

A Guide to Paying Foreign Entertainers

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Introduction

The 1986 Finance Act introduced a Withholding Tax on payments made for a UK appearance of a non-resident entertainer or sportsperson.

As a payer you must take tax off these payments.

This booklet, which is only a guide and does not have any legal force, tells you about

- how the system works
- what you must do as a payer
- the administration of the new scheme, and
- the standard of service you can expect and the steps you can take if you are dissatisfied with the service provided.

You will find the law covering Withholding Tax in Section 555-558 ICTA 1988 and Income Tax Regulations 1987. You can buy a copy of these from The Stationery Office bookshops and other booksellers. You can also view the legislation online at www.hmsso.gov.uk/legislation

To avoid repetition, the term 'entertainer' is used in this booklet to cover both non-resident entertainers and sportspersons. Examples in this booklet assume a Withholding Tax rate of 22%. Withholding Tax always mirrors the basic rate of income tax.

If this guide does not answer your questions and you need any help please get in touch with:

Foreign Entertainers Unit
St John's House
Merton Road
Bootle
Merseyside
L69 9BB

Phone: General **0151 472 6488**

Stationery Requests **0151 472 6488**

Fax **0151 472 6483**

The Foreign Entertainers Unit was set up to administer the legislation and is part of the Special Compliance Office.

Further information on our service to you and how to complain can be found in Section D of this booklet.

A1 How the scheme works

Any payer who makes a payment to any person, which in any way arises directly or indirectly from a UK appearance by a non-resident entertainer, must deduct tax at the basic rate.

There are certain exceptions from the scheme, see A8 on page 4.

A2 What are payments?

Payments include money (for instance, cash, cheques) and also a loan of money. The list below gives some examples of payments

- appearance fees
- achievement bonus
- exhibition income
- box office percentage
- TV rights
- broadcasting/media fees
- tour income
- tournament winnings
- prize money
- advertising income
- merchandising income
- endorsement fees
- film fees.

The scheme also applies to transfers of assets, for example, an airline ticket provided for an entertainer. Where assets are transferred withholding does not apply to the payment for the acquisition of the asset. However tax should be accounted for on the transfer to the entertainer. See B2 on page 5 for details.

A3 Does it matter who gets the payments?

The short answer is 'No'.

Payments are within the system no matter who gets them. It does not need to be the entertainer who gets the payment. Any payment to an individual, partnership, company or trust, whether or not they are resident in the UK, should have basic rate tax withheld.

A4 What type of appearance is covered?

Any appearance by the entertainer in the UK (in his or her character) as an entertainer will be within the scheme. The only exception will be where he or she visits the UK as a private individual, for example, on holiday.

To take a simple case, an entertainer appearing in his or her recognised profession. This might be an actor performing in the theatre or a golfer competing in the Open Championship.

But the scheme is much wider than this. It also covers promotional activities, advertising and endorsement of goods or services. This may include a photocall, TV or radio interview or other appearances.

The appearance does not have to be in front of an immediate audience. It includes work on film, video, radio and live or recorded television.

A5 What is the link between the payment and the UK appearance?

Any payment which arises directly or indirectly from a UK appearance will be within the scheme. In most cases it will be easy to find the link. For example, a tennis player wins Wimbledon and is paid prize money, or a pop star is paid for appearing in a concert at Wembley.

The payment does not have to have a direct connection with the UK appearance. Endorsement fees paid to a tennis player using sports equipment in a UK tournament would be linked.

A6 Which entertainers and sportspersons are involved?

This list is not exhaustive but here are some examples. Athletes, golfers, cricketers, footballers, tennis players, boxers, snooker players, darts players, motor racing drivers, jockeys, ice skaters, contestants in chess tournaments, pop stars, musicians, conductors, dancers, actors, TV and radio personalities, variety artistes. The person may appear alone or with others in teams, choirs, bands, orchestras, opera companies, ballet companies, troupes, circuses.

A7 How do I know whether they are non-resident in the UK?

In most cases it will be obvious.

You may know from the agent or management company, perhaps from the need to get a work permit or clear immigration formalities.

A UK national who is non-resident comes within the scheme so it should not be assumed that withholding applies only to overseas nationals.

If there is any uncertainty about the entertainer's residence position you should get in touch with the Foreign Entertainers Unit. They will advise you.

A8 Which payments are excepted from Withholding Tax?

If you already deduct tax under the Taxes Acts you do not have to withhold further tax. This will apply, for example, where tax is deducted at source either on copyright royalties (Section 536 ICTA 1988) or under PAYE.

You do not normally have to withhold tax on amounts paid for ancillary services to a person who is resident and ordinarily resident in the UK.

This includes, for example, payments for

- hall hire
- security
- damages/carpentry
- stage hands
- PA equipment
- lighting
- equipment hire
- advertising
- ticket printing
- hire of chairs, barriers or marquees.

You do not have to withhold tax on payments to an entertainer for record sales (including black vinyl, pre-recorded music cassettes or compact discs and so on) where the payment is based on the proceeds of sales or is a non-returnable advance on account of future sales.

Do not withhold tax if the total payments to an individual or group, including any connected payments by an associate, will be **£1,000 or less** during the tax year.

(The tax year runs from 6 April in one year to 5 April in the following year.)

The total payment for this purpose includes not only cash, but also expenses paid on behalf of the artiste such as air fares or the cost of any asset transferred to the artiste.

If you are making the first payment and it is less than £1,000 but you know in advance (for example, from the contract) that the total payments for the tax year will be more than £1,000, then you should deduct tax even from the first payment.

If you do not know the total amount of payments for the year then you should deduct tax from each payment.

Example

The payer knows in advance that he will be making total payments of £1,200, made in three instalments.

	£
1st payment	= 400
Less tax withheld at 22%	= 88
Net payment to entertainer	= 312
2nd payment	= 400
Less tax withheld at 22%	= 88
Net payment to entertainer	= 312
3rd payment	= 400
Less tax withheld at 22%	= 88
Net payment to entertainer	= 312
Total payments	= 1200
Tax withheld	= 264
Net payments	= 936

There are no other exceptions to the scheme.

Even if the payments you withhold tax from may not ultimately be assessed on the recipient (for example, because they are protected by a Double Taxation Agreement) you must not exclude these payments from the scheme.

If you are in any doubt at all about which payments are excluded from the scheme please ask the Foreign Entertainers Unit for advice.

B1 What the payer has to do

Each time you make a payment you must deduct tax at basic rate **unless** an arrangement has been made with the Foreign Entertainers Unit (see B6 to B9 for further details).

The Inland Revenue does not need to make an assessment.

If you do not deduct tax you will be held responsible for the tax due.

B2 How to work out the tax

Where you are paying **money** it is very straightforward to work out the tax.

Assuming the basic rate percentage for the year of payment is 22% deduct this percentage from each payment made.

Example

	£
Gross payment	= 5,000
Tax (5,000 x 22%)	= 1,100
Net amount paid to entertainer	= 3,900

The same applies to a loan of money. You should deduct tax from the amount you lend.

Payments to the Inland Revenue of tax withheld should be made in sterling. If you make a payment directly or indirectly to an entertainer in a foreign currency you should calculate the Withholding Tax due using the rate of exchange at the time when the payment is made. The rate of exchange adopted should be shown on your Return form FEU 1.

If the transfer of an asset is involved (for example, a motor car for a 'hole in one' during a golf competition) you must account for the tax as if the asset's cost to you, or in connection with providing it, was the net amount of the payment.

Example

The car costs you £3,900. Work out the gross amount of the payment and account for tax on that amount. To work out the gross amount do the following sum.

$$\text{Net amount of payment} \times \frac{22 \text{ (basic rate of tax)}}{78 \text{ (100 less rate of Withholding Tax)}}$$

$$3,900 \times \frac{22}{78} = 1,100$$

Add the result to the net payment to get the gross payment.

$$1,100 + 3,900 = 5,000$$

$$\text{Tax (5,000 x 22\%)} = 1,100$$

If the payment you make is made out of a payment you received for the same UK appearance (that is, it is one of a series of payments) then you may 'frank' (treat as paid) your payment to the extent that it has already suffered tax.

Example

Withholding Tax

A engages, through a management company **B Ltd**, a non-resident entertainer, **C**, to appear in his theatre in the UK. **B Ltd** is resident in the UK and **C** is the only non-resident entertainer it engages in the quarter. The sequence of payments is

A pays £100,000 less £22,000 tax to **B Ltd**

B Ltd pays £60,000 less £13,200 tax to **C**

B Ltd is liable to account to the Inland Revenue for £13,200 but as the payment **B** has received has had £22,000 Withholding Tax deducted from it, **B** can treat the £13,200 as paid.

Entries on B Ltd's return form FEU 1

The amount and income tax columns of **B's** return for the relevant period should be completed as follows

	Amount	Tax
	60,000	13,200
Less already paid		13,200
Tax payable now		Nil

Evidence of the tax already suffered should be provided with the return using form FEU 2 supplied by **A**.

You will find details of how the payment is treated in **B Ltd's** company accounts and of the repayment of tax in certain circumstances at B10 on page 7.

B3 How do you account for the tax?

You must account for tax withheld within 14 days after the end of the return period during which the payment was made.

The return periods for each tax year are

- 30 June
- 30 September
- 31 December
- 5 April.

B4 Filling in form FEU 1

Complete form FEU 1 as soon as possible after the end of the relevant period and in any case within 14 days of the end of the period. The form itself gives you instructions on completion.

Then send the completed form FEU 1 and the total Withholding Tax payable to the Accounts Office Shipley within 14 days of the relevant period.

If the return of tax is late you may become liable to interest and/or penalties.

Please note that it is your responsibility to make a return on form FEU 1 by the due date. If you have not received an FEU 1 by the end of the relevant period, please contact the Foreign Entertainers Unit immediately. Reminders for returns will not routinely be issued.

New payers should contact Foreign Entertainers Unit who will issue an appropriate Starter Pack.

The Accounts Office Shipley will send you replacement forms FEU 1 before the end of each return period. If you want to use your own design of form FEU 1 you need Foreign Entertainers Unit's approval of your form before you can use it.

B5 What record does the payee get of the payment?

Whenever you make a payment you must complete a form FEU 2.

This form is in 3 parts:

- Part 1 Send to Accounts Office Shipley along with your form FEU 1 Return.
- Part 2 Keep this for your own records.
- Part 3 Send this to the payee as a certificate of the payment made and tax withheld.

On no account should you issue a duplicate form FEU 2. If the payee loses the original certificate tell him or her to contact the Foreign Entertainers Unit.

You don't have to fill in FEU 2 if you are not deducting Withholding Tax because the payment is under the £1,000 threshold (see A8) or no tax is deducted because of an arrangement with the Inland Revenue (see B7 to B9).

B6 Arrangements with the Revenue to limit the amount of tax withheld

An arrangement may be made in writing between the Foreign Entertainers Unit, the payer and the entertainer or other recipient. This arrangement allows the payer to deduct an amount which is less than the basic rate of tax. The purpose of such an arrangement is to deduct an amount which corresponds as closely as possible to the entertainer's final liability on the payment.

Any applications that a payment should be subject to a reduced tax payment must be made in writing. Any letter which advises the Unit that detailed figures are to follow is considered to constitute an advance notification of an application **but does not constitute the application itself.**

The time for making an application is not later than 30 days before the payment is due to be made.

The payer and the entertainer or other recipient can make an application either singly or jointly.

The time limit for making an application is not later than 30 days before the payment is due to be made. If the application is **not** accepted tax must be withheld at the basic rate on all payments.

B7 Applying for an arrangement

You and (or) the entertainer will have to give the information needed for the Inspector to make a decision on whether or not to grant an arrangement. This includes

- dates of arrival in and departure from the UK
- whether the entertainer is likely to return to the UK again before the next 5 April
- a projection of income with details of dates and venues
- an itemised projection of the expenses which will be incurred
- a copy of any contracts covering appearances.

The application should have sufficient information to show how figures have been arrived at (including the basis for any estimates) and how expenditure common to several countries has been apportioned.

In some cases, you may be authorised not to deduct any tax from a payment. For example, this would apply if a pop star, prior to a UK tour, undertook to pay in advance (or secured by bank guarantee) all the UK tax expected from the tour.

In other cases, you may be authorised to deduct either a reduced rate of tax or a fixed sum from the gross payment. This could apply, for example, where an entertainer has to meet substantial expenditure out of a gross fee thus reducing the expected UK tax liability.

In reaching an agreement the Inspector will make allowances for admissible expenses. What can be allowed depends on the general rules covering expenditure allowable in arriving at taxable business profits and on the facts of each case. Normally allowances will be made for

- general subsistence expenses
- commission, manager's and agent's fees
- UK travelling
- international air fares to and from the UK where an artiste comes to the UK for an activity and returns directly to his or her home country.

Other expenses may be allowable. What is allowable in each case will need to be agreed with Foreign Entertainers Unit including the proportion of any costs common to several countries.

B8 How do you know that a reduced tax payment has been authorised?

The Foreign Entertainers Unit will authorise you to deduct a reduced amount of tax by sending you a form FEU 4. Even where you have been a party to the agreed arrangement with the Inland Revenue you must wait until you get the form FEU 4.

If you have not received a certificate on form FEU 4 when you come to make the payment you must deduct tax at the basic rate from the gross payment you make.

B9 Action

If you are making a reduced tax payment you must return the details and account for the tax withheld by filling in the return form FEU 1.

B3 and B4 on page 6 tell you about the form FEU 1.

B10 How are payments dealt with in your Schedule D or Corporation Tax accounts?

If income you receive is attributed to the entertainer under the rules set out in S.556 ICTA 1988 and Regulation 7 Income Tax Regulations 1987, then the tax withheld from the payment you receive will be treated as a payment on account of the entertainer's UK liability.

You will not be charged to UK tax on that income and there will be no repayment of the Withholding Tax to you. But if

- you are UK resident, **and**
- the income you receive is not attributed to the entertainer under the rules above, the payment you receive will be treated as a receipt of your business.

The amount of the assessable income will be the payment received plus the amount of the Withholding Tax which has been deducted. You will be able to claim the gross payment you make as a deduction in your UK Income Tax or Corporation Tax accounts.

'Gross payment' means the payment to the entertainer or intermediary plus the tax accounted for to the Inland Revenue.

If you make the payment in a series of payments as described at B2, that is, a franked payment, you may be entitled to set off tax withheld from payments you receive against your UK tax liabilities or claim a repayment of tax.

B11 How do you cope with payment chains?

Example

A, a UK resident, pays B Ltd, also a UK resident, £100,000 for C's services. C is a non-resident entertainer. C is paid a £60,000 fee by B Ltd.

Withholding Tax

	£	
A pays	100,000	
Less tax at 22%	22,000	paid to Inland Revenue
	78,000	net to B Ltd
B Ltd pays	60,000	
Less tax at 22%	13,200	(this sum is franked out of the £22,000 already deducted)
	46,800	paid to C

Treatment in the accounts

A is allowed an expense of £100,000 (that is the gross payment shown in his accounts).

B Ltd credits a receipt of £100,000 as income and is allowed an expense of £60,000 in its accounts.

Tax set offs

B Ltd can set the excess Withholding Tax of £8,800 (that is £22,000 less the franked payment of £13,200) against its Income Tax/Corporation Tax liability.

If B Ltd had a tax liability of less than £8,800 it can claim a repayment of the amount by which £8,800 exceeds its Income Tax/Corporation Tax liability.

Some activities may give rise to a chain of payments. For example, money for a concert may flow from a venue to a promoter then to the artiste. Every payer in the chain must deduct tax as required by law.

If a payer higher up the chain has already deducted tax then you must take this into account in deciding how much tax, if any, you need to deduct (see B2 on page 5 and B10 on page 7).

Payers can ask for an arrangement (see B6 on page 6) which moves the withholding point further down the chain so that payments between specified payers can be made without deduction of tax. This is called a 'Middleman' application and can only be done with the approval of the Foreign Entertainers Unit's.

Example

A concert is arranged at a hall. The venue owners control the box office and pay over the ticket proceeds less a percentage deduction to the concert promoter. He deducts his costs before paying an agreed amount to the artiste.

If the concert promoter makes a 'Middleman' application the Unit may agree to Nil withholding on the venue payments leaving the promoter as the Withholding point. The promoter will then have to deduct tax at basic rate on his or her payment or a reduced amount if an artiste's application has been made and agreed in a lower sum.

The Unit will ask for certain information in support of any 'Middleman' application you make, for example, a copy of any contract, dates of appearances, and probably a copy of the budget. If you are submitting a 'Middleman' application for the first time the Unit will be happy to advise you on the procedure and level of information required.

C1 Assessments

Withholding Tax will be due and payable without the making of an assessment. Any tax paid late may be liable to an interest charge.

If a payer does not deduct Withholding Tax from a payment or does not pay over tax which he or she has deducted, the Inland Revenue may make an assessment to recover the tax due direct from the payer.

An assessment may be made on the payments made in the tax year or for a particular period (see B3). The tax charged in the assessment will be due and payable on or before whichever is the earlier of the normal due date (see B3) or the 14th day after the date of the notice of assessment.

You will see therefore that there is no advantage in delaying payment and waiting for an assessment. The tax will be treated as due at the normal time and interest calculated accordingly.

C2 Appeals

Any appeal against an assessment made to recover Withholding Tax should be made in writing to the Foreign Entertainers Unit. The appeal should be made within 30 days from the date the notice of assessment was issued.

Please use form 64-7 to make your appeal.

C3 Interest

Interest may be charged and recovered by the Inland Revenue in any of the following circumstances

- Withholding Tax paid late. This will apply whether paid late without an assessment or recovered by assessment
- return form FEU 1 submitted late
- an incorrect return having been made.

C4 Penalties

Penalties may be due where the payer fails to make a return on form FEU 1, or submits an incorrect return on form FEU 1

C5 Information and inspection

The Foreign Entertainers Unit Inspector will be able, provided due notice is given, to call for information from payers. The information which the Inspector can request is fully set out in Regulation 9 of the Income Tax (Entertainers and Sportsmen) Regulations 1987.

D1 Where can I get help and information?

Any questions which are not answered in this guide may be referred to the Foreign Entertainers Unit. The address, telephone number and fax number of the Unit can be found in the introduction to this booklet. The Unit's staff will try and help you with any practical problems you have in complying with the scheme.

You can also find further information and assistance on the main Inland Revenue website at www.inlandrevenue.gov.uk/feu

Your professional adviser may also wish to help you deal with practical points arising from the law.

D2 What service can I expect?

In line with the rest of the Inland Revenue, the Foreign Entertainers Unit aims to provide a prompt, efficient and courteous service in line with our published Customer Service Standards. You can view these online at www.inlandrevenue.gov.uk/servicestandards or you can ask for a copy by phoning the general number given in this booklet.

D3 What can I do if I am not happy with the service I receive?

If we have got something wrong, or if there is any problem with the way we are dealing with your affairs, please let us know. To help you complain and to avoid any further inconvenience to you, we have an easy to follow complaints procedure. We will try to settle your complaint as quickly as possible.

If you have a complaint, please follow the steps below.

Step One

It is usually best to contact the person you have been dealing with. If you prefer, you can contact the Head of the Foreign Entertainers Unit. His or her name is to be found on correspondence from the Unit or can be obtained by telephoning **0121 712 8601**.

Step Two

If you cannot settle your complaint at step one you can write to the Director of Special Compliance Office. The Director will arrange for your complaint to be independently reviewed by a senior officer.

Step Three

If you are not happy with the Director's response you can ask the Adjudicator to look into your complaint and recommend appropriate action. The Adjudicator, whose services are free, is an impartial referee whose recommendations are independent.

The Adjudicator's address is

The Adjudicator's Office
Haymarket House
28 Haymarket House
London SW1Y 4SP

Tel **020 7930 2292** (Typetalk facilities are available)

Fax **020 7930 2298**

You can also contact the Adjudicator

- by email at adjudicators@gtnet.gov.uk or
- on the Internet at www.open.gov.uk/adoff

The Adjudicator's leaflet AO 1 is also available from the Adjudicator's office and Inland Revenue offices. It includes further information about complaining to the Adjudicator. If you are not satisfied with the service you have received from us or the Adjudicator, or with the outcome of your complaint, you can ask an MP to refer your complaint to the Parliamentary Ombudsman. The Ombudsman will accept a referral from any MP but you should ask your own MP first if appropriate.

For further information about the Parliamentary Ombudsman, contact,

Office of the Parliamentary Commissioner for
Administration
Millbank Tower
London SW1P 4QP

Helpline **0845 015 4033**

Fax **020 7217 41260**

Or you can contact the Parliamentary Ombudsman

- by email at opca-enqu@ombudsman.org.uk
- on the Internet at www.ombudsman.org.uk

D4 How else can I help?

Another way you can help is by telling us what you think of the service we offer. We would value your opinion for example, on the way we dealt with your tax affairs.

You may even have particular ideas for improving our service. If you do, please let us know by writing to the Customer Service Manager quoting your FEU reference number which can be found on all correspondence sent to you.

Forms that the payer will be involved with

FEU 1	Return of payments made to non-resident entertainers
FEU 1(CS)	Payer's Return continuation sheet
FEU 1 (Reminder)	Payer's Return reminder
FEU 2	Foreign Entertainers Unit tax deduction certificate
FEU 4	Payer's notification that basic rate Withholding Tax is not appropriate
FEU 40	Stationery request
FEU 50	Payer's Guide

Forms that the payee will be involved with

FEU 2	Foreign Entertainers Unit tax deduction certificate
FEU 5	Payee's repayment claim form
FEU 8	Application for Reduced Tax Payment
FEU 12	Payee's Return