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Australian Government

Australia Council for the Arts

International visas and taxation: a guide for performing arts organisations in Australia and New Zealand

August 2010

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Disclaimer

The information in this booklet was prepared in good faith to assist Australian performing arts companies and artists' touring internationally. The information and content was current as at July 2010, and is presented in good faith and on the basis that the Australia Council, nor their agents or employees, are liable (whether by reason of error, omission, negligence, lack of care or otherwise) to any person for any damage or loss whatsoever which has occurred or may occur in relation to that person taking or not taking (as the case may be) action in respect of any statement, information or advice provided.

Introduction

Each year hundreds of Australian and New Zealand artists perform overseas. This guide helps navigate the sometimes complex processes surrounding visas, work permits and taxes when preparing to tour internationally.

It focuses on the regions identified by Australian and New Zealand performing arts companies as high priorities:

- Australia and New Zealand
- Asia – China, Hong Kong, Japan, Republic of Korea, Macau, Singapore, Taiwan
- Europe – Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Spain, Sweden, United Kingdom
- Latin America – Argentina, Brazil, Chile, Colombia, Mexico
- North America – Canada and the United States of America.

Complying with the visa and taxation laws of the countries you visit while on tour requires extensive research, planning and budgeting. Visas and taxation systems vary from one country to another and are subject to constant change.

This guide doesn't aim to provide a complete list of all the visa and tax regulations currently in force. Such a document would be very long, technical and soon out-of-date. Instead, it gives a snapshot of current regulations to provide a starting point for research you must do each time you tour overseas.

The guide provides links to sources of information, some written for the cultural sector and other more general websites. It also includes case studies that feature ways in which arts companies and producers actually operate and some of the problems they encounter.

Who is this guide for?

This guide is for performing artists and performing arts professionals who are citizens of either Australia or New Zealand and who go to work in another country, whether it's for a short period (for example a theatre tour or a festival performance) or for a longer period (for example a residency or collaboration). Please note arts professionals who are not Australian or New Zealand citizens are not addressed in this resource.

Most of the content focuses on the performing arts sector, although artists in other disciplines may also find it useful. General legislation is presented, along with specific examples and links to enable you to research your own situation.

As a rule, the information is appropriate to not-for-profit organisations. More commercial organisations and artists should take care to double check the information included as other rules may apply for both visas and taxation of tours and seasons that are likely to make significant profits.

The information will be most useful for individuals and companies starting to work internationally or those going to work in a particular country for the first time.

Recommended practice

Don't assume that tax and social security will be organised in the same way as in your own country.

Use your networking skills to get advice from colleagues with experience of working in the country you're going to.

Always check that you have the most up-to-date information.

A quick checklist

Get organised well in advance – allow enough time for the necessary formalities at home and in the country where you're going to work. Applying for visas in particular is a time-consuming process. Some producers suggest taking the recommended time and doubling it.

Establish good communication with the promoter, venue or organiser. It's in both your interests to work legally and avoid unnecessary taxes.

Use the contract to negotiate fees and expenses net of all taxes and social security deductions where possible.

Specify payment in your own currency to avoid rate fluctuations.

Make sure you have adequate medical, travel insurance and legal liability cover. This may mean checking with your insurance and liability provider in Australia or New Zealand to confirm whether your existing policy includes coverage internationally, or whether you'll need to take out additional coverage for international tours.

Get up to date information on visa requirements, work permits, and residency regulations.

Make sure your passport isn't about to expire – for some countries your passport must be valid for at least a year from when you arrive, and in others visas won't be issued if a passport has less than six months of validity left. Equally you won't be readmitted to Australia or New Zealand if your passport is due to expire in less than six months.

It's a good idea to carry copies of your passport and a recent passport photo with you in case you need a replacement passport while overseas.

If you pay any tax, ask for a tax certificate in either your own name or that of the company (depending on the name on the contract) before you leave that country.

Getting started

Be prepared to research tax and visa processes each time you tour overseas. Even if you have been to a country recently, you cannot assume that the requirements remain the same. In the process of compiling this resource, one producer was amazed to find that the taxation procedures had completely changed within the two years since she had visited.

Remember to:

- Be systematic, detailed and thorough in the information you present to all of the organisations requiring documentation, for example consulates, embassies and presenters.
- Make copies of all touring party members' passports and details to have on file to refer to throughout all visa and tax processes.
- Check the nationalities of the members of your touring party. Don't presume they will all have Australian or New Zealand passports, and that the same visa and tax rules will apply to them. You will have to do additional research for all other passport holders to clarify tax and visa relationships between these countries and the country you're visiting.
- Look into re-entry requirements for the members of your touring party who are not Australian or New Zealand citizens. You can find details on visas for returning residents online at the Australian (www.immi.gov.au) and New Zealand (www.immigration.govt.nz) government's official immigration websites.

Visas

Be thorough when collating materials and information needed for your touring party's visa applications. It's important to follow each country's processes closely, as they vary. Although some countries may appear to have similar prerequisites, the timing for filing documentation can be significantly different. For example in Japan, you must send the presenter copies of all passports, photos and documentation before approaching the consulate or embassy for the visas. Keep in mind that visa processing times also vary from country to country.

Don't forget to budget for the administrative costs and fees involved in visa applications. Aside from the fees for visas and permits, there are frequently costs involved in internal travel to consulates and embassies. For example, in Australia the biometric data required for visas for travel to France is only gathered in Sydney. In addition to travelling to Sydney, your touring party members may need to spend the night in order to make an early appointment. Often there's no way to avoid late application processing fees if you don't receive confirmation documents from presenters on time. Overall the cost of applying for visas can be high and you need to consider this carefully before signing your contract to tour, to ensure you don't stand to lose money.

In several regions it may be helpful to employ a local expert to guide you through the visa application process. In addition to saving you time and effort, a local visa expert will be of great help with multi-venue tours. Even in countries where a single presenter can 'sponsor' a tour, it may be useful to engage an independent expert to protect commercially sensitive information.

Some producers of companies that tour frequently through numerous countries have arranged with the Department of Foreign Affairs and Trade (DFAT) in Australia to allow for visa applications to proceed while company members are on tour. You need to make a case to DFAT with detailed information on your touring plans.

In some countries you may need to apply for a visa for unpaid visits, to attend conferences or networking events. Be prepared to explore visa options thoroughly regardless of the nature of your visit.

Where you or members of your touring party have a criminal record, it's especially important to investigate how this affects the timing and likelihood of your achieving a visa or work permit for certain countries. It's advisable to explore this situation at the earliest opportunity for each country you intend to visit.

Another important area to consider is the health of all the individuals in your touring party. Certain countries deny entry to those with HIV, TB or other diseases. Most countries have a proviso regarding 'good health and character' in all decision-making processes for granting visas.

Taxation

The advice given by experienced producers in the performing arts is, wherever possible, to negotiate a fee net of all taxes. A contract should also specify that expenses such as travel, accommodation, freight and per diems are paid net of tax. This means that if withholding taxes are due, it's the responsibility of a local employer to calculate these and include them in their own budget.

The type of work you do while you're in another country will affect the basis on which you're taxed. Performing artists are subject to a special form of taxation when they perform overseas which is different from other professions.

Arts professionals with Australian and New Zealand passports working overseas will be considered non-resident and therefore subject to different tax legislation than those governing local residents.

Each country has its own legislation regarding income earned by non-resident companies and individuals.

In some countries, tax treaties between Australia and New Zealand create reciprocal arrangements to avoid double taxation. Double taxation treaty websites are maintained by the Treasury in Australia (www.treasury.gov.au) and by the Inland Revenue in New Zealand (www.ird.govt.nz). Even if there is a double taxation agreement in place, a country can impose a 'non-resident artist withholding tax' on certain arts professionals when they go to perform in another country.

Regardless of the country specific legislation, it's essential to begin negotiations with an international presenter with a request for extensive information on taxes to be paid in their country by visiting performing arts companies.

Many presenters are well versed in the procedure for engaging international artists and companies and will have systems in place to either achieve a taxation waiver or to guide you through the documentation you need to submit to local government authorities responsible for taxation.

The lack of consistency in the way rules are applied from one country to another and even within the same country make it important to work with an experienced local presenter or independent advisor who knows how the system works.

In certain countries, major presenters have negotiated a blanket exemption from the payment of withholding tax for non-resident companies. Do your research on presenting organisations and venues, and understand their 'standing' within the local context in terms of their profile and consequently their ability to assist in government and legal processes around tax and visa issues.

It's important to cross check information from presenters with your own research and to talk to your peers to ensure absolute clarity, before you agree to a fee or sign a contract.

Although you might imagine that your employment status in your own country would accompany you when you work overseas on a temporary basis, this isn't always the case. For example, companies with Deductible Gift Recipient Status or who are exempt from paying taxation at home won't necessarily be exempt from taxation overseas.

The case studies in this resource demonstrate the variations in procedure for tax exemption country to country and even within the same country. Even where an exemption is available, you may find that you cannot provide sufficient documentary evidence that you pay tax in your own country and national income tax will be imposed. If you do have to pay income tax or social security on earnings abroad, there are mechanisms in most countries for recovering a full or partial reimbursement.

Companies working in these target markets report a variety of strategies arrived at in dialogue with local presenters to achieve the best outcome for both parties regarding profits and administration. Strategies include restructuring the pay schedule of performers so that they do not earn more than the tax free threshold. Common practice includes submitting a budget that shows a net loss on the tour—that is, that expenditure exceeds income. Many producers keep salaries to the absolute minimum and include production costs for remounts, such as rehearsal room rental, per diems during rehearsals, equipment hire, insurance, travel and so on.

It's important to ensure that any strategy of this kind complies fully with local legislation.

Withholding tax

The OECD Model Tax Convention which governs 31 countries including Australia and New Zealand (Organisation for Economic Co-operation and Development Model Tax Convention, Article 17, Artistes and Sportsmen: (www.oecd.org/dataoecd/50/49/35363840.pdf), provides for withholding tax to be imposed on non-resident performers working abroad. This tax is also described as 'non-resident artist withholding tax', 'foreign entertainers tax', 'foreign tax', 'retención a cuenta' in Spanish and 'retenue à la source' in French.

Each country sets its own rate of withholding tax usually in the region of 15-30 percent. The rate must not be higher than the normal income tax rate for residents.

Withholding tax is deducted by the presenter at the time of a performance. If there is a bilateral tax treaty between the country of performance (where the tax is deducted) and Australia and New Zealand, this payment will normally be considered as part of your tax liability for that income to be paid at home.

Under a bilateral tax treaty, the company that has already paid withholding tax abroad will receive financial compensation in the form of a tax credit or a tax

exemption. This credit is usually applied in the normal end of year return and therefore needs to be taken into account in your cash flow.

Although these are the official tax regulations for non-resident performers, research indicates that withholding tax doesn't seem to be applied systematically. Exemptions from paying withholding tax are allowed in some countries for some types of performance, for example non-profit companies and companies in receipt of public subsidy.

Broadly, it appears that some countries (for example Finland and Sweden, Hong Kong and Singapore) have a low withholding tax rate and a fairly straightforward system with few exemptions; others (for example the UK and Japan) have a mid-range rate and permit higher tax-free allowances for expenses and/or more frequent exemptions; a third group of countries (for example Austria, Canada, the USA) have relatively high withholding taxes and some exemptions, but the system isn't always consistent or transparent in how the rules are interpreted.

Local promoters report different ways of gaining exemption for performances by overseas companies. Although the rules for exemptions are entirely different from one country to another, one influencing factor seems to involve proof that the performance is organised within the non-profit sector by companies in receipt of public subsidy. Performances which are part of an official program of cultural exchange between two countries are also often exempted from withholding tax. Nevertheless you cannot rely on these as grounds for exemption in all countries since the rules are so variable.

It's important to note that withholding tax is only applied to performance income (including box office income), and this can also include the fees and expenses associated with the performers involved, for example per diems, accommodation, and travel costs. Withholding tax doesn't apply to income from any part of the contract which isn't performance (such as workshops) or to the fees for any person involved in the production who doesn't perform (for example a director, lighting technician or stage manager). Other taxes may apply however, depending on the employment status of the person and the country.

The tax burden seems to fall more heavily on smaller companies and individual artists who are less likely to have access to the specialist services of accountants and international tax lawyers.

Withholding tax and expenses

An important aspect of withholding taxes is how the tax authorities treat expenses. Some allow the deduction of expenses and others do not. Where expenses are allowed, you need to find out in advance how this is organised. For example, the UK has a special tax unit (Foreign Entertainers Unit) which approves budgets of non-resident performing artists, allowing the deduction of some production expenses. Withholding tax is only applied to the artist's fee.

In some countries, the tax authorities allow deduction of actual ('direct') expenses only against receipts (for example the USA). This can be a problem if you're organising a tour to several venues in the same country and would

normally divide expenses between venues, invoicing for a percentage of the overall costs. You'll need to sort out with promoters how to present your expenses receipts.

Since the majority of countries apply withholding tax to both fees and expenses, travel and accommodation costs, as well as per diems which are invoiced, will be taxed. A better option is to negotiate these costs with the promoter at the contract stage. Some promoters prefer to book travel tickets and accommodation, or may offer to pay freight bills direct rather than reimbursing them against invoices and incurring unrecoverable taxes.

Goods and services tax (GST)

GST (also known as Value Added Tax (VAT), Impuesto al Valor Agregado (IVA) or other terms), is a complex area of taxation which affects some companies working overseas. In some countries, all traders (including those working in the cultural sector) must register for GST, in others there is a threshold or annual turnover above which you must register.

GST is a tax levied on certain goods and services. It's charged on different goods and services across the world and, within any one country, there is a scale of rates according to the type of goods or service. Surveys on GST rates in the cultural sector highlight the variations and complexity surrounding exemptions which exist.

This guide isn't the place to list all the different GST rates, legislation and implementing rules for foreign traders. If you know of a likely GST liability in your tour, you should consult an accountant or tax adviser to give you advice based on your particular case.

The following questions may help you decide whether GST is an issue when you work overseas:

1. Do you charge GST on your goods and services in your own country?

If you're registered for GST in your own country, you'll have a GST number and an understanding of how the system works when you provide goods and services at home and a mechanism for accounting for GST. You may need to charge GST at the normal rate applicable in your own country when you sell your goods and services abroad.

2. Is GST chargeable on the services/goods you're supplying in the country abroad?

Ask the local promoter who should know whether GST applies and at what rate. Exemptions or lower rates of GST apply to some cultural goods and services.

3. Who is responsible for accounting for the GST?

If you're working for a promoter, organiser or venue abroad, it may be that they take responsibility for accounting for the GST. This should be clarified at the contract stage as it affects the overall fee. It can be described as a 'tax shift' or a 'GST shift'. In effect, the promoter takes on the responsibility for selling the product (i.e. the performance) to the public and for charging and accounting for the GST at the rates applicable in their own country. If this is the case, the

overseas promoter provides you with their GST number and you submit this to the GST authorities in your own country to justify why you have not charged GST. Where you're working through an agent it can be more complicated.

4. Do you need to register for GST in the country where you work?

In some countries, you're considered as a foreign trader if you come to work, even on a short-term basis. Several performing arts companies have reported that they had to register for GST in France when touring there. However, they found the procedure fairly straightforward. Obligatory registration has also been reported for Denmark and Finland. Registering for GST in another country may be obligatory for any period of work abroad or it can depend on the length of time you work there, the type of goods and services you supply and the overall value of the goods sold (i.e. if you exceed the annual threshold). Since registration also allows you to offset GST paid on goods you have bought there, it may be of benefit to register if you're spending a long time in a particular country and incurring high expenditure.

One of the most common difficulties reported with GST is where a performance company exempted from GST in their own country goes to perform overseas and has to pay GST on the fees received there. On return to their own country, the company finds that because they are not registered for GST, they cannot claim it back from their own authorities.

Companies selling merchandise on tour have reported that the presenter manages these sales and negotiates how GST is returned. If you're selling your own merchandise, it's recommended you consult your accountant or tax adviser for advice.

GST isn't a withholding tax and isn't covered by bilateral tax treaties. Therefore any payments won't be honoured with a tax credit.

Tax on royalties and copyright payments

Income from royalties and intellectual property rights earned in another country will also normally be subject to tax.

As per the GST recommendations above, tax on royalties and copyright is a specialist area and you'll need expert advice if large sums are involved. If you have a high level of income in one country, it may be in your interests to file a tax return there (if this is permitted), so that you can deduct any relevant expenses. The artists' collecting societies in Australia and New Zealand can offer advice. In Australia, there is information on collecting societies on the Attorney-General's Department website (www.ag.gov.au). In New Zealand, check the Copyright Council of New Zealand (www.copyright.org.nz).

In some countries (for example Austria) the tax on such income is the same as the withholding tax rate and in others it's taxed at the normal income tax rate. A number of countries have special tax rates for royalties that are lower than the normal income tax rates. In Italy, there are different rates according to where the work has been created and where it's presented.

Producers who tour frequently overseas commonly strike a deal for international royalties with all artists involved in a production at the

development stage. This involves negotiating a fixed amount per performance for overseas presentations beyond the first season. This is then considered at the time of setting the performance fee so that the international presenter deals with tax issues on a fee inclusive of royalties.

Social security

Non-resident artists and companies on short work assignments should try to provide the documentary evidence necessary to avoid making social security payments on fees earned overseas. The rates can be high and while tax payments abroad can in some cases be refunded, this isn't generally the case with social security payments. For information on social security legislation please check the country profiles.

Country Profiles

The following profiles present information on key countries where Australian and New Zealand artists and companies are regularly touring.

Case studies offer additional tips, illustrating the importance of getting up-to-date advice and working with an experienced local arts promoter.

Australia

Visas

There are special arrangements in place for New Zealand citizens travelling to Australia for short periods of work. The following fact sheet outlines these arrangements - www.immi.gov.au/media/fact-sheets/17nz.htm

The Special Category Visa (SCV) (subclass 444) allows New Zealand citizens who hold a valid New Zealand passport and are not of health, character or penal clearance concern, to enter Australia to visit or to live and work indefinitely, without the need to apply for a visa before travelling. Known as the Trans-Tasman travel arrangement it also applies to Australians travelling to New Zealand. Any New Zealand citizen who is eligible for a Special Category Visa doesn't need to apply for an entertainment visa.

At the time of presenting their passports for immigration clearance, New Zealand citizens are considered to have applied for a visa and, subject to health or character considerations, will automatically receive an SCV which is recorded electronically. Their passports are stamped, showing the date of arrival in Australia. This is the only evidence provided or necessary to show they are holders of an SCV.

Taxation

Under the taxation treaty between Australia and New Zealand income derived by an employee resident in New Zealand from visits not exceeding 90 days in any 12 months to Australia will be exempt from tax in Australia. Such income will only be taxed in New Zealand.

To access these exemptions each individual must have a Tax File Number (TFN), issued by the Australian Taxation Office (ATO). All presenters in Australia require performers to provide an Australian Business Number (ABN). Either all members of a touring party must have an ABN in addition to their TFN, or the producer or agent can apply for a group ABN for the performing company. Even when individuals have their own ABN, it can be advantageous to use the organisational ABN to facilitate tax matters when touring in Australia.

It's possible for a company to supply the presenter with the ABN of just one individual in the group (in the instance that the group is without administrative support), but the tax for the tour is added to their individual tax return instead of the group's.

The Australian presenter must have either the group or individual ABN's prior to paying the performance fee. If there is no ABN, presenters are obliged to withhold tax at 33.3 percent. With an ABN there is no withholding tax.

When lodging your taxes, it helps if the group can show that they are not making a profit with a statement of expenses showing in meticulous detail the expenditure and income for the tour. However, there is always the chance of an audit when taxes are filed in New Zealand.

Some Australian presenters suggest performing artists' tour under the category of 'hobbyist'. Application forms for this are available through post offices in Australia and some festival applications offer this option. When choosing hobbyist status, artists should ensure they're acting within the relevant laws. Also be aware it might reduce the scope of tax deductions open to claim for professional activities.

Any GST applicable on the tour is also subject to this double taxation treaty.

Producers recommend you engage an accountant in New Zealand to support your tax return for expenses incurred and income earned when touring to Australia.

More reading

The Australian Department of Immigration provides a helpful factsheet for New Zealand citizens seeking immigration information - www.immi.gov.au/media/fact-sheets/17nz.htm

Contacts for New Zealanders

The Australian High Commission in New Zealand is in Wellington - www.newzealand.embassy.gov.au

Address

72-76 Hobson Street

Thorndon, Wellington 6011

Tel: +64 4 473 6411

Fax: +64 4 498 7135

There is a consulate general in Auckland. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php%20

New Zealand

As per many countries covered in this resource, some major festivals in New Zealand have special arrangements with their immigration and taxation authorities to waive visa and tax withholding requirements for international artists.

Visas

You don't need a work visa or permit to work in New Zealand if you're an Australian citizen. This Trans-Tasman travel arrangement also applies to New Zealand citizens travelling and working in Australia.

If you're not an Australian citizen you may need to apply for a temporary work visa or permit and should follow the guidelines on the Immigration New Zealand website.

Taxation

If you're an entertainer performing in New Zealand, you are subject to withholding tax of 20 cents in each dollar paid to you or any other person on your behalf. It doesn't matter whether you are an individual, company or other entity. This payment is deducted by the presenter.

In most cases the presenter will have negotiated a tax exemption through the taxation rule exempting events in cultural programs that are wholly or partially sponsored by a government.

Generally non-resident entertainers will not need to register for GST; however there are some exemptions which can be checked on the Inland Revenue site listed below. GST is currently 12.5 percent in New Zealand. It's notable for exempting few items from the tax. From 1 October 2010 GST will increase to 15 percent.

A departure fee is collected from all adult international passengers on departure from Wellington, Christchurch and Queenstown airports. This can be paid by cash or credit card. There is no longer a departure fee charge from Auckland as of 1 July 2008. Some regional airports also have a small fee payable on domestic flights.

More reading

Immigration New Zealand - www.immigration.govt.nz

New Zealand Inland Revenue - www.ird.govt.nz/yoursituation-nonres/entertainers-sportspeople

New Zealand Ministry of Foreign Affairs and Trade - www.mfat.govt.nz/Foreign-Relations/Australia/index.php

www.newzealand.com/travel/getting-to-around-nz/getting-to-nz/customs-immigration/customs-immigration_home.cfm

New Zealand Internal Revenue Department – link to tax treaties held with NZ - www.taxpolicy.ird.govt.nz/tax-treaties

Contacts for Australians

The New Zealand High Commission in Australia is in Canberra - www.nzembassy.com/australia

Address

Commonwealth Avenue

Canberra, ACT 2600

Tel: +61 2 6270 4211

Fax: +61 2 6273 3194

Email: nzhccba@bigpond.net.au

There are consulate generals in Sydney and Melbourne. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Asia

In Asia particularly you should follow a process of asking your presenter for information first to avoid being seen as rude or in breach of trust. You should then approach government organisations for information, and after notification and discussion with the presenter you could speak to a local professional for assistance. This isn't to say that the presenter will necessarily have the correct information, but to maintain a smooth relationship it's advisable to approach them first.

Although presenters in Asia generally initiate visa and tax processes make sure you stay on top of where they are up to. Many of the processes can be lengthy and require a variety of information submission and interview requirements, and many do not give specific processing timeframes.

Producers report that reapplying for documentation due to cast changes can be difficult and costly. For example, Japan has a lot of smaller independent and often less experienced venues and presenters. Application fees are expensive, and the fines for providing incorrect information are very high.

Many Asian countries require that your passport be valid for up to six months past the date of proposed entry into the country, and that it contains a minimum of two blank visa pages on arrival.

China (People's Republic of)

Visas

In most cases, Australian and New Zealand passport holders require a visa to enter the People's Republic of China (PRC).

Procedures for artists and companies travelling to PRC differ depending on the particular local, political and cultural situation.

It's important to know the social, cultural and political standing of the presenter, and whether they have an established relationship with the Chinese Minister of Culture. The larger, higher profile international festivals are more influential. It's difficult to obtain documentation when working with smaller organisations.

Not for profit companies must first obtain a letter of invitation from the Minister of Culture and a performance licence. The Chinese presenter must initiate and facilitate the application to the Cultural Ministry in PRC.

The company must nominate the Chinese consulate or embassy that they will visit to obtain the visas. This can cause problems if the company is involved in touring before the trip to PRC, as there are no set timeframes for this visa processing. There may be delays in processing for holidays and local events in PRC.

Companies who have attempted to complete the interview and visa application process in another country have been told that they must visit the Chinese consulate in their own country. It's important to discuss touring requirements with the Chinese presenter as early as possible.

Applications may be denied if performances coincide with politically or culturally sensitive events occurring in the region.

Once the license and invitation letter have arrived, the company must apply for a work visa (Z-visa). As well as the standard application documentation, you should supply the original and a copy of the approval document and a visa notification issued by the Ministry of Culture or the foreign affairs office of related province, autonomous region and municipality directly under the Central Government.

It's important to apply for the performance license and invitation more than three months in advance of the intended date of entry. An interview may be required during visa processing and any changes to the application will require you to make a completely new application.

In addition to the detailed directions on the Chinese consular website, one Australian company discovered that nine months validity from the date of

proposed entry was required on each passport and that at least two visa pages of the passport needed to be clear.

Taxation

The tax treaties between PRC, Australia and New Zealand state that performing artists ('entertainers') must pay tax in PRC on income earned. An additional clause states that if the performer derives their income under a plan of "Cultural Exchange" between the two governments, their income is exempt from tax. From companies experienced in touring to PRC, and given the process of approval for all performances that must pass through the Chinese Ministry of Culture (see Chinese visa procedure section of this resource), the majority of performances seem to fall into this category. You should seek professional advice early in the contracting stage if it becomes necessary to navigate tax withholding issues in PRC.

There is no GST charged in PRC.

The usual practice for performing arts companies performing in PRC is to contract performance fees as a net income amount.

More reading

Travel China - www.travelchinaguide.com/embassy/visa/intro2.htm

Chinese Visa Application Centre -
www.visaforchina.com.au/visaen/visaView.html?method=readNotify&notifyId=1097#Menu=ChildMenu1

Chinese State Administration of Taxation (SAT) -
www.chinatax.gov.cn/n6669073/n6669133/6886066.html

Beijing Local Taxation Bureau -
english.tax861.gov.cn/zgszky/zgszky.htm

China Australia Tax Treaty - excerpt for performing artists -
www.cpa-lawyers.net/ReadNews.asp?NewsID=1082

Tax exemption for performing artists under double tax treaty cultural exchange -
www.cpa-lawyers.net/ReadNews.asp?NewsID=1082
www.taxpolicy.ird.govt.nz/tax-treaties/china

Contacts for Australians

The Embassy of People's Republic of China in Australia is in Canberra - au.china-embassy.org or au.chineseembassy.org

Address
15 Coronation Drive
Yarralumla, ACT 2600

Tel: +61 2 6273 4780
Fax +61 2 6273 4878
Email: chinaemb_au@mfa.gov.cn

There are consulates in Brisbane, Perth, Melbourne, Sydney. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

The Embassy of People's Republic of China in New Zealand is in Wellington - www.chinaembassy.org.nz

Address
2-6 Glenmore Street
Kelburn, Wellington 6011

Postal address
PO Box 17257
Karori, Wellington 6140

Tel: +64 4 472 1382
Fax: +64 4 499 0419

There is a consulate-general in Auckland. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php%20

Hong Kong (Special Administrative Region of the People's Republic of China)

Visas

Although Hong Kong and Macau are parts of the People's Republic of China (PRC), as Special Administrative Regions (SAR), each has its own visa entry regulations.

Australian and New Zealand passport holders need a visa or entry permit to work in Hong Kong. If you have a close connection with Hong Kong by birth or long period of residence in the region, you may not require a visa or entry permit. Unless this applies, you'll need a visa or entry permit regardless of whether you receive payment for the performances. Your nearest Chinese diplomatic and consular mission can advise you on the appropriate working visa or entry permit for your situation.

The procedure for obtaining work visas and permits for performing artists is for the sponsor or presenter to obtain the visa in Hong Kong. You'll need to supply the Hong Kong presenter with company, cast, technical and financial information. Once completed the visas should be couriered to you to insert into the individual passports.

If you're on the Chinese mainland and visit Hong Kong and then return to mainland China, you must have a valid re-entry on your Chinese visa or else get a new visa while in Hong Kong. Although these entries are normally granted, it isn't 100 percent guaranteed.

Always remember that China and its SARs have the right to refuse entry to any person. Even when you have a visa, you can be denied entry at the border.

Taxation

There is no double tax treaty in effect between Hong Kong and Australia and New Zealand. Although both countries have treaties with China you should note that these **do not** cover taxation issues in China's SARs (Hong Kong and Macau).

Hong Kong tax law states that non-resident 'entertainers' are subject to the Hong Kong Profits tax. Performing artists and companies are included in this category.

The withholding tax rate is between 10-11 percent depending on whether the performance was booked directly with the presenter by the company (lower rate), or whether a third party or agent was used to secure the performance or tour (higher rate).

The presenter is responsible for applying for a tax waiver based on a negative income, or withholding the appropriate amount from the company's performance fee. The Hong Kong taxation authority (IRO) assesses the amount and bills the promoter or venue presenting the performance.

There is no GST charged in Hong Kong.

The lack of a tax treaty between Hong Kong and Australia and New Zealand prevents you from making a claim to recover any tax paid in Hong Kong and therefore most producers negotiate a fee net of taxes.

If it's not possible to negotiate a net fee, you can ask the presenter to make an application for a tax waiver on your behalf. This requires supplying a financial summary (touring budget) that demonstrates a neutral position or a loss, which you must file prior to the commencement of the tour. If the presenter can establish that you're not making any profit, a tax waiver will ensure that withholding tax isn't applied to your income.

Although the tax rates are lower than many other countries and the IRO doesn't prioritise enforcing withholding tax, it's important to comply with these tax regulations in order to maintain good relationships with the presenting partners, as they will be the entities fined with any non-compliance action that may arise.

More reading

HK Immigration Department - www.immd.gov.hk/ehtml/hkvisas_1.htm

HK Immigration Department in Hong Kong - www.info.gov.hk/immd

Inland Revenue Department of Hong Kong SAR - www.ird.gov.hk/eng/welcome.htm

www.ird.gov.hk/eng/pdf/tax_guide_e.pdf

In the Chinese mainland, contact the Beijing Office of the Government of the Hong Kong SAR - www.bjo.gov.hk/eng/pgm_index_e.htm

Tax withholding in HK for performers - www.ird.gov.hk/eng/tax/non_res.htm

Hong Kong Profits tax - www.ird.gov.hk/eng/pdf/tax_guide_e.pdf

Contacts for Australians

The Chinese Embassy in Australia is in Canberra

au.china-embassy.org or au.chineseembassy.org

Address

15 Coronation Drive

Yarralumla, ACT 2600

Tel: +61 2 6273 4780

Fax: +61 2 6273 4878

Email: chinaemb_au@mfa.gov.cn

There are consulate-generals in Brisbane, Perth, Melbourne and Sydney.

For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

The Chinese Embassy in New Zealand is in Wellington

www.chinaembassy.org.nz

Address

2-6 Glenmore Street

Kelburn, Wellington 6011

Postal address

PO Box 17257

Karori, Wellington 6140

Tel: +64 4 472 1382

Fax: +64 4 499 0419

There is a consulate-general in Auckland.

For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php%20

Japan

Certificate of Eligibility

Australian and New Zealand performing artists touring to Japan need to go through a lengthy work permit application process before they can apply for their visa.

Japanese presenters apply at their local Immigration Office for Certificates of Eligibility for each individual on the tour. The Certificate of Eligibility is the precursor document to securing work visas for Japan. You must send the sponsor/presenter all company documentation and passport and photo information for all members of the touring party to process with the Ministry of Justice in Japan.

Certificates are sent to the company to complete the visa application through the Japanese consulate in their country. The Certificate of Eligibility is valid for three months from the date of issue. If you fail to enter Japan within this time, you may be refused entry, even with a valid visa.

The application process takes around three months to complete, so it's advisable to provide the requested information to your presenter as soon as possible.

Although many presenters in Japan are experienced in obtaining working visas for foreign performers, smaller, independent presenters may be less informed. It's advisable to keep checking with the presenter throughout the visa application process. The cost of application is relatively high as are the fines for providing incorrect information.

Visas

Performing artists and companies holding Australian or New Zealand passports fall into one of two categories for work visas in Japan:

1. entertainer (independent or individual artists) or
2. performance/ entertainer Visa (performing arts groups or companies).

Entertainer

Authorised to engage in: theatrical performances, musical performances. Periods of stay vary from one year, six months, three months or 15 days. Entertainers must obtain a Certificate of Eligibility to apply for a visa.

Performance / Entertainer Visa

Members of rock bands or similar groups, including non-performing members accompanying the group (for example tour managers and sound technicians)

must obtain a Certificate of Eligibility to apply for a visa. Entertainers who are travelling to Japan to dance must also obtain a Certificate of Eligibility to apply for a visa.

Classical musicians, members of symphony orchestras, theatre groups, opera singers, invited to Japan either to perform publicly for remuneration or to participate in a competition, must also obtain visas. However these applicants, may, in the place of a Certificate of Eligibility, present the following documents to apply for a visa. If you're unsure which category you fall under, contact the visa section of the consulate/embassy directly to save time and avoid confusion.

Requirements for visa application without a Certificate of Eligibility:

1. a valid Australian or New Zealand passport
2. visa application form duly completed and signed by the applicant
3. one passport sized photo (taken within three months)
4. contract of employment
5. letter of invitation from Japan
6. letter of guarantee from the promoter or agent in Japan
7. documents regarding the business operation of the promoter or agent in Japan:
   a) transcript of corporate registration
   b) certificate of payment of corporate tax
   c) balance sheet and profit loss statement
8. schedule of performances in Japan
9. a list of all visa applicants.

Taxation

Australia and New Zealand have tax treaties with Japan to avoid double taxation.

The Japanese National Tax Agency (NTA) imposes withholding tax of 20 percent of income earned by artists and companies performing in Japan.

The NTA website mentions provisions for tax exemption, but these are unclear. Producers experienced in touring to Japan negotiate fees net of tax, to avoid the need to file withholding documents or claim tax credits at a later stage.

It's important to negotiate a net fee at the earliest stage of communication with your presenter. Although Certificates of Eligibility have no direct bearing on taxation, you should note that Japan bases its Certificate on actual costs (for example fees, airfares, per diems and accommodation). Unlike some other countries that are more relaxed about adjusting income amounts to achieve an optimal financial situation, it's unwise to suggest to a Japanese presenter that they alter any costs when obtaining the Certificate.

GST is charged at five percent in Japan; however this is a specialist area in which you're advised to consult with your presenter host and a tax advisor in your home country.

Always refer your questions to the presenter before approaching the government authority for verification of information.

Case study: cast changes and Certificates of Eligibility

An Australian producer reports that a cast change for a production touring to Japan meant reapplying for a Certificate of Eligibility.

To obtain the Certificate of Eligibility, the Japanese presenter supplies a budget of tour costs to the issuing authority. The budget includes details of airfares, per diems and accommodation for individuals.

The producer had to discard the certificate she received before the cast change. She sent back all documentation relating to the artist previously included in the touring party and began the application process from scratch.

Express couriering the documents between countries still took over a week and the producer waited two more days for the Japanese consulate in Australia to issue the stamped passport.

This requirement contradicts advice given to other Australian and New Zealand companies by Japanese presenters.

It's common for producers to add extra names to their touring party in case of cast change or injury, to avoid having to substitute company members after documentation has been approved.

More reading

Tokyo Performing Arts Market - www.tpam.or.jp/index_e.html

Performing Arts Network Japan – Links Page has an extensive list of links to Japanese organisations, presenters and companies - www.performingarts.jp

Japanese Performing Arts Yearbook - www.jah.ne.jp/~parc/%20(Japanese language)

Application for Certificate of Eligibility - www.immi-moj.go.jp/english/tetuduki/kanri/shyorui/01.html

Visa application form - www.au.emb-japan.go.jp/pdf/VISA%20APPLICATION%20FORM.pdf

Information regarding tax on the income of non-residents in Japan - www.nta.go.jp/taxanswer/english/12006.htm

Contacts for Australians

The Embassy of Japan and each of the consulates general in Australia maintain a specific jurisdictional area.

ACT residents should contact the Embassy of Japan - www.au.emb-japan.go.jp

Address
112 Empire Circuit
Yarralumla, ACT 2600

Tel: +61 2 6273 3244
Fax: +61 2 6273 1848
Email: cultural@cb.mofa.go.jp

NSW and NT residents should contact the consulate-general in Sydney.

WA residents should contact the consulate-general in Perth.

QLD residents should contact the consulate-general in Cairns.

VIC, TAS and SA residents should contact the consulate-general in Melbourne.

For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand the Embassy of Japan is in Wellington - www.nz.emb-japan.go.jp/contact_us/index.htm

Address
Level 18 & 19 - The Majestic Centre
100 Willis Street
Wellington 6011

Tel: +64 4 473 1540
Fax: +64 4 471 2951
Email: japan.emb@eoj.org.nz

There is a consulate general in Auckland. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php%20

South Korea (Republic of Korea)

Visas

The presenter, festival or venue should initiate the process of organising and obtaining a working visa in ROK. Check with your presenter to ensure that they've begun this process so that you can provide them with the necessary company, cast, technical and financial information. The presenter will give you a reference number on completion of their processes. You can then contact your closest Korean embassy or consulate.

Some performing arts companies haven't needed a work visa for ROK. There do seem to be some occasions where the authorities have waived visas, but it's always best to check with the presenter to ensure that you're following the correct procedure for your situation.

Taxation

Australia and New Zealand have current tax treaties in effect with ROK to avoid double taxation.

The Korean National Tax Service (NTS) instructs presenters to withhold 20 percent of the fee earned on tours of companies from Australia and New Zealand. Expenses are exempt.

The NTS website outlines provisions for tax exemption, but these are not entirely clear. Producers experienced in touring to ROK commonly negotiate fees net of tax, thus avoiding the need to file withholding documents, tax returns or to claim tax credits at a later stage.

GST is charged at 10 percent in ROK however this is a specialist area in which you're advised to consult with your presenter host and a tax advisor in your home country.

Case study

Australian companies touring to ROK have encountered very few issues with visas or taxation. One company reports that they successfully applied for visas for the two trips to ROK they took within one year. They obtained visas without problems through the Embassy in Canberra and required a letter of invitation from the Korean presenter. None of the companies consulted for this resource had to engage with taxation procedures for ROK and understood the presenter had negotiated exemptions from local withholding tax.

More reading

Korea Immigration Service - immigration.go.kr/HP/IMM80/index.do

Korean National Tax Service - www.nts.go.kr/eng

Korean tax withholding information from KPMG - us.kpmg.com/microsite/tax/ies/2002_Flash_Alerts/fa02-102.pdf

Korean taxation information for non-residents - www.shinwoncpa.com/english/html/infor/6.pdf

Korean Tax Laws for non-residents - www.nts.go.kr/eng/data/korean_taxation2008%28Part_8%29.pdf%20

Contacts for Australians

The Embassy of the Republic of Korea in Australia is in Canberra servicing ACT, Victoria, South Australia, Western Australia and Tasmania - aus-act.mofat.go.kr/eng/as/aus-act/main/index.jsp

Address

113 Empire Circuit

Yarralumla, ACT 2600

Tel: +61 2 6270 4100

Fax: +61 2 6273 4839

A consulate general in Sydney services New South Wales, Northern Territory and Queensland.

Address

St. James Centre Level 13
111 Elizabeth Street

Sydney, NSW 2000

Postal address

GPO Box 1601

Sydney, NSW 2001

Tel: +61 2 9210 0200

Fax: +61 2 9210 0202

Email: consyd@mofat.go.kr

Contacts for New Zealanders

The Embassy of the Republic of Korea in New Zealand is in Wellington - nzl-wellington.mofat.go.kr/eng/as/nzl-wellington/main/index.jsp

Address

Level 11, ASB Bank Tower
2 Hunter Street
Wellington 6011

Postal address

PO Box 11-143
Manners Street
Wellington 6140

Tel: +64 4 473 9073 /4
Fax: +64 4 472 3865
Email: consul@koreanembassy.org.nz (visa section)

There is a consulate in Auckland. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Macau (Special Administrative Region of the People's Republic of China)

Visas

Although Macau and Hong Kong are parts of the People's Republic of China (PRC), as Special Administrative Regions (SAR), each has its own visa entry regulations.

Australian and New Zealand passport holders are exempt from obtaining a visa to visit Macau for stays of up to 30 days and are permitted to obtain a visa on arrival at the border control. You must get a visa for longer stays in advance of travel from the Immigration Services through the embassies/consulates of the PRC.

If you're on the Chinese mainland, visit Macau and return again to mainland China, you must have a valid re-entry on your Chinese visa or else get a new visa in Macau. Although these entries are normally granted, it's not 100 percent guaranteed.

Always remember that China and its SARs have the right to refuse entry to any person. Even when you have a visa you can be denied entry at the border.

As a preventative measure against Severe Acute Respiratory Syndrome (SARS), local quarantine measures on entry into Macau include a body temperature check. Depending on results, further medical examinations may be required.

Macau is generally open in its approach to short term business visitors, although it introduced more stringent visa issuing requirements in 2010.

Visa and other entry and exit conditions (such as currency, customs and quarantine regulations) change regularly. You're encouraged to seek information from the nearest Embassy or Consulate of the People's Republic of China or the Macau Immigration Services (Servico de Migracao) well in advance of travel. (www.dsi.gov.mo/index_e1.html%20)

Taxation

There is no double tax treaty in effect between Macau and Australia or New Zealand. Although both countries have treaties with China you should note that these **don't** cover taxation issues in China's SARs (Hong Kong and Macau).

Macau tax law contains a 'complementary income tax levy' which is similar to the Hong Kong Profits tax. It's difficult to find definitive information regarding the tax obligations of non-resident performing artists and companies, however it seems that in practice similar processes apply to Macau as to Hong Kong: that is, under Macau tax law the promoter or venue is responsible for making the payment on your behalf and is responsible for either applying for a tax waiver based on a negative income, or for withholding tax from earned income. The Macau taxation authority (DSF) assesses the amount and bills the promoter or venue presenting the performance.

The lack of a tax treaty between Macau and Australia and New Zealand prevents you from making a claim to recover any tax paid in Macau; so most producers negotiate a fee net of taxes.

If it's not possible to negotiate a net fee, you can ask the presenter to make an application for a tax waiver on your behalf. This requires supplying a financial summary (touring budget) that demonstrates a neutral position or a loss to the Macau Financial Services Bureau (DSF) prior to the beginning of the tour. If the presenter can establish that you're not making any profit, a tax waiver will ensure that withholding tax isn't applied to your income.

There is no GST charged in Macau.

Although the tax rates are lower than many other countries and enforcing tax withholding isn't prioritised, it's important to comply with these tax regulations to maintain good relationships with the presenting partners, as they will be the entities fined for any non-compliance action.

More reading

Macau Immigration Services of Public Security Police Force Applications for visas - www.fsm.gov.mo

Macau Human Resources Department - visa application forms - www.grh.gov.mo/en.aspx

Visa requirement website - macau.visahq.com/requirements/Australia/

Immigration Office in Macau - www.dsi.gov.mo/index_e1.html%20

Government of Macau SAR – Financial Bureau - www.dsf.gov.mo/Mainpage/Main/E_Mainpage.htm

Macau SAR Government Portal - www.gov.mo/egi/Portal/rkw/public/view/area.jsp?id=21

Macau Cultural Affairs Bureau - www.icm.gov.mo/en/default.aspx

Macau Tourism - www.macautourism.gov.mo/en/main/faq.php#89

Macau business directory - www.macaocom.net/en/other.asp?id=455

Recent tax changes in Macau - www.pwccn.com/webmedia/doc/633784181984955749_aptn22_may2009_macau.pdf

Macau Tax Ruling from ATO - law.ato.gov.au/atolaw/view.htm?rank=find&criteria=AND~macau~basic~exact&target=FA&style=java&sdocid=TXD/TD20009/NAT/ATO/00001&recStart=1&PiT=99991231235958&recnum=15&tot=23&pn=ALL:::ALL

Macau Tax Overview - www.unesco.org.mo/eng/law/12tax.html

Contacts for Australians

The Chinese Embassy in Australia is in Canberra - au.china-embassy.org or au.chineseembassy.org

Address
15 Coronation Drive
Yarralumla, ACT 2600

Tel: +61 2 6273 4780
Fax: +61 2 6273 4878
Email: chinaemb_au@mfa.gov.cn

There are consulate-generals in Brisbane, Perth, Melbourne and Sydney. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

The Chinese Embassy in New Zealand is in Wellington - www.chinaembassy.org.nz

Address
2-6 Glenmore Street
Kelburn, Wellington 6011

Postal address
PO Box 17257
Karori, Wellington 6140

Tel: +64 4 472 1382
Fax: +64 4 499 0419

There is a consulate-general in Auckland.
For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Singapore (Republic of)

Visas

Australian and New Zealand passport holders don't require a visa for travel to Singapore for a stay of up to 30 days. Extensions are possible for a fee. Straightforward application information and conditions are available on the embassy websites.

Work permits

Artists and support staff are exempt from obtaining a Work Pass in Singapore, providing they are not performing in a bar, discotheque, lounge, night club, pub, hotel private club or restaurant. You can find details on how to apply for this work permit at Singapore's Ministry of Manpower website -

www.mom.gov.sg/publish/momportal/en/communities/work_pass/work_permit/application/requirements/Services_Sector__Performing_Artiste-Public_Entertainment_Licensees_.html

Taxation

Australia and New Zealand hold double tax treaties with Singapore to avoid double taxation. Updated treaties will soon take force. Performing artists are exempt from taxation for activity either entirely or mostly supported by public funds (i.e. not for profit performing arts organisations).

Performing artists are excluded from the general taxation waiver for workers staying less than 183 days.

Separate tax rules apply to administrative or support staff (for example producers, choreographers, technical staff and crew).

Presenters in Singapore must withhold tax at 15 percent of the gross income. Per diems are taxable, while travel and accommodation expenses are not.

It's the presenter's responsibility to claim any tax credits, deductions or expenses related to the company's performances. In practice, Australian artists and producers report rarely having tax withheld in Singapore. Most negotiate fees net of tax and supply receipts for expenses to the presenter on request.

Case study: tax exemption

Prior to touring in Singapore, an Australian company negotiated a net performance fee with their presenter.

The presenter took care of the tax compliance requirements, and as a part of that process collected receipts from the company in order to claim associated expenses on their tax return.

In an extraordinarily generous and unexpected turn, the presenter reimbursed the Australian company's expenses allowed on their Singapore tax return to the company in Australia.

More reading

Inland Revenue Authority of Singapore - www.iras.gov.sg

Includes detailed information about tax deductions for foreign performing artists.

Immigration and Checkpoints Authority - www.ica.gov.sg/index.aspx

Ministry of Manpower - www.mom.gov.sg/publish/momportal/en/communities/work_pass/work_permit/application/requirements/Services_Sector__Performing_Artiste-Public_Entertainment_Licensees_.html

Public Funds Tax Exemption - Singapore/NZ 2010 double tax treaty - www.taxpolicy.ird.govt.nz/tax-treaties/singapore

Contacts for Australians

The Singapore Embassy in Australia is in Canberra -
www.mfa.gov.sg/canberra

Address
17 Forster Crescent
Yarralumla, ACT 2600

Tel: +61 2 6271 2000
Fax: +61 2 6273 9823 or +61 2 6273 8165 (Consular)
Email: singhc_cbr@sgmfa.gov.sg

Contacts for New Zealanders

The Singapore Embassy in New Zealand is in Wellington -
www.mfa.gov.sg/wellington

Address
17 Kabul Street
Khandallah, Wellington 6035

Postal address
PO Box 13140
Johnsonville, Wellington 6440

Tel: +64 4 470 0850
Fax: +64 4 479 4066
Email: singhc_wlg@sgmfa.gov.sg

Taiwan

Visas

Under Taiwan immigration regulations, Australian and New Zealand passport holders are required to obtain working visas to perform in Taiwan.

The sponsor/organiser of the event initiates the process of obtaining a work permit in Taiwan before you can apply for a visa. In most cases this will be the presenter, festival or venue where the performance is to occur. Once you've received your work permit and the presenter has filed the sponsorship forms at the Bureau of Consular Affairs, Ministry of Foreign Affairs in Taipei you may apply for the visa at the closest Taiwan Bureau of Consular Affairs (TECO).

The visa processing time in Australia or New Zealand once documents from Taiwan are received is typically within three days.

After sighting the applicants original documents (including work permit), a resident visa is issued from the relevant Taipei Economic and Cultural Office in Australia or New Zealand.

In Australia applicants from Western Australia apply in Canberra; applicants from New South Wales apply in Sydney; applicants from Victoria, South Australia and Tasmania apply in Melbourne; applicants from Queensland and the Northern Territory apply in Brisbane.

Taxation

Australia and New Zealand have tax treaties with Taiwan to avoid double taxation.

The Taipei National Tax Administration (TNTA) applies withholding tax on income earned in Taiwan at a rate of 10-15 percent.

Under Taiwan tax law the presenter is responsible for withholding the amount of income on behalf of the performing artist or company. So it's important to consult with the presenter to apply for a tax waiver based on a negative income.

Producers experienced in touring to Taiwan commonly negotiate performance fees net of tax, avoiding the need to file withholding documents, tax returns or to claim tax credits at a later stage.

GST is charged at five percent in Taiwan however this is a specialist area in which you're advised to consult with your presenter host and a tax advisor in your home country.

More reading

Bureau of Consular Affairs - www.boca.gov.tw

Taiwan Government Information Office ROC - www.gio.gov.tw/ct.asp?xItem=31912&CtNode=2454&mp=807

Taipei National Tax Administration - www.ntat.gov.tw/county/ntat_ch/ntat_en/

Taipei National Tax Administration, Ministry of Finance - www.ntat.gov.tw/county/ntat_ch/ntat_en/

Sample visa application form - www.taiwanembassy.org/public/Data/681214241371.pdf

Contacts for Australians

The Embassy for Taiwan in Australia is in Canberra - www.teco.org.au/evisa.htm

Address

3rd Floor, Unit 8
40 Blackall Street
Barton, ACT 2600

Tel: +61 2 6120 2000
Fax: +61 2 6273 3228
Email: tecoaus@gmail.com

There are Taipei economic and cultural offices in Australia in Canberra, Sydney, Melbourne and Brisbane. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand there is a Taipei Economic & Cultural Office in Auckland - www.taiwanembassy.org/NZ

Address

Level 18 120 Albert St
Auckland Central, Auckland 1010

Tel: +64 9 303 3903
Fax: +64 9 302 3399

Europe

All the European countries in this resource, with the exception of the UK and Ireland, are covered by the Schengen Agreement. This agreement guarantees free movement of persons between countries. Signatories to the agreement abolish all borders between countries in lieu of a single external border on the edge of the Schengen area.

Australian and New Zealand passport holders invited to work for short periods (less than 90 days within a six month period) in festivals and other presenting contexts are exempt from obtaining a Schengen visa for many of the signatory countries. However, the duration of their visit cannot extend beyond the maximum stay of up to 90 days in a six month period. Extensions are very difficult to obtain.

Countries such as France and Italy, which are signatories to the agreement, still require Australian and New Zealand companies and artists to apply for national visas. It's therefore important to check the visa regulations for each country, regardless of their Schengen status.

While several producers consulted in the creation of this guide have not obtained visas or permits, others have been requested by their presenter to do so.

Many European presenters are also exempt from including international artists in requirements for taxation.

Legislation in Europe can change within the course of a single year, so remember to cross check information provided to you by presenters with the legal requirements published on the country's official sites for immigration and taxation.

Austria

Visas

Austria follows standard Schengen arrangements, see page 45 of the Europe overview for details.

Work permits

Contact the Austrian consulate in your country for requirements to obtain a work permit for fees received in Austria. Also contact the presenter and ensure you comply with their instructions.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Austria to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

Where withholding tax is payable it's charged at 20 percent and accommodation and per diem amounts are included in the taxable amount, regardless of whether these are paid locally or by the company.

As per our general information, it's possible that major presenters can negotiate waivers for international companies; however you need to investigate this on a case by case basis.

No Social Security taxes are levied on fees so there is no procedure necessary to avoid double taxation in this respect.

Contacts for Australians

www.bmeia.gv.at/en/embassy/canberra.html contains information for Australian passport holders.

The Austrian Foreign Ministry in Australia is in Canberra.

Address

12 Talbot Street

Forrest, ACT 2603

Postal address

PO 3375

Manuka, ACT 2603

Tel: +61 2 6295 1533

Fax: +61 2 6239 6751

Email: canberra-ob@bmaa.gv.at

In Australia there are consulates in Adelaide, Brisbane, Cairns, Melbourne, Sydney, Perth and Hobart. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

www.bmeia.gv.at/en/embassy/canberra.html contains information for New Zealand passport holders.

The Consulate General of Austria is in Wellington.

Level 2, Willbank House

57 Willis Street

Wellington 6011

Tel: +64 4 499-6393

Fax: +64 4 499-6392

Email: diessl@ihug.co.nz

In New Zealand there are consulates in Auckland and Christchurch. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Belgium

Visas

Belgium follows standard Schengen arrangements, see page 45 of the Europe overview for details.

You will need a work permit in most instances. In some cases, major local presenters will arrange a waiver for international artists. It's important to check this on a case by case basis.

For longer stays, you'll also have to report to the local Town Hall within eight days of arrival. The Town Hall will issue you an arrival document (Déclaration d'arrivée – Aankomstverklaring) to cover your stay.

Work permits

Applications for a work permit have to be made by the Belgian presenter at the Regional Office of Employment in Belgium for non-EU nationals. To enable the presenter to obtain a work permit B, you need to provide:

- A medical certificate by a doctor of your choice, showing name and address, telephone and fax number or email address. The medical certificate has to be legalised by the Embassy in Canberra. This incurs a fee. You must undertake a blood test for syphilis and a chest x-ray for tuberculosis first, so that you can hand the results to the designated doctor. The medical document should be less than three months old on the date of your application.
- Three passport photos.
- A photocopy of the employment contract on an approved form.
- The processing time is unpredictable - it can take weeks or months.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Belgium to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

The standard rate of withholding tax for international companies is 18 percent, however exemptions are negotiable and need to be discussed on a case by case basis.

The subsidised performing arts sector is zero-rated for GST but certain activities are now subject to a six percent rate. This is a specialist area and you should seek confirmation from the presenter in Belgium as well as from your tax advisor at home.

Individual artists need to provide proof they pay tax and social security in Australia or New Zealand in order to avoid social security deductions.

Examples of accepted proof include ATO/IRD returns and your presenter will be able to provide more information.

More reading

Flemish Theatre Institute - www.vti.be

Provides information on the collective conventions in the performing arts and how they apply to artists coming from abroad. The links section contains useful contacts.

All Arts Tax Advisers - www.allarts.nl/en.html

Independent advisors offering information on taxation matters.

Contacts for Australians

www.diplomatie.be/canberra contains information for Australian passport holders.

The Embassy of Belgium in Australia is in Canberra.

Address

19 Arkana Street

Yarralumla, ACT 2600

Tel: +61 2 6273 2501/02

Fax: + 61 2 6273 3392

Email: canberra@diplobel.fed.be

There are consulates in Adelaide, Brisbane, Darwin, Hobart, Melbourne, Perth and Sydney. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

www.diplomatie.be/canberra contains information for New Zealand passport holders.

A Consulate of Belgium is Wellington.

Address

Level 6, Leaders Building

15 Brandon Street

Wellington 6011

Tel: +64 4 974 9080

Fax: +64 4 499 9283

Email: don.staples@belgium.org.nz

In New Zealand there are consulates in Auckland and Christchurch. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Denmark

Visas

Denmark follows standard Schengen arrangements, see page 45 of the Europe overview for details.

Work permits

Contact the Danish consulate in your country for requirements to obtain a work permit for fees received in Denmark. Also contact the presenter and ensure you comply with their instructions.

Taxation

Denmark doesn't levy a withholding tax from non-resident artists who spend only one or two days in the country. Withholding tax of 25 percent is payable by non-resident performers who can spend up to six months in the country before coming under the normal tax regime. You're advised to contact your local presenter to establish whether your performances fall within a taxation waiver.

Non-resident artists who are self-employed (or employed by a non-resident employer) are not subject to taxation in Denmark as there is no internal provision for taxation.

In Denmark, GST is generally applied at the single rate of 25 percent. A number of services are not taxable. This is a specialist area and you should seek confirmation from the presenter in Denmark as well as from your tax advisor at home.

Contacts for Australians

The Danish Embassy in Australia is in Canberra.

www.canberra.um.dk/en

Address

15 Hunter Street

Yarralumla, ACT 2600

Tel: +61 2 6270 5333

Fax: +61 2 6270 5324

Email: cbramb@um.dk

There are consulates in Melbourne and Sydney. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

www.canberra.um.dk/en contains information for New Zealand passport holders.

A Royal Danish Consulate-General is in Wellington.

Address

12 Ravi Street

Khandallah, Wellington 6035

Tel: +64 4 471 0520

Fax: +64 4 471 0521

Email: info@danishconsulatewellington.org.nz

In New Zealand there are Danish consulates in Auckland and Christchurch. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Finland

Visas

Finland follows standard Schengen arrangements, see page 45 of the Europe overview for details.

Work permits

Contact the Finnish consulate in your country for requirements to obtain a work permit for fees received in Finland. Also contact the presenter and ensure you comply with their instructions.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Finland to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

The standard rate of withholding tax for international companies is 15 percent however exemptions are negotiable and need to be discussed on a case by case basis.

In Finland withholding tax is payable on production expenses but excludes travel, accommodation and per diems.

Independent artists are automatically issued with a tax certificate which allows them to claim a tax credit in their own country.

It's important to specify the actual work which a performer will do because of the different tax rates for performance and teaching. The earnings of non-resident teachers and workshop leaders are taxed at 35 percent which would apply to artists running workshops or master classes.

In Finland, the standard rate of GST is 23 percent. This is a specialist area and you should seek confirmation from the presenter in Finland as well as from your tax advisor at home.

More reading

Finnish Tax Administration website -
www.vero.fi/default.asp?language=ENG&domain=VERO_ENGLISH
Contains information in English on the tax system in Finland.

Contacts for Australians

The Finnish Embassy for Australia is in Canberra -
www.finland.org.au

Address
12 Darwin Avenue
Yarralumla, ACT 2600

Tel: +61 2 6273 3800
Fax +61 2 6273 3603
Email: sanomat.can@formin.fi

There is a consulate in Sydney. For contact details refer to
protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

www.finland.org.au contains information for New Zealand passport holders.

The Consulate-General of Finland is in Wellington.

Address
HSBC Tower, Level 24
195 Lambton Quay
Wellington 6011

Tel: +64 4 924 3416
Fax: +64 4 472 6986
Email: michael.scannell@simpsongrierson.com

In New Zealand there are consulates in Auckland, Dunedin and Christchurch. For contact details refer to
www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

France

Visas

While France is part of the Schengen agreement for visas in Europe, a work visa is required for any working visit to France. It's now compulsory for all visa applicants in Australia to apply in person at the Consulate-General of France in Sydney, and all those in New Zealand to Wellington, to get a biometric visa (involving a fingerprint and face scan). You have to complete this scan each time you apply for a visa. If you live outside of Sydney or Wellington, you'll need to include the travel and accommodation costs involved in this procedure in your touring budget.

The procedure for obtaining a visa is to make an appointment for each individual via the website of the consulate in Australia, and by phone for New Zealand. Appointments are given on the basis of one appointment per passport, and each applicant must indicate their complete name, nationality, dates, exact place, purpose of stay and phone number.

It's useful to note that some companies touring regularly to France have established a relationship with their Consular Officer, enabling them to negotiate group visa applications and also to call on the support of the consulate in solving problems regarding deadlines for work permits.

Before lodging any application, you need to check the following:

- the passport must be valid for three months after the expiration date of the visa
- the passport must hold a minimum of one blank page
- passport photographs must adhere to the basic specifications (see website as these are strictly enforced)
- payment of the visa processing fee is credit card only and there is a form on the website to fill in and take with you to the interview
- processing time is indicated on the basis of a complete application at the time of lodgement
- the pre-paid envelope for return of documents has to be completely and properly filled out by the applicant
- the Visa Officer is unable to provide any advice on a specific application without formally assessing it
- the Visa Section doesn't answer any general enquiries, and it doesn't give information on the progress of visa applications by phone, fax or email.

Work permits

Artists working in France for a period of less than three months require a temporary work permit 'APT' (Autorisation Provisoire de Travail). The request for the APT is filed by the employer with the Department of Employment (DDTEFP) nearest to the presenter three months before the start of the tour.

If the request is approved, a work contract validated by the DDTEFP is sent to the employer who then sends it to the artist so that the artist may obtain their visa from the French consulate. Documents required for filing an APT request vary according to whether the artist is based in France or in a foreign country.

To apply for an APT you must provide documents proving that the company:

- is registered professionally in its country of origin
- meets social and fiscal requirements in its country of origin.

NB: These documents consist of attestations or certificates delivered by government administrations or social or fiscal agencies in the country of origin.

You must also provide:

- the contract signed with the contracting partner in France specifying the fee and any other payments
- a signed statement attesting that the employees are legally employed in the country of origin.

NB: Documents written in foreign languages must be accompanied by translations in French.

Taxation

Australia and New Zealand hold reciprocal tax agreements with France to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

The standard rate of withholding tax for international companies (Retenue à la source sur les prestations artistiques), is 15 percent however exemptions are negotiable and need to be discussed on a case by case basis.

Australian and New Zealand companies touring in France have experienced complications with the variety of systems in place for dealing with the taxation of international companies. At one end of the spectrum there are presenters who apply for exemptions from withholding tax for companies from countries where there is a double taxation treaty. At the other end of the spectrum, there are presenters who insist on employing each member of the touring party under French employment conditions to include the payment of social security and income tax.

Independent artists are subject to 'Présomption de salariat', a principle in France where any artist engaged in the performing arts is presumed to be an employee (salaried status), and so subject to normal deductions for tax and social security insurance. Even artists who pay tax and social security in their home country find that their remuneration is subject to tax and social security deductions in France. To get a refund you'll need to obtain a 'Bulletin de Paie' with all details from your French employer and seek taxation advice at home.

GST, ‘TVA - Taxe sur la valeur ajoutée’, is payable at a rate of 19.6 percent or a reduced rate of 5.5 percent or 2.1 percent. This is a specialist area and you should seek confirmation from the presenter in France as well as from your tax advisor at home.

Case study: tax complications in France

An Australian company tours frequently to France through their European agent. They experienced different interpretations of the ambiguous French legislation around international withholding tax and social security payments..

A couple of major festivals asked the company to create a payment schedule to assist them to reduce the overall taxable amount. This included taking an amount out of the fee paid by the presenter to the company and using this to pay the performers a salary in France at the minimum daily wage. The presenter also asked the company to send two invoices showing separately these total salaries and the remainder of the fee.

In another venue the presenter asked for two separate invoices for the per diem payments to reduce the amount of tax payable on the fee. The first invoice showed the per diem agreed in the contract and a second invoice showed another per diem amount with a different name, ‘extra avance en liquides’. The amount of the second invoice was subtracted from the fee paid to the company.

Both these strategies are perfectly above board and common to the major presenting houses to which the company tours. However these procedures were not in practice at other venues where the fee and all other expenses are paid in full with no taxes withheld.

Case study: visa complications in France

Despite touring regularly to France, an Australian company experiences considerable confusion in relation to visa requirements.

Recently, a presenter who didn’t seem to know the protocols for visas for Australian companies confused the process further. When initially asked, the presenter in France suggested visas were necessary. The producer checked with Australian peers and found several hadn’t obtained a visa to enter France. When asked to confirm the presenter then said visas were not required.

The presenter then contacted the Australian Embassy in Paris. The Embassy contacted the French Cultural Attaché in Sydney who spoke to the producer and advised him to check with consular staff in Sydney. On their advice, company members obtained visas but weren’t required to present them on entry into France.

More reading

Artistes-etrangers - www.artistes-etrangers.eu

A comprehensive source of information in French and English on hosting foreign artists in France. This website keeps both employers and foreign artists informed about the current legislation, rights and obligations. It enables foreign artists, cultural professionals and arts companies to research and plan their tours to France.

Contacts for Australians

The French Embassy in Australia is in Canberra - www.ambafrance-au.org

Address

C/- Consulat Général de France
Attaché Culturel & Audiovisuel
Saint-Martins Tower - Level 26
31 Market Street
Sydney, NSW 2000

Tel: +61 2 9268 2419
Fax: +61 2 9268 2434
Email: culture.sydney@ambafrance-au.org

Contacts for New Zealanders

The French Embassy in New Zealand is in Wellington - www.ambafrance-nz.org

Address

34-42 Manners Street
Wellington 6142

Postal address

PO Box 11-343
Wellington 6142

Tel: +64 4 384 2555
Fax: +64 4 384 2577
Email: amba.france@actrix.gen.nz (embassy)
consul.france@actrix.gen.nz (consulate)

Germany

Visas

Germany follows standard Schengen arrangements, see page 45 of the Europe overview for details.

Work permits

Contact the German consulate in your country for requirements to obtain a work permit for fees received in Germany. Also contact the presenter and ensure you comply with their instructions.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Germany to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

Where withholding tax is payable it's charged at 21.1 percent and expenses are not included. A complication in Germany is that taxation comes under the federal finance ministries and each region may take a different view of the same case. You need to seek advice from a local presenter with experience of employing foreign artists.

Many German presenters achieve exemptions from withholding tax by proving they are not-for-profit, independent organisations working in the public interest, and that the foreign arts company employed is also a non-profit organisation. The promoter may also have to confirm the majority of the fee is being paid out of German public subsidies. According to some promoters, arts projects that can be described as workshops may be tax exempt. Exemptions can be difficult to obtain and are dealt with on a case-by-case basis. Some Australian and New Zealand companies report restructuring the pay schedule of performers so they do not earn more than the tax free threshold.

Independent artists are exempt from withholding tax and are paid net of all taxes.

GST, 'Mehrwertsteuer/Umsatzsteuer', where applicable is payable at a rate of 19 percent or a reduced rate of 7 percent. This is a specialist area and you should seek confirmation from the presenter in Germany as well as from your tax advisor at home.

Case study: German tax exemption

Demonstrating how a good relationship with a European agent can help; one Australian company has worked closely with their agent to review tax arrangements for touring in Germany. In previous years, the company has submitted a company tax return to German authorities to reclaim tax withheld on fees and expenses.

This year the company is applying for tax exemption status for income earned in a tour of several venues in Germany. The company sought exemption based on its charitable status and funding structure.

Their agent organised the paperwork and submitted the application for tax exempt status to the German authorities. The information required includes:

- proof of public funding (usually exempt status is granted to those with 50 percent and over public funding. While the company has nothing like this proportion of subsidy to earned income, it is still trying to gain the exemption. The organisation got a letter from the Australia Council to show its level of subsidy and included a letter from their Chief Financial Officer to show the company's funding structure and how it applies to this tour)
- charitable status (with a letter from Australian tax office)
- levels of private enterprise and sponsorship
- any deficit for the entire tour
- the certified contract from the German presenters showing fees and other terms.

In 2008 the company sought exemption based on the fees received per performance. The tax exemption was granted by proving no artists earned more than the tax free threshold.

Contacts for Australians

The German Embassy in Australia is in Canberra - www.canberra.diplo.de

Address

119 Empire Circuit

Yarralumla, ACT 2600

Tel: +61 2 6270 1911

Fax: +61 2 6270 1951

There are consulates in Canberra, Sydney and Melbourne. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

The German Embassy in New Zealand is in Wellington - www.wellington.diplo.de

Address
90-92 Hobson St
Thorndon, Wellington 6011

Postal address
PO Box 1687
Wellington 6140

Tel: +64 4 473 6063
Fax: +64 4 473 6069

There are consulates in Christchurch and Auckland. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Ireland (Republic of)

Visas

Australia and New Zealand passport holders are exempt from needing a visa to travel to Ireland.

Work permits

Contact the Irish consulate in your country for requirements to obtain a work permit for fees received in Ireland. Also contact the presenter and ensure you comply with their instructions.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Ireland to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

Ireland doesn't deduct withholding tax on performance fees of non-resident artists but has an alternative system for taxing such income through a GST rate of 21 percent on net performance fees. GST falls outside bilateral tax treaties and cannot be credited in Australia or New Zealand. This is a specialist area and you should seek confirmation from the presenter in Ireland as well as from your tax advisor at home.

Pay related social security tax is charged at five percent to employees and 12 percent to employers. There are exemptions in operation for performing arts companies and it's important to discuss these in detail with the presenter when opening negotiations.

Contacts for Australians

The Embassy of Ireland in Australia is in Canberra -
www.embassyofireland.au.com

Address
20 Arkana Street
Yarralumla
ACT 2600

Tel: +61 2 6273 3022
Fax: +61 2 6273 3741

There are consulates in Sydney and Perth. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand the embassy is in Auckland -
www.ireland.co.nz

Address
7, Citigroup Building
23 Customs Street
Auckland 1001

Tel: +64 9 977 2252
Fax: +64 9 977 2256

Italy

Visas

There is some confusion regarding visa requirements for Australian and New Zealand passport holders touring to Italy. The Italian Embassy websites for Australia and New Zealand don't offer detailed information regarding visas for performing artists. However when contacted directly, Consular officials suggest that short term, multiple entry Schengen/National Visas are required.

Many theatre presenters operate on the principle that the standard Schengen arrangement of no visa for visits of less than 90 days applies to performing arts companies from Australia and New Zealand.

The Australian Government's 'smart traveller' website (www.smartraveller.gov.au) for Italy refers to a "Declaration of Presence" form working visitors need to file on arrival at the nearest police station. Presenters are divided on whether is necessary and producers don't do this with no apparent issue.

Visas for Italy are expensive; it's worth exploring whether the fee waiver for projects falling within the "Cultural Agreement between Italy and Australia" is achievable. Producers have reported they haven't always found this possible.

Work permits

Contact the Italian consulate in your country for requirements to obtain a work permit for fees received in Italy. Also contact the presenter and ensure you comply with their instructions.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Italy to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

The standard rate of withholding tax for international companies is 30 percent and is applied to fees, expenses and per diems. Exemptions are negotiable and need to be discussed on a case by case basis.

Italy has a complicated variety of systems for dealing with the taxation of international companies. Presenters apply different interpretations of whether performance fees are considered "profits of an enterprise" or "entertainers income". Experienced presenters negotiate with the Italian taxation authority ENPALS (www.enpals.it) for an exemption.

As per the standard recommendations in this resource, producers are advised to establish a clear contract with a fee net of all taxes and to work with an experienced promoter who knows how the Italian tax system works.

Social security payments, usually payable at 28 percent of earned income, are waived due to the tax treaties with Australia and New Zealand. However certain companies experienced complex negotiations with this, usually around the proof they make social security at home (see case study).

GST is not payable on fees to performers.

There are special arrangements for royalties in Italy. If an artist creates the work in their own country but it's presented in Italy, royalties are taxed at 20 percent. If both the creative work and the presentation take place in Italy, royalties are taxed at 30 percent. Royalties are taxed on 75 percent of the performance fee, with a 25 percent tax-free allowance. This is a specialist area and you should seek confirmation from the presenter in Italy as well as from your tax advisor at home.

Case study: social security complications in Italy

Italy is one of the countries in Europe where there seems to be the most confusion around taxation and social security requirements. An Australian company that regularly tours to Italy has experienced different interpretations of social security legislation.

In 2008, the company consulted with a peer organisation who had toured to Italy in 2007. Their presenter advised the convention between Italy and Australia to avoid double payment of social security contributions required artists only to travel with a letter from Media Super, the industry super fund. This letter confirmed their payments Australian payments and waived all payments in Italy.

The following year, the peer company's presenter told them, 'the system changed' in January 2008 and they had to provide one letter per performer from Media Super stating 'for Mr. X's temporary activity in Italy in September - October 2008, social contributions are paid in Australia'. The company also needed to supply a 'per person' letter, signed by the each performer, advising their Medicare number.

This solution was successful for all presenters on the tour bar one. In this case, the company found a complex solution but this required significant correspondence and administration.

Contacts for Australians

The Embassy of Italy in Australia is in Canberra - www.ambcanberra.esteri.it

Address
12 Grey Street
Deakin, ACT 2600

Tel: +61 2 6273 3333
Fax: +61 2 6273 4223
Email: contabilita.canberra@esteri.it

In Australia there are consulates general, consulates and vice consulates in Melbourne, Sydney, Perth, Adelaide, Brisbane, Darwin, Hobart, Townsville, Cairns, Wollongong, Newcastle and Griffith. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand the Italian Embassy is in Wellington - www.ambwellington.esteri.it

Address
34-38 Grant Road
Thorndon, Wellington 6011

Postal address
PO Box 463
Thorndon, Wellington 6140

Tel: +64 4 4735 339
Email: ambasciata.wellington@esteri.it

There are consular agencies in Auckland, Christchurch and Dunedin. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

The Netherlands

Visas

The Netherlands follows standard Schengen arrangements, see page 45 of the Europe overview for details.

Work permits

Contact the Dutch consulate in your country for requirements to obtain a work permit for fees received in the Netherlands. Also contact the presenter and ensure you comply with their instructions.

Taxation

Australia and New Zealand hold reciprocal tax agreements with the Netherlands to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

In general there are no taxes levied on Australian and New Zealand artists. However companies may have to provide documentation to show the reciprocal tax agreement. Companies must give the presenter passport copies for the majority (50 percent plus one) of the touring party showing they reside in Australia or New Zealand. Alternatively they can state that at least 70 percent of the artists are reside in Australia or New Zealand, including a copy of the passport of the group leader, the contract that shows the company is resides in Australia or New Zealand and has a bank account there.

Individual artists must supply presenters with their name, address, country of residence and a copy of their passport.

The Netherlands has a GST rate of 19 percent payable on all expenses including accommodation. This GST can be reclaimed. This is a specialist area and you should seek confirmation from the presenter in the Netherlands as well as from your tax advisor at home.

Social security payments are not required for foreign artists working in the Netherlands for less than two months.

Contacts for Australians

The Embassy of the Netherlands in Australia is in Canberra - www.mfa.nl/can

Address
120 Empire Circuit
Yarralumla, ACT 2600

Tel: +61 2 6220 9400
Fax: +61 2 6273 3206
Email: can@minbuza.nl

There is a Consulate General in Sydney and consulates in Perth, Melbourne, Adelaide, Hobart and Brisbane. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

The Embassy of the Netherlands in New Zealand is in Wellington - www.netherlandsembassy.co.nz

Address
Investment House, 10th Floor
Crn Featherston/ Ballance Streets
Wellington 6011

Postal address
PO Box 840
Wellington 6140

Tel: +64 4 471 6390
Fax: +64 4 471 2923
Email: WEL@minbuza.nl

There are consulates in Auckland and Christchurch. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

United Kingdom

Visas

Artists from Australia and New Zealand performing in the UK fall in the creative and sporting temporary worker category and don't require a visa to work for up to 12 months, but do require a work permit. Detailed information regarding the prerequisites for this status is on the Border Agency website below.

If you're ineligible, you'll need to apply for a visa through your local consular office. In Australia and New Zealand biometric visas are processed in Canberra. Applications are made online in each country and biometric data is submitted locally. In Australia applicants can submit their biometric data at the UK consulates in Sydney, Melbourne, Perth, Brisbane or Canberra. Applicants from New Zealand have their biometrics taken at the New Zealand Department of Labour offices in Auckland, Christchurch or Wellington. Detailed information regarding the process for applying for visas is on the consulate's website for each country.

Work permits

All artists from Australia and New Zealand, regardless of their visa status, require a work permit if they are to earn income in the UK.

The prospective employer applies for work permits in the UK. Individuals cannot obtain their own work permits. A work permit is valid for the duration of the contract; it's not open-ended. There is no link between work permit regulations and immigration rules. A work permit holder who requires a visa to visit the UK must still apply for a visa.

Experience shows that many venues in the UK such as the Barbican in London have 'permit free status' for all of the international artists they invite. Some established major presenters are also able to organise waiver arrangements for permits for an entire tour.

It's best to obtain details of work permits through the presenter in light of the comments above regarding possible waivers.

Major festivals, such as Edinburgh and Brighton, and venues such as the Roundhouse apply for a Certificate of Sponsorship to substitute for a work permit for Australian and New Zealand companies.

The producer provides the information for the Certificate of Sponsorship including:

- details of company members including passport information
- gross pay per person (indicating whether this is a by the hour/week/day/performance/contract)
- summary of allowances (per diems) per person

- hours of work each week for each individual
- summary job description for each member of the company
- letter from the employer in Australia or New Zealand confirming contractual status.

Each member of the company is then issued a travel letter to present on entry to the UK. It's best to begin the process at least two months prior to the company departing for the UK.

Australians and New Zealanders working in the UK are permitted to stay on in the UK for a limited time (see regulations on the UK Border Agency website www.ukba.homeoffice.gov.uk/workingintheuk) following their work permit's end date. However, some companies report immigration authorities have only admitted them to the country for the duration of their work permit.

It's advisable to take a copy of these regulations with you when travelling to the UK, as immigration officials are not always fully familiar with these rules.

Taxation

Australia and New Zealand hold reciprocal tax agreements with the UK to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

The presenter in the UK deducts withholding tax of 20 percent for companies. Independent artists may have to complete self assessment tax returns.

Many presenters in the UK can apply for waivers for withholding tax levied on companies from Australia and New Zealand. However there are complicated procedures to undertake. Exemptions on production expenses (travel, accommodation, equipment rental, payments to agents, technicians, and support staff) are allowed under the Reduced Tax Payment Application.

In addition to corresponding with the presenter, producers should consult the website of the Foreign Entertainers Unit (FEU), a specialist unit within HM Revenue & Customs (www.hmrc.gov.uk/feu/feu.htm). This site contains extensive information on the procedures for the payment of tax and applications for reduced payment.

Companies may be eligible to work with the presenter to write a Foreign Entertainer Unit (FEU) application to obtain a waiver from taxes in the UK. The form is complex and the producer will require at least one full day to complete all the information. There is a 30 day processing time.

Artists who submit tax returns for the UK report they frequently receive a full refund if the income earned is below the individual taxable threshold of 6475 pounds sterling per annum.

GST (VAT in the UK) where applicable is payable at a rate of 17.5 percent or a reduced rate of 5 percent. Many services are not taxable. VAT is payable on tour costs such as hotels and internal travel and a refund is possible once all expenses for the tour are reconciled. With VAT on sales of merchandise, the

presenter absorbs any tax and pays the company back net profit. This is a specialist area and you should seek confirmation from the presenter in the UK, or consult the specialist UK website (www.hmrc.gov.uk/vat/index.htm) as well as your tax advisor at home.

Case study: visa complications in the UK

A New Zealand company had problems with the visa for one member of the touring party. She had a New Zealand passport with an “ancestry visa” inserted in it to allow her to work in the UK.

The ancestry visa had expired while the group were touring elsewhere before entering UK. A new ancestry visa was sent to the British Consulate in New Zealand while the artist was on tour. This visa was not in her passport when the artist arrived in the UK.

British border control stated ancestry visas are not valid unless they are in the passport, despite the compiled paperwork being processed and registered on the system.

The artist was deported immediately.

Case study: visa complications in the UK

An Australian company performed in London and then in Cardiff in the UK.

Their London presenter, a festival, had permit free status. For Cardiff, the company worked with the presenter to successfully apply for work permits.

The London festival instructed the company to enter the UK by presenting their permit free endorsement to immigration. Four members of the touring party entered as such, and their passports were stamped as tourists accordingly.

When the producer presented at customs she was asked to present both her permit free endorsement and her Cardiff work permit number. The customs officer then said that she could not - without leaving the UK - change from being a tourist to having a work permit. He said that before she did any work in Cardiff she would either have to make a special application (very expensive) to change this status while in the UK, or leave the UK after London and prior to Cardiff. She was admitted as a tourist and told to deal with these demands or face penalties.

The producer then spent a whole day sorting through these contradictory requirements. What she found was:

- You cannot always trust what a custom agent says. They are not fully familiar with their own rules.
- She could have entered on her Cardiff work permit with her London work permit then classed as ‘supplementary’.

The Cardiff presenter corresponded with the head of border control at Heathrow and they agreed all the remaining touring party members could enter using their Cardiff work permits.

This case study shows how important it is to know all the ins and outs of your work permits, visas and permit free status and how they relate to each other. It’s also important not to assume the presenter knows the details.

More reading

The Foreign Entertainers Unit - www.hmrc.gov.uk/feu/feu.htm

The UK Border Agency dealing with all visa applications - www.ukba.homeoffice.gov.uk/workingintheuk

Information on visa requirements - www.ukvisas.gov.uk

Information for producers, promoters and agents wishing to present foreign artists in the UK is found in the Visiting Arts publication *Cutting through the Red Tape* - www.visitingarts.org.uk/info_resources/graphics/visiting_arts_red_tape2006.pdf

Contacts for Australians

The British High Commission in Australia is in Canberra - ukinaustralia.fco.gov.uk

All visa applications go through Canberra.

Postal address
Locked Bag 5010
Visa Section, Piccadilly House
39 Brindabella Circuit
Canberra Airport, ACT 2609

Tel: +61 2 6245 3738
Fax: +61 2 6257 5857

There are consulates in Melbourne, Sydney, Brisbane, Perth, Adelaide, Hobart, Darwin, Cairns and Alice Springs.

Contacts for New Zealanders

In New Zealand the British High Commission is in Wellington - ukinnewzealand.fco.gov.uk

Address

44 Hill Street

Wellington 6011

Postal address

PO Box 1812

Wellington 6140

Tel: +64 4 924 2888 (this number is not for visa enquiries – use the email address below instead)

Fax: +64 4 473 4982 (policy/comms)
or +64 4 924 2809 (corporate services)

Email: ec.enquiries@fco.gov.uk (for visa enquiries)

Applications for a visa are to be sent to

British High Commission

C/- International Mail Centre

PO Box 210010

Laurence Stevens Drive

Manukau 2154

There is a consulate in Auckland. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Latin America

In Latin America most producers report that presenters work hard to avoid complications in relation to visa and taxation legislation. This can take the form of the presenter having negotiated a special relationship with the Immigration and Inland Revenue departments of their national government. It may also take the form of the presenter asking you to reconfigure the way your income earned is noted in budgets and contracts. In extreme cases you may be required to accept your fee in cash or enter into complex arrangements for reporting no profit on your tour.

If you're going to Latin America, remember to obtain a transit visa through the US if you're required to stopover.

Argentina

Visas

All Australian and New Zealand passport holders working in the performing arts in Argentina, whether paid or unpaid, require a visa. Visas are granted for 15 days and can be extended for a limited period. Extensions are negotiated case by case and you can only apply once. Applications are made in person to any of the delegations of the Dirección Nacional de Migraciones (DNM), Argentina's National Immigration Office (www.migraciones.gov.ar) before work permits expire.

The Embassy for Argentina's website outlines relatively straightforward procedures for visa applications. Documents required include a letter of invitation from the Argentinean presenter requesting the visa that state the:

- purpose of the trip
- length of stay
- full details of the sponsoring organisation.

The original copy of the letter must be on company letterhead paper and written in Spanish or translated, signed by the person in charge, notarised, and the notary public's signature certified by the 'Argentine Colegio de Escribanos'.

Where no invitation letter from Argentina is available, the Consulate General of Argentina in Sydney and Wellington must consult with the National Immigration Office in Argentina (DNM) in advance. This takes approximately three weeks.

Work permits

While official information suggests work permits are required for Argentina in addition to the work visas outlined above, producers report that most major presenters and venues have arrangements which exempt visiting companies.

Taxation

Artists based overseas are subject to withholding tax at 35 percent. Under the treaty held with Australia (not New Zealand), this can be reduced to 12 percent. It's common practice to negotiate a fee net of all taxes with the presenter.

GST, 'IVA, Impuesto al Valor Agregado' is currently 21 percent with a lower rate of 10.5 percent. Some services are not taxable. This is a specialist area and you should seek confirmation from the presenter in Argentina as well as your tax advisor at home.

Australian passport holders are charged a 'reciprocity fee' on arrival at Ezeiza International Airport in Buenos Aires. At present the fee is only collected at

Ezeiza International Airport, however it will be extended to other international points of entry date (still to be advised). Payments are made prior to clearing immigration and can be made by cash (Argentine pesos or US dollars), credit card or travellers' cheques. There is no fee for New Zealand passport holders.

Contacts for Australians

The Embassy of Argentina in Australia is in Canberra - www.argentina.org.au

Address
John McEwen House
Level 2, 7 National Circuit
Barton, ACT 2600

Postal address
PO Box 4835
Kingston, ACT 2604

Tel: +61 2 6273 9111
Fax: +61 2 6273 0500
Email: info@argentina.org.au

There is a consulate in Sydney. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand the Embassy of Argentina is in Wellington - www.arg.org.nz

Address
Level 14 - 142
Lambton Quay
Wellington 6011

Postal address
PO Box 5430
Wellington 6145

Tel: +64 4 472 8330
Fax: +64 4 472 8331
Email: enzel@arg.org.nz

Brazil

Visas

All Australian and New Zealand passport holders working in the performing arts in Brazil, whether paid or unpaid, require a Temporary Visa III. Relatively straightforward application procedures are outlined on the respective embassy websites.

Work permits

While official information indicates that a work authorisation from the Ministry of Labour is required for Brazil, producers report that major presenters and venues apply for exemptions.

Taxation

There are no taxation treaties between Australia and New Zealand and Brazil.

Almost all payments to companies or persons based overseas are subject to a withholding tax of 15 percent (25 percent in special situations).

Producers report that presenters commonly seek to reduce tax burden by splitting the fees agreed in the contract. This can take the form of a 40/60 split, where 40 percent of the fee is showed as payable for tour in Australia and 60 percent is for presenting costs in Brazil.

A GST equivalent, 'ICMS, Imposto sobre circulação e serviços (tax over commercialization and services) - State Tax' of 25 percent is payable if no exemption is negotiated with the presenter. This is a specialist area and you should seek confirmation from the presenter in Brazil as well as from your tax advisor at home.

Australian and New Zealand passport holders need to pay a departure tax at the airport. It's not clear whether this applies to other land and sea points of departure in Brazil.

Case study: visa complications

An Australian company touring to Brazil encountered a complex and lengthy procedure for obtaining visas.

Standard performing artist visas are only issued where there is a work contract approved by the Brazilian Ministry of Labour. The presenter inviting the company wanted to avoid this process as it's linked to significant tax levies.

The company was advised to apply for courtesy visas, which meant that the festivals were not permitted to pay performance fees, but rather a contribution towards travel expenses.

The courtesy visas were approved after a long wait and issued on the Friday before the company's Sunday departure.

DFAT and the Brazilian presenter, who organised a support letter from the provincial Minister of Culture, assisted.

The company later learned the hold-up with visas was caused by the consulate's discussions with DFAT about a reciprocal arrangement for a simpler and fee-free visa arrangement – a valuable long term outcome, but one which caused unnecessary stress.

Contacts for Australians

The Embassy of Brazil in Australia is in Canberra -
www.brazil.org.au

Address
19 Forster Crescent
Yarralumla
ACT 2600

Tel: +61 2 6273 2372
Fax: +61 2 6273 2375
Email: visaemb@brazil.org.au

The consulate in Sydney deals with all consular matters for New South Wales, Northern Territory and Queensland. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand the Embassy of Brazil is in Wellington -
www.brazil.org.nz

Address
Level 9, Deloitte House
10 Brandon Street
Wellington 6011

Postal address
PO Box 5432
Wellington 6145

Tel: +64 473 3516, ext. 2
Email: cultural@brazil.org.nz

Chile

Visas

Artists from Australia and New Zealand can obtain a Work Contract visa via the respective Embassy website. Straightforward requirements include the original contract from the company in Chile (to be signed before the consul), details of the status of your company in Australia and the touring party.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Chile (a Free Trade Agreement in the case of Australia). It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication.

Reciprocal social security agreements exempt Australian and New Zealand employers from providing social security support for Australian employees sent temporarily to work in Chile, provided the employee is covered at home by compulsory superannuation arrangements.

GST, 'IVA, Impuesto al Valor Agregado' is currently 19 percent. This is a specialist area and you should seek confirmation from the presenter in Chile as well as from your tax advisor at home as to how this affects your tour.

Travellers with Australian passports are required to pay a reciprocity tax on entering the airport in Santiago. New Zealand passport holders are not required to pay this tax. It seems that no such tax is levied at other entry points.

Contacts for Australians

The Embassy of Chile in Australia is in Canberra.

Visa information is available on the website www.chile.com.au

Address

10 Culgoa Circuit

O'Malley, ACT 2606

Postal address

PO Box 5023

Garran, ACT 2605

Tel: +61 2 6286 4027

Fax: +61 2 6286 1289

Email: echileau@embachile-australia.com

There are consulates in Brisbane, Hobart, Melbourne, Perth and Sydney.
For contact details refer **to** protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

The Embassy of Chile in New Zealand is in Wellington - www.embchile.co.nz

Address

19 Bolton Street

Wellington 6011

Tel: + 64 4 471 6270

Fax: +64 4 472 5324

Email: echile@embchile.co.nz

There are consulates in Auckland and Wellington.

For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Colombia

Visas

A Temporary Ordinary Working Visa is available for Australian and New Zealand artists working in Colombia. The application process is outlined on the consular website and requirements include a letter of invitation from the sponsoring organisation. The letter must be written in Spanish and must state the purpose and duration of the trip, with the Certificate of Incorporation of the sponsor (Certificado Camara de Comercio).

Taxation

There is no taxation treaty between Colombia and Australia or New Zealand. Withholding tax is applied at the following rates to income earned by non-residents: royalties: 33 percent; service fees and commissions: 33 percent; payments for technical services: 10 percent. It's very difficult for presenters to achieve tax waivers for visiting companies. Some producers have reported receiving payment in cash for fees earned in Colombia.

GST, 'IVA, Impuesto al Valor Agregado', is currently 16 percent where charged. This is a specialist area and you should seek confirmation from the presenter in Colombia as well as from your tax advisor at home.

An international airport departure tax for Australian and New Zealand passport holders must be paid in cash or by credit card prior to clearing immigration.

Case study: tax and visa exemptions

An Australian company visited two different festivals in Bogota, Colombia, one major and one small festival associated with a university department.

Despite requiring the same visa/tax compliance, the smaller festival came up with some last minute requirements for documentation.

The major festival took care of all aspects of tax and visa compliance and the company knew nothing of the processes required. In both instances the company paid no tax, obtained no visas or work permits and encountered no difficulties.

It's significant to note that in terms of Colombian tax law, both organisations paid the company in cash. The larger organisation also included two security guards to accompany the Artistic Director to the bank so that he could safely deposit the cash into the company's account.

Case study: tax complications

An Australian company was invited to perform at the major international performing arts festival in Bogota. The festival is one of the largest in the world, and has presented hundreds of international companies over the years, including several Australian companies.

The company negotiated the invitation through an agent based in Australia. As months passed from receipt of the initial invitation letter with no further information from the festival, the company became concerned.

At the point where the set needed to depart by sea for Colombia in order to arrive for the festival, the company had still not received a contract, or any information about fees, taxes or visa requirements.

The agent assured them that such last minute arrangements were common in Latin America.

Despite regular communication from the company, they were unable to establish this information with sufficient lead-time and were obliged to pull out of the tour.

Contacts for Australians

The Embassy for Colombia in Australia is in Canberra

Visa information is obtained by the website for the Sydney consulate - www.consuladodecolombiasydney.org.au

Address
Level 2, 161 London CCT
CPA Building
ACT 2601

Postal address
PO Box 227
Civic SQ Postshop
ACT 2608

Tel: +61 2 6230 4203
Fax: +61 2 6230 4209
Email: embassyofcolombia@bigpond.com
ecanberra@cancilleria.gov.co

There is a consulate in Sydney and an honorary consulate in Brisbane. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts for New Zealanders

In New Zealand there is an honorary consulate in Nelson.

Postal address
PO Box 949
Nelson 7040

Tel: +64 3545 1154
Email: pbl@ecodyne.co.nz

Mexico

Visas and work permits

The consular websites don't provide detailed information about the working visa necessary to earn income in Mexico. The site indicates the prospective employers in Mexico must apply directly to the National Institute of Immigration for appropriate immigration documents and the process to get working visas can be lengthy. The Embassy cannot issue working visas without authorisation from Mexico's National Institute of Immigration, INAMI.

Producers report the reality of touring into Mexico is that major presenters obtain waivers for visas and work permits for Australian and New Zealand artists.

Taxation

Australia and New Zealand hold reciprocal tax agreements with Mexico to avoid double taxation. It's important to discuss how this affects the tax levied on your particular tour with the local presenter in your earliest communication. Withholding tax of between 25-40 percent is reported on official taxation sites. However, producers report the practice of negotiating fees net of all taxes is common in Mexico.

GST, 'IVA, Impuesto al Valor Agregado', is currently 16 percent. Some services are not taxable. This is a specialist area and you should seek confirmation from the presenter in Mexico as well as from your tax advisor at home.

International Airport Departure Tax/Tourism Tax is levied on passengers departing from Mexico on international flights, and differs per airport. This tax is paid on departure from Mexico if it isn't included in the airfare.

Case study: visa complications

An Australian company on an extensive tour of the US planned performances at a festival in Mexico mid-tour.

The company's producer was surprised to find no additional work permit or visa was needed for the Mexican visit. The Mexican presenter assured them their US work permits had jurisdiction into Mexico. The presenter only requested the company send scanned copies of their touring party's passports in advance of their visit.

Representatives from the Mexican festival accompanied the company on the border crossing into Mexico. No taxes were paid on the performances.

Contacts

The Embassy of Mexico in Australia is in Canberra - www.mexico.org.au

Address
14 Perth Avenue
Yarralumla
ACT 2600

Tel: +61 2 6273 3963
Fax: +61 2 6273 1190
Email: embamex@mexico.org.au

There are honorary consulates in Brisbane and Melbourne. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts

The Embassy of Mexico in New Zealand is in Wellington - portal.sre.gob.mx/nuevazelandia/index.php

Address
AMP Chambers
Level 2, 187 Featherston Street
Wellington 6011

Postal address
PO Box 11510
Wellington 6142

Tel: +64 4 472 0555
Fax: +64 4 496 3559
Email: mexico@xtra.co.nz

There are honorary consulates in Auckland and Christchurch. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

National Institute of Immigration (INAMI) - www.inami.gob.mx

North America

The complex, strict and expensive process of obtaining working visas to the US should not be underestimated, and you should begin budgeting and planning for these processes as early as possible. To achieve the best chance of a successful visa application it's recommended you engage an experienced US local agent (for example a presenter, contracting agent or visa professional) to guide you through the complicated requirements of this process. You need to include the additional costs of this service in your tour budget.

Although completely separate tax systems, both Canada and the US have complicated and detailed processes required for complying with tax regulations and for filing applications for tax withholding waivers. You should research how your tax situation is affected by US and Canadian requirements at an early stage of planning as you must file many documents in advance of the tour.

In some cases you'll need to set aside time on tour for company members to make the necessary applications in person while in the country, so always check the most current procedures and timeframes to achieve them. For example, in the US all individuals are required to obtain Social Security Numbers and currently this requires one full day to file the application in person, with the stipulation that the artist must be in the country for a minimum of ten days in order to receive the allocated number. If you're working in the country for less than ten days, you still need to make your application and collect the letter of rejection in order to undertake the alternative procedure. A case study exploring this situation is outlined in the US country profile.

Be aware of the timeframe for filing tax returns in these countries as tax compliance regulations can require that you file tax returns in Canada and the US in addition to your Australian or New Zealand tax returns.

Canada

Visas

Performing artists holding Australian or New Zealand passports may visit or work temporarily in Canada without obtaining a visa.

Work permits

Artists and support staff don't need a work permit providing they're only performing for a limited period of time, and are not:

- entering into an employment relationship with the Canadian presenter
- performing in a bar or restaurant
- performing in a movie, television or radio broadcast.

As a general guideline, unlimited number of rehearsals and performances over a two-week period are reasonable, or alternatively, unlimited rehearsals and up to eight performances over a six or seven week period also allow you to work without a permit. If you're unsure, it's best to contact your nearest consulate for advice.

Taxation

Tax treaties with Australia and New Zealand state that performing artists (entertainers) must pay tax on income earned in Canada. There are two levels of taxation in Canada - state and provincial - and both are included in the tax return that all non residents submit to the Canadian Revenue Agency (CRA). It's advisable to retain direct communication with one or two specific advisors at the CRA to ensure the information that you receive is consistent and your application progresses.

Information and forms for non-residents to file Canadian tax returns can be found at www.cra-arc.gc.ca/formspubs/t1gnrl/nnrsdnts-eng.html. The withholding rate in Canada is 15-20 percent.

Some companies have managed to negotiate fees net of tax with the presenter in Canada. However most have tax withheld at source and are required to file Canadian tax returns.

Some smaller Australian and New Zealand companies have successfully applied to have withholding tax waived on the grounds withholding tax calculated was to be greater than their actual Canadian tax liability. To do this, companies are required to compile full documentation of their costs prior to the tour (including airfares, accommodation and domestic travel), and to submit

this with their application for a tax waiver. Artists may also sign a letter of authorisation allowing their agent to act on their behalf in tax waiver dealings with the CRA.

The process for tax exemption is complex and takes into consideration the entire income a company or artists earns over the year, not just that which is earned in Canada (as is the case with all of the other double tax treaty countries addressed in this resource).

Even if a waiver is granted it's still essential to file a Canadian tax return for that tax year. Not filing a tax return for the term worked in Canada has a detrimental impact on any further applications for tax waivers.

Tax regulations in Canada are complex, and you should discuss tax implications with the Canadian presenter before signing any contract.

Case study: tax exemptions

Complying with Canadian taxation requirements can be time consuming and costly.

To save time and resources, the company worked out a system with their Australian accountant and book keeper that showed the touring party received no money during their time in Canada.

This enabled them to inform the Canadian tax authorities that no members of the touring party were required to file tax returns.

They arrived at this decision after full appraisal and consideration of the Canadian tax laws and requirements, and examining details of the double tax treaty between Canada and Australia.

To find out the relevant information, the company approached the Canadian Revenue Agency directly, and established ongoing communication with a consistent member of staff.

Case study: tax complications

To assist an Australian company in navigating the complicated Canadian tax system, one of the lead presenters of the company's tour offered to file the tax documentation on their behalf.

To do this, the company provided the presenter with all of the financial details of their Canadian tour. This caused problems when the presenter realised that the company had negotiated different fees for the same performance with other presenters.

Although producers often vary fees between venues to achieve an optimal number and routing of performances towards an overall tour's viability, it's not common for presenters to know the detail of these arrangements.

If professional local assistance is required to comply with taxation legislation, it's advised you consult with an independent party not associated with presenting your tour to maintain confidentiality.

More reading

Citizenship and Immigration Canada - www.cic.gc.ca/english/visit/index.asp

Canada Revenue Agency - www.cra-arc.gc.ca/menu-eng.html

This website includes the useful document, *Do you have to file a return?* in the General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada - www.cra-arc.gc.ca/formspubs/t1gnrl/menu-eng.html

Contacts

The High Commission of Canada is in Canberra -
www.canadainternational.gc.ca/australia-australie

Address
Commonwealth Avenue
Canberra ACT 2600

Tel: +61 2 6270 4000
Fax: +61 2 6270 4081
Email: cnbra@international.gc.ca

Canadian consulates are located in Sydney, Melbourne and Perth.
For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts

The Canadian High Commission for New Zealand is in Wellington -
www.canadainternational.gc.ca/new_zealand-nouvelle_zelande

Address
Level 11
125 The Terrace
Wellington 6011

Postal address
PO Box 8047
Wellington 6143

Tel: +64 4 473 9577
Fax: +64 4 471 2082
Email: wlgtn@international.gc.ca

There is a consulate in Auckland. For contact details refer to
www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

United States of America

Visas

The US controls immigration tightly. Always obtain correct working permits, penalties for not holding such permits are harsh and long-lasting. US border control personnel have been known to Google names of people they suspect may be intending to work. If you're listed as a cast or company member on any website, it's easily discovered and deportation is immediate.

The lengthy and expensive process of obtaining visas begins in the US with the petitioner (presenter, venue or agent). If the presenter is a large organisation they may have personnel dedicated to arranging visas. Ask your presenter if this is the case, but be aware that they will most likely advise engaging a local visa professional. Most producers find the costs associated with this appointment to be offset by efficiencies.

All Australian and New Zealand artists and companies undertaking performances in the US, regardless of whether they're being paid or not, must apply for non-immigrant work "O" or "P" visas. These visas are relatively expensive and must be included in any touring budget.

Extraordinary Ability (O-visa)

This category applies to persons of extraordinary ability in the arts and includes support personnel. The applicant must present an approved petition or notification that has been approved by the United States Citizenship and Immigration Services (USCIS).

Athletes/Entertainers/Artists (P-visa)

Performing arts companies and professional musical groups fall into this category. Applicants must have petitions approved by the USCIS.

O and P working visa categories require the US sponsor to file a petition with the USCIS. Once the petition is approved, you may begin the application process with an interview at a US consulate or embassy. In Australia interviews are held and visas issued at the consulates in Sydney and Melbourne as well as the embassy in Canberra. In New Zealand, interviews are held at the Auckland Consulate General. There may be costs involved in travelling to the nearest consulate or embassy. The procedure is outlined on the websites below and in the attached checklists and step-by-step guides.

All travellers to the US, including those who are eligible to use the Visa Waiver Program (VWP) (for example producers or artists attending conferences in the US) must complete an online registration procedure at the ESTA website prior to travelling (esta.cbp.dhs.gov/).

Taxation

Australia and New Zealand hold double tax treaties with the US. In recent years the United States Internal Revenue Service (IRS) has prioritised withholding taxation compliance from performing artists.

Currently a foreign artist is subject to withholding tax on US source income at 30 percent of the gross payment for services. The withholding tax is applied to each individual artist in the touring party as well as to the company. For artists represented by an agent, withholding tax is calculated on the gross amount even if commission is paid separately to the agent. It doesn't apply to expenses. An artist can earn up to a certain figure in each calendar year exempt from the payment of withholding tax but must file applications for exemption with the IRS prior to undertaking the tour.

It's possible to secure tax exemption status or reclaim withholding tax paid in the US through completing of a tax return for each individual on your tour. This has to be done at the end of the calendar year, so it's imperative to acquire all the relevant documentation and bring this home for reconciliation.

There are varying versions of how to negotiate your tax withholding position regarding interpretations of tax treaties and how these impact on not-for profit companies incorporated in Australia and New Zealand. Not-for-profit status granted to a company or organisation in New Zealand or Australia **doesn't** transfer to the US. You must make a separate application for US non- profit status to the IRS. It's important to discuss tax with the local presenter in the earliest stages of negotiation to work out the best way to allocate performance income and comply with IRS requirements. IRS regulations state that the agent and presenter will bear the penalties for non-compliance.

Before signing your contract, you must establish the status of the individuals on your tour as variations in status affect the paperwork you need and the nature of your exemptions.

Tax Returns

Having defined your status, you must follow the appropriate procedure.

Business Status

You're considered a business if you pay individuals a set fee or salary for the tour, regardless of profit or loss. As the producer, you must take three administrative steps to gather the correct documentation to achieve this status and enable your employees to file the correct tax return.

Apply for a United States Employee Identification Number (EIN) online at www.irs.gov.

Submit a W-8BEN with a treaty claim that states that the entity has no permanent establishment in the US, as that term is defined by the treaty.

Collect forms 8233 from each individual on the tour. To get these forms you must first apply for a US Social Security Number (SSN) on arrival in the US.

Often this request will be rejected. The letter of rejection should then accompany an application for an alternative document, the Individual Taxpayer Identification Number (ITIN). You need to contact the closest Social Security Office to where you're staying or performing as soon as you arrive.

Business tax return

As an employee of a business, each party on the tour files tax return Form 1120-F. Expenses (such as payments to employees or independent contractors, hotel, travel and per diems) are deductible.

Individual Status

You're taxed as an individual by the IRS if, after expenses, the performers split whatever profit (or loss) is made on the tour.

In this case you must obtain a Central Withholding Agreement (CWA) from the IRS and supply a copy at the time of signing your contract with the US presenter. You apply to the IRS to receive your CWA. It may take up to three months to obtain a CWA so advance planning is essential. Approval is granted by the IRS prior to the tour beginning and the IRS issues you with official notification. It's this official notification that you supply to the presenter on signing your contract, so they can make the appropriate payment arrangements.

If this is the nature of your arrangement, each member of an artistic group must enter into a CWA with the IRS. A CWA guarantees a smaller withholding amount based on your net income rather than on gross receipts. With a CWA, the company becomes liable for the withholding taxes and the US presenter's obligation to withhold taxes is eliminated.

Individual tax return

Each individual on the tour must file tax return Form 1040NR or Form 1040NR-EZ.

Individuals can claim expenses on Schedule C (or Schedule C-EZ) as an attachment to Form 1040NR. Foreign independent artists are not subject to US self-employment tax.

There is one exception to the above filing requirement. If a foreign artist is employed directly by a company in the US (for example are guest artists with a US company), and from that income earns less than the IRS annual personal exemption amount ($3,650 in 2009 tax year), they need not file a US tax return. This exception doesn't apply if the artist is seeking a refund of other US taxes paid, has a US income tax liability not satisfied by withholding, or has other US income that is exempt because the artist has filed either a W8-BEN or a CWA.

Employees must file their forms for the previous year by 15 April and individuals by 15 June of the following year. Failure to file a return will forfeit deductions and exemptions.

US federal agencies are becoming more sophisticated about sharing information. The possibility has been raised that at some point in the future, the IRS and US Citizenship and Immigration Services could implement a policy where any individual applying for an "O" or "P" visa must be current on his or her tax returns to qualify for the visa. In other words, if an artist has been granted "O" or "P" visa status previously, and the artist did not file returns for the years that he or she worked in the US, the requested visa wouldn’t be granted until the missing returns were filed.

There is no GST charged in the US.

Case study: visa complications

An Indigenous Australian artist encountered some major visa problems when travelling to Los Angeles to work with an eminent American artist.

The problem occurred when the American host changed the dates of the collaboration after the visa application process in Australia had begun.

The Australian producer applying on the artist's behalf notified the US Consulate in Australia of the changed dates by email, without realising it's impossible to make changes to an application once it's in progress.

The producer went to the Consulate to collect the approved visas and scanned them to check that all was in order.

When the artist reached the US, the immigration official noted that his visa was for the original dates and had already expired.

Immigration authorities handcuffed the artist in front of his fellow passengers and took him to a holding cell in the airport. He was allowed one phone call and reached the agent for the American host artist who called the Australian producer. Both attempted to explain to the US immigration officials the genuine error that had been made.

The Australian artist was flown out of Los Angeles. When the case was followed up in Australia, the genuine error was acknowledged and the producer was told that there would be no mark on the artist's personal record at US Immigration.

However, the next time the artist was flying to Mexico via the US, he was detained at immigration and told that he was prohibited from entering the US, even in transit.

The artist is now unable to work in the US. His producer insists that if there are any changes during the application process you must start afresh. The person receiving the visas should also check all information is correct.

Case study: visa complications

Having a criminal record can cause complications when applying for a US visa.

An Australian artist reported on a US visa application that he had an arrest record in Australia. He didn't know this record had been removed from Australian police records.

These contradictory statements created a stalemate when US authorities were unable to establish from their Australian counterparts the nature or details of the arrest.

Where US immigration authorities cannot verify previous arrest information, they deny visas.

If the artist had checked with the Australian police before filling out the application form they would have told him no arrest record existed in Australia and he could simply have checked the "no" box.

Case study: tax complications

An Australian artist toured to the US in 2009. To comply with IRS requirements she applied for a social security number. She visited a social security office to apply for her social security number.

The artist left the US after 30 days, however she later heard her application hadn't been completed because she had left the country before the process was finished. This isn't uncommon with international artists. Unfortunately she didn't receive a rejection letter. A rejection letter qualifies you to apply for an Individual Taxpayer Identification Number (ITIN), which can be used in place of a social security number for the purposes of filing US tax returns.

It's important to remember that even if you're not working in the US long enough to qualify for a social security number, you still need to make an application and obtain a rejection letter. The IRS won't issue an ITIN without this documentation.

More reading

North American Performing Arts Managers and Agents (NAPAMA)

NAPAMA is a not for profit member association providing information including tax and visa requirements for international artists touring to North America - www.napama.org

Artists from Abroad – a complete guide to Immigration and Taxation Requirements for Foreign Guests to USA -

www.artistsfromabroad.org

Tamizdat – Working Visa Services for artists wishing to perform in the US - www.tamizdat.org/services.php

Step by Step Process for obtaining US visas - www.tamizdat.org/visa/visa-form5.html

Low Tax website – a website containing detailed tax information for countries with low taxation systems - www.lowtax.net

USA-Australia Tax Treaty & Exemptions - www.irs.gov/pub/irs-pdf/p901.pdf

Visa resources

Link to forms, fees and payment instructions - evisaforms.state.gov/

US Department of State - travel.state.gov/

ESTA - esta.cbp.dhs.gov/esta/esta.html

USA Internal Revenue Service (IRS)

You can obtain forms at the Internal Revenue Service website at - www.irs.gov

Sample documents and information guides are also available at this site or by contacting the international helpline not toll free at +1 215 516 2000.

Social Security Administration - www.ssa.gov

Artists From Abroad - www.artistsfromabroad.org/taxes/faqs.html

Complete guide to immigration and tax requirements for foreign guest artists.

Contacts

The US Embassy in Australia is in Canberra - canberra.usembassy.gov

Address
Moonah Place
Yarralumla, ACT 2600

Tel: +61 2 6214 5600
Email: usrsaustralia@state.gov

There are consulates in Melbourne, Perth and Sydney. For contact details refer to protocol.dfat.gov.au/Default/view.rails

Contacts

The US Embassy in New Zealand is in Wellington

Address
29 Fitzherbert Terrace
Thorndon
Wellington 6011

Postal address
PO Box 1190
Wellington 6140

Tel: +64 4 462 6000
Fax: +64 4 499 0490

The consulate general in Auckland provides all consular services in New Zealand. For contact details refer to www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

Additional resources

If you're responsible for managing international artists, International Artist Managers' Association (IAMA) provides international tax advice for its members from accountants Baker Tilly International. A short tax guide '*Non Resident Entertainers*' is useful reading for all performing artists working overseas and is available on the IAMA website - www.iamaworld.com/taxguide/nonresen.htm.
Country summaries detailing the tax, VAT and social security implications of performing abroad are accessible to members only.

Deloitte International Tax Resource - an online worldwide database featuring tax rates and information, including international rates for GST -

www.dits.deloitte.com/Default.aspx

Personal Business Tax Guide – PBTG

International tax information for sportspersons / entertainers -

www.personalbusinesstaxguide.com/profiles/sportsperson_entertainer.asp

Europe

Comprehensive information on the Schengen Visa -

For New Zealand - www.safetravel.govt.nz/destinations/europetips.shtml

For Australia - www.safetravel.govt.nz/destinations/europetips.shtmlwww.smartraveller.gov.au/zw-cgi/view/TravelBulletins/Europe_Schengen

Links for the tax authorities in EU Member states - ec.europa.eu/taxation_customs/common/links/tax/index_en.htm

On the Move – The Performing Arts Traveller's toolkit

A web site dedicated to international mobility opportunities and information in theatre, dance, music and other contemporary performing arts disciplines. It's intended for artists and performing arts professionals from Europe and beyond.

www.on-the-move.org/EN/index.lasso

'*Study on Impediments to Mobility in the EU Live Performance Sector and on Possible Solutions'*, Richard Poláček, Editor: Pearle*, 2007, Finnish Theatre Information Centre - www.on-the-move.org/documents/Pearle_report.pdf

Mobile.Home, an EU-funded project and conference focused on issues of international mobility in the performing arts sector. Conference in Helsinki, November 2006. Project led by Finnish Theatre Information Centre with partners: IETM, Pearle*, Goethe-Institut, Visiting Arts & on-the-move.org - www.ietm.org/upload/files/2_20070314093342.pdf

European Year of Workers' Mobility 2006 - ec.europa.eu/employment_social/workersmobility_2006/index.cfm

Mobilité des Artistes et Sécurité Sociale, ERICarts & Suzanne Capiau, 2006, European Parliament study - www.europarl.europa.eu/EST/download.do?file=13235

The Status of Artists in Europe, ERICarts, Suzanne Capiau, Andreas Johannes Wiesand & contributors, 2006, European Parliament study - www.europarl.europa.eu/EST/download.do?file=13235

Taxation of International Performing Artiste', Dick Molenaar, 2005, IBFD Doctoral Series - www.ibfd.org/pdf/o30tipa_contents.pdf (contents list)

Artiste Taxation and Mobility in the Cultural Sector, Dick Molenaar, 2005, All Arts Tax Advisers, The Netherlands (report for the Ministry of Education, Culture and Science, The Netherlands) - www.on-the-move.org/documents/Artist%20Taxation%20and%20Mobility%20in%20the%20Cultural%20Sector.pdf

Artists on the Move, a conference organised in Rotterdam in October 2004 by SICA under the Dutch EU presidency to discuss obstacles to mobility within the EU, including tax, social security, work permit and visa issues - www.sica.nl/pdf/Reportartistsonthemove2004.pdf

Australian resources

Taxation Institute of Australia - contains information and publications on international taxation issues relating to performing artists - www.taxinstitute.com.au/seminar-papers/my-client-the-writer/performer/sports-person-seminar-paper

List of countries with embassies and consulates in Australia - DFAT - protocol.dfat.gov.au/Mission/list.rails

Countries that have a tax treaty with Australia - www.ato.gov.au/content.asp?doc=/content/59547.htm

General ATO information regarding foreign earnings - www.ato.gov.au/corporate/content.asp?doc=/content/54565.htm www.ato.gov.au/corporate/content.asp?doc=/content/65957.htm

Overview to 2009 ATO foreign tax credit rules. Useful supplementary reference material for companies needing to reclaim foreign taxes paid - www.ato.gov.au/individuals/content.asp?doc=/content/00107951.htm

Guide to foreign income tax offset rules 2009-10 - www.ato.gov.au/corporate/content.asp?doc=/content/00238031.htm

New Zealand resources

List of countries with embassies and consulates in New Zealand - MFAT - www.mfat.govt.nz/Embassies/2-Foreign-representatives-to-NZ/Diplomatic-and-Consular-List.php

New Zealand Internal Revenue Department - link to tax treaties held with NZ - www.taxpolicy.ird.govt.nz/tax-treaties