The **United Kingdom** allows the deduction of production expenses for non-resident **artists**. The withholding tax rate is 23% and the artist can file a normal tax return at the end of each year. The UK has set up the Foreign Entertainers Unit (FEU) which approves budgets of non-resident performing **artists** so that only the actual artist income will be taxed. Under the European Treaty the artist withholding tax in most countries could mean forbidden unequal treatment. Not allowing the deduction of expenses at the withholding stage and the possibility for a normal final income tax settlement discriminate against non-resident **artists** with regard to other non-resident workers and domestic taxpayers. The UK has been an example to other states of a fair and non-obstructive system, with an exemption for production expenses in advance of the performances and an optional income tax return at the end of the financial year.

5 Analysis and discussion

Alongside the substantial increase in the number of **artists** worldwide over the last 30 years, there has been a reported decrease in the average income of **artists**. A country's tax and benefit systems impact on the economic lives of professional **artists** and the sustainability of their careers. Some countries try to use specific schemes that attempt to cater for the particular and often unique working patterns of **artists**. Other programmes may directly target specific arts policy outcomes.

1. **Defining 'artists'**

A key issue that is widely recognised is that, in order to operate effectively and equitably, tax and benefit systems require formalisation of what it means to be a professional or working artist. Many countries have no legal or fiscal definition of the term 'artist' despite having specific tax rules to deal with them. In the six countries analysed in section 3, various approaches are taken to defining an 'artist' for tax and social security purposes.

In the Netherlands, for example, an independent advisory committee uses a number of criteria concerning artistic production and working lives in deciding whether an artist is professional and therefore eligible for the WIK Scheme. The problem arises of how to ensure fairness, lack of bias and objectivity in the selection of members for such a committee.

In Canada, under the Status of the Artist legislation, an artist must meet the requirements for membership of a 'national certified association' in order to receive professional status. Again, there is the problem of potential bias in deciding which organisations are officially recognised and on what criteria.

In the Irish **artists**' exemption scheme, **artists** submit a claim to the Revenue Commissioners' Office which ultimately decides whether the artist is eligible in consultation with the Arts Council or other relevant arts organisations. The decision in the Irish case is made on the basis of the artistic output produced. The revenue determines whether an 'original and creative work' has either cultural or artistic 'merit'. Only certain types of 'art works' are considered. For example, the writer of a theatrical composition receives an exemption from the taxation of the resulting income, but an actor pays full taxes for their performance income. The bias in this definition is self-evident in favouring creative **artists** or authors over interpretive and performance **artists**, and is a common source of criticism of an otherwise much-praised tax law. It has substituted the problem of defining an artist with that of defining a work of art, which is similarly problematic.

The approach taken in Australia to determine whether someone is a professional artist is based on the purpose of their work. The main point is to determine whether or not arts work is undertaken as a hobby or as gainful employment (or 'professionally'). To be considered professional, the arts work should be performed for the purpose of making a profit, whether it actually does or not. For **artists** who might devote their entire working lives to their art yet consistently run at or close to a loss, work motives become difficult to determine or prove.

A clear definition is needed nationally and across the EU to maximise the benefits of a more open labour market. Many tax and benefit systems focus only on creative **artists** such as writers or composers as it is easy to recognise and quantify their original artistic output. In constructing a fair and practical definition of the artist for tax and benefit purposes, all **artists** should be taken into account, including interpretive and performing **artists**.

2. **Employment solutions and artists' working patterns**

Another problem is that it is often difficult to refer to employment solutions and opportunities for **artists** generally. There is a need to differentiate clearly between self-employed and employee status as structures, systems and the needs of two groups are vastly different and require different approaches. There also many differences between the problems faced by a visual artist compared with those of a musician or an actor. For example, the working life of a dancer is necessarily shorter than that of many other **artists**, therefore they may require more attention regarding specialised pension and retraining schemes.

A key problem reported in all countries is that many **artists**' creative energies are being drained in the struggle to survive financially. It is estimated, for example, that only five per cent of British visual **artists** can survive from their artistic work alone (Mitchell, 2001). As demonstrated in Galloway et al (2002), many have to work in part-time or full-time jobs that are unrelated to their art form to remain afloat financially. A possible aim therefore is not only to improve the 'value' of arts work but also that of related non-arts work.

Higher value non-arts work such as teaching may mean that the artist can devote less time to non-arts work because the pay is higher. But the artist will often be more involved in this type of work than other unrelated non-arts work and dedicate more off-time to it. For example a survey of **artists** by Art Bulletin (**Artists** Association of Ireland,1998) states that while many **artists** found teaching interesting and more mentally stimulating than other non-arts work, it often had disastrous consequences on their own artistic work. The effort involved in teaching was both creatively draining and mentally tiring, on top of the actual hours put into the job.

However in the same survey, when asked about their priority solutions for working as an artist and surviving financially, the overwhelming majority proposed more part-time art-related work opportunities with decent rates of pay, to allow **artists** to cross-subsidise their own work. Most respondents felt that one to two days a week was the maximum amount of time that could be devoted to jobs like teaching to leave sufficient time and energy to do their own work, and enable them to survive financially.

It can be argued that abolition of tax for **artists** gives rise to a large boost in artistic production. The problem is that using any such policy measures in broad strokes, and in such a complex and undefined area as cultural policy and the arts, affects the entire arts sector and not just those working in one or two art forms; it can lead to bad policy and unintended consequences. The Irish exemption for example, was created with a genuine interest in fostering artistic life in Ireland but has had some unintended discriminatory consequences in practice.

It could be argued that **artists** should be seen as people who are working for a living, making things of value and should be paid for what they create, not for the status of being an artist. Therefore, the argument follows, they should pay the same taxes as other professions, and policy (and funding) should be directed towards demand (creating a larger, more diverse and more demanding audience for **artists**' work). Instead of giving **artists** more tax breaks or direct funds, the aim should be to generate more employment for them. A problem with this is that most self-employed **artists** are not paid for much of the work that they do. The tendency is for income to be received only if and when a sale of their product or service occurs (excluding commissions). A concern amongst **artists** is that clients and commissioning bodies only consider the product and never the process involved in generating it. The time and money spent on research and development go unpaid.

In summary, the way **artists** tend to work does not conform well with many of the existing national regulatory and social support systems regarding employment, where work is usually synonymous with paid work. It could be argued that this is the same for all self-employed workers regardless of their profession; however, there is often much less choice of employment status in the arts. The time spent in generating a product or service can also be very different for **artists**; it can take many years of training, practice and promotion before they are able to start selling their artistic creation.

3. **Public funding for artists**

Should governments be involved in directly or indirectly funding **artists**' work? There has been a shift in many states to delegate the public responsibility for funding the arts from the government onto 'arms-length' foundations, private sponsors, or the **artists** themselves. The UK model is increasingly directing **artists** towards entrepreneurship, market incentive policies and focusing on training **artists** as managers of small and medium firms in 'creative industries'. Increased self-sufficiency for **artists** is a positive and worthwhile aim in improving their long term financial well-being. However, this needs to operate alongside integrated models of support to **artists** that combine direct and indirect financial aid, social security, and ways of developing new sources of income. The framework of income support in the Netherlands is a good example of a step towards such an integrated framework, combining direct aid such as grants and awards to promote excellence, and income guarantees and pensions to provide social security and a basic income for all **artists**. Income support schemes have been criticised as being counterproductive to creativity and long-term survival, as **artists** can lose their production focus, relying on the grant and becoming drawn away from the concerns of the real world. Defining a time frame in which the support can be maintained reduces the problem, while giving **artists** time to get established in their professional lives.

It is clear that some diversification of funding sources is important in spreading risk and diminishing to some extent the dependence for public funding on just one government agency or source. In this study, for example, many countries indicated that there was often a failure to make the most of the apparent willingness of the private sector to support artistic activities[38].

The indirect costs to government of private support, for example through tax relief, is relatively low. Therefore, more generous tax breaks for art donations are often an efficient means for governments to bring about higher levels of support for **artists** at low cost to the state. The proviso is always, however, that any new incentives should be seen as a means of augmenting systems of support for **artists** rather than replacing existing schemes of direct and indirect aid.

4. **Taxation of international artists**

There are major developments in the taxation of international **artists**. The Netherlands has followed the UK model by changing its artist tax structure into a fair and non-obstructive system, with an exemption for production expenses in advance of performances and an optional income tax return at the end of the year. Germany has also started to improve its system by giving relief to low income **artists** in 2002. Equal treatment is an important issue for **artists** and all professions within the European Union. There is no harmonisation of direct taxation in the member states, and each country has the freedom to establish their own individual tax legislation and policies. Alongside this, however, are the important 'freedom principles' of the European Treaty including free movement of employees, capital and services and the freedom of establishment. The treaty obliges national tax authorities to treat non-residents on an equal basis as domestic taxable persons, when they are in equal positions. It is entirely legitimate for a member state to protect itself against possible loss of tax revenue, by levying a withholding tax, but according to the proportionality principle, the withholding tax can only be charged to non-residents to a specific estimate of the extent of their likely tax liability and on equal terms with residents (Molenaar, 2001).

Residents are taxed under payroll tax (as employees) or under an advanced income tax payment scheme (as self-employed), based on their estimated taxable income each year. In both situations expenses are taken into account, and the final tax obligation is reduced. In contrast, the artist withholding tax system that operates in most countries is often poorly set out and divergent. Without the possibility of deducting expenses, the flat withholding rate becomes the final tax liability, and non-resident **artists** are often further discriminated against through exclusion from a final income tax settlement. Changes such as those in the UK and the Netherlands appear therefore to be examples of best practice in how the non-resident artist tax system can be changed into a more modern and fair system.

6 Recommendations and conclusions

Artists can be grouped into a number of different categories based on their discipline, employment status, and even their accomplishment or prestige. **Artists** internationally, however, have a number of characteristics in common such as poor or at least variable incomes, sporadic employment, and an unpredictable market place where success is often determined by the subjective evaluations of experts and the vagaries of fashion. Focus groups with **artists** from different disciplines, organised as part of this programme of research, showed that although each art form faces specific issues, some common themes emerged about the difficulties faced in earning a living and dealing with the tax and benefit system in the UK (Galloway et al, 2002).

6.1 Taxation

One of the key problems **artists** face is confusion about their status, obligations, and entitlements regarding both tax and benefits. **Artists** complained that they lacked basic clarity and understanding of how the tax system works in the UK, and that this was exacerbated by more complex issues such as the treatment of overseas earnings. A central information system or special section of the Inland Revenue which understood the particular needs of **artists** and could help them with their queries and problems, and to access relevant data on their status, obligations, and entitlements would be advantageous. There may be a role for **artists**' associations to have a designated tax specialist who can act both as an information source and as an advocate for **artists** when dealing with the tax office. Some associations are already leading in this area, such as the UK's performing **artists** society Equity, which has a tax guide and support system.

An example of best practice, from this research, is Ireland where clear and simple tax guides are produced and distributed both through the Revenue Commission and various **artists**' associations. There is also a specialist department within the Revenue Commission which deals exclusively with the **artists**' exemption. Australia has also compiled a comprehensive guide for **artists** to help them through the changeover to the New Tax System and Goods and Services Tax which contains clear, understandable information and numerous examples of how the tax should be treated in all the different art disciplines.

Artists are often both self-employed and employees at the same time, or at different times during the tax year. Many self-employed **artists** may work on a part-time or occasional basis for institutions and colleges, yet there is little clarification for either the artist or their employer about their tax position regarding occasional work and tax though PAYE and National Insurance Contributions. Each country recognises this as a problem yet there are no comprehensive measures in any of the countries studied to deal with it. Increased flexibility in reporting both incomes and employment status, including the possibility of claiming dual status for **artists** who are simultaneously employees and self-employed should be allowed.

A particular issue raised by **artists** in the focus groups was the possibility of allowing tax deductions for training and professional development courses for the self-employed. There were also particular concerns in certain disciplines concerning inequities in deductible expenses. For example, performing **artists** may spend a substantial amount on classes for both their performance and fitness, which should be deductible as professional expenses from income taxes. There should also be greater clarification of what is and is not taxable income, notably awards, bursaries and prizes, the tax status of which currently varies between region, funding body and discipline.

Income averaging mechanisms are available in the UK, Australia, Germany and the Netherlands. These help **artists** to stabilise their economic situation by spreading income over several years for the purpose of taxation in recognition of the intermittent nature of artistic activity. This is a valuable mechanism for **artists** in the UK and should be maintained and possibly developed. A related issue raised by **artists** in the UK research was the desirability of introducing a system whereby tax could be paid in arrears on actual earnings, rather than in advance based on predictions of likely income by the Inland Revenue. This procedure would not only greatly simplify the tax filing procedures for **artists**, but would avoid the problems of having to pay tax on a high earning year in a year where income may be low.

The Inland Revenue should acknowledge the difficulties regarding development of small artistic enterprises. For example, many **artists** in the UK are sole traders and have reported problems having to pay full business rates of tax. Reduced business rates for **artists**, particularly in the start-up and early business phases, could be investigated.

6.2 Social welfare and benefits

Artists in the UK focus groups argued that the social welfare system fails to recognise their profession as an employment category. When claiming benefits, the artist must say which jobs they are trained to do. ‘Artist’ is not an option. Because of this many **artists** put down their second job, for example teacher, and are then directed towards jobs unrelated to their previous artistic education and training. There is a clear need for the recognition by the welfare system of artist as a profession. National or preferably EU-wide definitions of **artists** could assist in attempting to redress the biases evident in the UK and many other national systems

A further recognition is needed of the fact that the current benefit system does not suit the needs of most **artists**’ lives. A good example is the problem of short trips abroad for **artists** to tour or present their works at exhibition. Even for brief visits out of the UK, an artist must sign off social welfare and then sign on again on their return, which affects both their unemployment and housing benefits.

The WIK Scheme for **unemployed artists** in the Netherlands is a good example of how the benefits system can be more positively designed to suit the needs of artistic life. By recognising **artists** as a profession, the system does not force **artists** into inappropriate work and helps to support them while they attempt to launch their careers. The fact that **artists** can also earn while receiving support, further aids their economic position and, along with the four-year limit, reduces abuse of the system and dishonesty.

The KSK in Germany may also be a useful example of how the benefits system can respond to the need of individual **artists**, in this case the self-employed. This system ensures that there are arrangements in place to cover unemployment, sickness, retirement and other social benefit programmes for self-employed **artists** who are not covered by the usual employer-contributed safety net. The possibility of letting UK **artists** stay on benefits, especially during short trips abroad to promote their work should be considered. Some form of averaging system may also be useful in relation to benefits. This would allow the earnings from artistic activity on which contributions have been paid to be calculated on the basis of an entire career so that, in calculating a pension or benefits, good years would compensate for the bad.

6.3 Training

Encouraging self-sufficiency and professionalism through training in business skills, financial management and marketing is a useful way of assisting the long-term career development of **artists**. In Canada, for example, Revenue Canada runs courses for self-employed **artists** on how to develop a business plan for their artistic business. This not only helps them plan their financial and other business strategies, but also ensures they have the necessary documentation and records for tax and other funding purposes. Other useful areas include tax awareness, accounting, presentation skills, time management, marketing and computer skills. More training in business and related skills is needed in the UK. Where possible, courses should be government-funded or if only available privately, any course fees should be tax-deductible as a business expense. There should also be a continuing focus on arts training and re-training or re-skilling, for example in areas such as IT, multi-media, and web design, to help **artists** to meet the changing demands of their particular discipline and ensure continued employability.

6.4 Demand-side measures

Measures to assist **artists**' incomes should focus on both the demand and the supply side of the market. Support for individual **artists** should be paralleled by strategies to develop and promote the art market (domestic and international).

Examples of possible demand boosting or market stimulating mechanisms include:

- exempting the first sale of work or first public performance from VAT
- increasing benefits for private sponsors through exemptions
- public purchases of art works
- price subsidies
- promoting arts education to create new publics
- greater tax incentives to purchase art
- regulations on new public buildings to spend a certain percentage of costs on arts works
- promoting arts festivals and events in the community

It would also be helpful to provide a clear and efficient incentive structure to help boost philanthropy from the private sector.

6.5 Other measures

Other useful measures are indirect supply-side policies to boost **artists**' employment such as infrastructure (for example venues, studios, and residencies), low-interest or risk capital and production subsidies to publishers or record companies etc).

As most **artists** may be forced to work in secondary employment to support their artistic professions, the creation of high value arts-related employment opportunities should be a priority. These include: using **artists** as teachers or advisors in schools and art-related higher education institutions on a part-time or programme/scheme basis; use of their professional expertise to advise ministries and local authorities; encouraging corporate and private sponsorship and funding through mutually beneficial arts and business partnerships; and promoting **artists** as tax-efficient incentive ambassadors for national and European institutions. For **artists** starting out, innovative and flexible sources of support such as credit schemes, start-up programmes, cash or in-kind assistance to finance material and equipment, low interest or interest free loans and reduced security requirements for **artists** loans can provide alternative sources of finance. Several schemes have been piloted through the *Banking on culture* initiative (Hackett et al, 2000).

Finally, an important proviso regarding all measures taken is to avoid biases in benefits, funding, discipline, region, gender or career stage. If there is case for positive discrimination, this should be made and communicated on the basis of clear rationale. For example, the fact that performing **artists** are subject to intermittent employment, inbuilt excesses of labour over market demand, and short-term contracts or truncated engagements may necessitate special treatment or different schemes.

A key problem in the UK for all types of **artists** is a lack of clarity regarding their entitlements and requirements under both the tax and benefit systems. A major area to be developed therefore concerns methods to ensure that **artists** are informed of what is available and their entitlements, as well as means to improve the interfaces between the artistic temperament and the rule-filled world of taxation and benefits. Many **artists** avoid the entire taxation area and therefore do not take up many of the benefits and tax breaks that they may be entitled to. There is a need to provide simple and effective ways of conveying tax and benefit legislation to **artists** in a language and medium that they understand and can access.

A problem occurring in the UK is that there is little coordination between government departments and other relevant arts agencies regarding policies or actions affecting **artists**. Many of the important horizontal links between various funding avenues are not capitalised on. This problem is exacerbated by the fact that arts may not be perceived as a priority by decision makers in some important departments. A coordinated approach to improving the economic position of **artists** will be beneficial to them as well as costing the Government the least. A balance between direct and indirect fiscal approaches is important; these should be seen as complementary not contradictory. While the cost of direct aid may be more obvious, all indirect aid based around tax incentives and benefits entails a real (more difficult to calculate) cost to the revenue of a country. It is therefore crucial to ensure the legislation and systems in place are actually reaching the **artists** they are aimed at and encouraging the artistic production they seek to support.

On the basis of the issues identified by those **artists** and issues raised in this analysis of the different national systems, a number of recommendations can be made regarding ways to improve the UK system and **artists**' position within it:

- there is a need for clear information for **artists**, in a language and medium that they can understand and access, about their status, obligations, and entitlements in relation to taxes and benefits
- the feasibility of having a central information system or special section of the Inland Revenue which understands and can advise on the particular needs of **artists** should be explored
- increased flexibility in reporting both incomes and employment status, including the possibility of claiming dual status for **artists** who are simultaneously employees and self employed
- the possibility of greater deductions for professional expenses, especially those for training and professional development, for self-employed **artists** and employees should be investigated
- consideration should be given to extending income averaging and to introducing

some form of averaging system for benefits.

- the feasibility of paying tax in arrears on actual earnings should be explored
- reduced business rates for **artists** could be investigated, particularly in the start-up and early business phases
- there is a clear need for the recognition by the welfare system of artist as a profession. National or preferably EU-wide definitions of **artists** would assist in attempting to redress the biases evident in the UK and many of the national systems
- the possibility of adapting the social welfare system to the particular needs of **artists**, for example by allowing them stay-on benefits during short trips abroad, should be considered
- tax and benefit measures to assist **artists**' incomes should focus on both the demand and the supply side of the market
- for **artists** starting out, innovative and flexible sources of support such as credit schemes, start-up programmes, cash or in-kind assistance to finance material and equipment, low interest or interest-free loans, and reducing security requirements for **artists**' loans could be investigated

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Appendix 1 Exchange rates for currencies

Exchange rates used for currencies were based on the inter-bank exchange rate at 1 January 2002 from www.oanada.com

Australia $1 Australian = €0.57 €1= $1.75 Australian

Canada $1 Canadian = €0.71 €1= $1.42 Canadian

Denmark 1 Kroner = €0.13 €1= 7.43 Kroner

Germany 1 Deutsch Mark = €1.96 €1= 0.51 Deutsch Mark

Ireland £1 Irish Punt = € 0.79 €1= £1.27 Irish Punt

The Netherlands 1 Guilder = €0.45 €1 = 2.20 Guilder

United Kingdom £1 Sterling = €1.63 €1= £0.61 Sterling