

TAX TREATY ARTICLE SUMMARY FOR PERFORMANCE-RELATED SERVICES

The following table outlines various tax treaty articles that may apply to foreign persons receiving U.S. Source Income from performance-related services provided to UCLA (e.g., the services of artists, entertainers, and artistic support personnel). It is not an exhaustive list. Furthermore, it was prepared for purposes of information and discussion only and should not be relied upon when determining whether foreign persons are eligible for tax treaty benefits under any one of the below articles.

Before claiming a tax treaty benefit, foreign persons should carefully review their country's tax treaty with the United States and consult with their tax advisors regarding their specific circumstances. Tax Treaties can be viewed in the web at <http://www.irs.gov/businesses/corporations/article/0,,id=96739,00.html>). After their review, if foreign persons believe they are exempt from, or eligible for reduced, U.S. Income Tax Withholding on account of a tax treaty, foreign persons may request such exemption by completing and submitting the appropriate forms (See UCLA Documentation Requirements for Performance-Related Payments to Foreign Persons) and other required documentation to Performing Arts (or other inviting department) prior to payment.

Please remember that UCLA personnel may direct foreign persons to available U.S. tax-related resources and review tax-related forms required for payment for completeness, however, it is inappropriate for UCLA personnel to provide personal tax advice to foreign persons, to complete tax-related forms on behalf of foreign persons, or to add to or modify tax-related forms after foreign persons have signed them.

In addition, it is important for UCLA departments and foreign persons to understand that UCLA Corporate Financial Services (CFS) has the legal discretion to allow or disallow a foreign persons' tax treaty claim in connection with a UCLA payment for any reason. Generally, CFS will honor tax treaty claims if foreign persons provide us with complete and accurate documentation of their U.S. Tax Status, and we have no information that leads us to believe that such person is ineligible for the tax treaty benefits claimed.

Regardless of whether CFS allows such treaty benefits in connection with UCLA's institutional tax withholding obligations, foreign persons receiving U.S. Sourced Taxable Income have the obligation to file U.S. Tax Returns on such income and may request tax treaty benefits at the time they file their returns. In the event they are indeed eligible for a tax treaty benefit, as determined by the Internal Revenue Service (IRS), foreign persons will be entitled to receive a refund of the U.S. Income Tax Withheld by UCLA directly from the IRS. This is important to understand as many departments feel the need to gross up (pay additional amounts) the foreign person's payment to mitigate the effect of U.S. Income Tax Withholding when foreign persons fail to provide UCLA with sufficient documentation to honor a tax treaty benefit. Most often times not understanding that the foreign person can later obtain a refund of such taxes directly from the IRS by claiming a tax treaty exemption when they file their U.S. Tax Return.

Questions regarding this document should be addressed to Kim Gehring, Director, Tax Services.

PERFORMANCE RELATED TAX TREATY ARTICLES						
	Payments to Individuals			Payments to Entities or Persons other than Performing Artists or Artistic Support Personnel		
Country of Residence	Artists ¹	Independent ² Contractor	Related Parties (Artists) ³	Business Profit ⁴	Exempt Org ⁵	Other ⁶
Canada	Article XVI.1 ⁷	Article XIV ⁸	Article XVI.2 ⁹	Article VII ¹⁰	Article XXI ¹¹	Article XXII ¹²
Denmark	Article 17.1 ¹³	Article 14 ¹⁴	Article 17.2 ¹⁵	Article 7 ¹⁶	None	Article 21 ¹⁷
France	Article 17.1 ¹⁸	Article 14 ¹⁹	Article 17.2 ²⁰	Article 7 ²¹	None	Article 22 ²²
Italy	Article 17.1 ²³	Article 14 ²⁴	Article 17.2 ²⁵	Article 7 ²⁶	None	Article 21 ²⁷
Netherlands	Article 18.1 ²⁸	Article 15 ²⁹	Article 18.2 ³⁰	Article 7 ³¹	Article 36 ³²	Article 21 ³³
Switzerland	Article 17.1 ³⁴	Article 14 ³⁵	Article 17.2 ³⁶	Article 7 ³⁷	None	Article 21 ³⁸
United Kingdom	Article 17.1 ³⁹	Article 14 ⁴⁰	Article 17.2 ⁴¹	Article 7 ⁴²	None	Article 22 ⁴³

Endnotes

¹ These articles should be considered for Performing Artist payments only. Artistic Support Personnel should consider the Independent Contractor Articles.

² These articles should be considered for Artistic Support Personnel payments only. Performing Artists should consider the Artist Articles.

³ These articles should be considered for payments to related foreign entities or persons for services of a Performing Artist. A related entity or person is one where the Performing Artist or persons related to the Performing Artist, indirectly or directly share in the profits of the foreign entity or person receiving the income for the services of the Performing Artist such as deferred remuneration, bonuses, fees, dividends or other income or distributions.

⁴ These articles should be considered for payments to unrelated foreign entities or persons for services of a Performing Artist. An unrelated arrangement will generally occur when the foreign entity or person employs the Performing Artist and pays them a reasonable salary for performing that is not based on the profits of the foreign entity or person.

⁵ These articles should be considered for payments to foreign organizations that are exempt from income tax in their country of residence. If there is no article specific to exempt organizations, foreign entities may be eligible under the Business Profit Articles.

⁶ These articles are not applicable to payments to or on behalf of Performing Artists or Artistic Support Personnel since income for Performing Artists and Artistic Support Personnel are dealt with specifically in other articles within the treaty.

⁷ Income is exempt from U.S. Income Tax if Performing Artist has no permanent establishment (see Article 5 for definition) in the U.S. and gross receipts, including expenses, from all U.S. sources in a given tax year is \$15,000 or less. Where total gross receipts, including expenses exceeds \$15,000, 10% U.S. Income Tax Withholding is required on the first \$5,000 paid per payer and 30% U.S. Income Tax Withholding is required for annual amounts over \$5,000.

⁸ Income is exempt from U.S. Income Tax if Artistic Support Personnel has no permanent establishment (see Article 5 for definition) in the U.S. Otherwise, subject to 10% U.S. Income Tax Withholding on the first \$5,000 paid per payer. 30% U.S. Income Tax Withholding required on annual amounts over \$5,000.

⁹ If income is paid to a related person or entity (general meaning that Artist participates directly or indirectly in the profits of the payee), income is exempt from U.S. Income Tax if gross receipts, including expenses, from all U.S. sources in a given tax year is \$15,000 or less. Otherwise, all amounts are taxable.

¹⁰ Income is exempt from U.S. Income Tax if foreign entity or person is 1) unrelated to the Performing Artist or Artistic Support Personnel and 2) does not have a permanent establishment (See Article 5 for definition) in the U.S.

¹¹ Income is exempt from U.S. Income Tax on income that would be exempt from tax in the foreign organization's country of residence (e.g., exempt function income). Income from a commercial trade or business carried on by an otherwise exempt foreign organization is not exempt from U.S. Income Tax.

¹² See n. 6, *supra*

¹³ Income is exempt from U.S. Income Tax if Performing Artist has no permanent establishment (see Article 5 for definition) in the U.S. and gross receipts, including expenses, from all U.S. sources in a given tax year is \$20,000 or less. Otherwise, all amounts are taxable.

¹⁴ All amounts are exempt from U.S. Income Tax if Artistic Support Personnel has no permanent establishment (see Article 5 for definition) in the U.S.

¹⁵ If income is paid to a related person or entity (general meaning that Artist participates directly or indirectly in the profits of the payee), income is exempt from U.S. Income Tax if gross receipts, including expenses, from all U.S. sources in a given tax year is \$20,000 or less. Otherwise, all amounts are taxable.

¹⁶ See n. 10, *supra*

¹⁷ See n. 6, *supra*

¹⁸ Income is exempt from U.S. Income Tax if Performing Artist has 1) no permanent establishment (see Article 5 for definition) in the U.S., and 2) gross receipts, including expenses, from all U.S. sources in a given tax year is \$10,000 or less. Otherwise, all amounts are taxable.

¹⁹ See n. 14, *supra*

²⁰ If income is paid to a related person or entity (general meaning that Artist participates directly or indirectly in the profits of the payee), income is exempt from U.S. Income Tax if gross receipts, including expenses, from all U.S. sources in a given tax year is less than \$10,000. Otherwise, all amounts are taxable.

²¹ See n. 10, *supra*

²² See n. 6, *supra*

²³ Income is exempt from U.S. Income Tax if Performing Artist has 1) no permanent establishment (see Article 5 for definition) in the U.S., and 2) gross receipts, including expenses, from all U.S. sources in a given tax year is \$12,000 or less, **or** the Performing Artist is present in the U.S. for an aggregate period of 90 days or less in a given tax year. If gross receipts exceed \$12,000 **or** the Performing Artist is present in the U.S. for more than 90 aggregate days in a given year, the total amount is taxable.

²⁴ See n. 14, *supra*

²⁵ If income is paid to a related person or entity (general meaning that Artist participates directly or indirectly in the profits of the payee), income is exempt from U.S. Income Tax if Performing Artist has 1) no permanent establishment (see Article 5 for definition) in the U.S., and 2) gross receipts, including expenses from all U.S. sources in a given tax year is \$12,000 or less, **or** the Performing Artist is present in the U.S. for an aggregate period of 90 days or less in a given tax year. If gross receipts exceed \$12,000 **or** the Performing Artist is present in the U.S. for more than 90 aggregate days in a given tax year, the total amount is taxable.

²⁶ See n. 10, *supra*

²⁷ See n. 6, *supra*

²⁸ See n. 18, *supra*

²⁹ See n. 14, *supra*

³⁰ See n. 20, *supra*

³¹ See n. 10, *supra*

³² See n. 11, *supra*

³³ See n. 6, *supra*

³⁴ See n. 18, *supra*

³⁵ See n. 14, *supra*

³⁶ See n. 20, *supra*

³⁷ See n. 10, *supra*

³⁸ See n. 6, *supra*

³⁹ Income is exempt from U.S. Income Tax if Performing Artist has no permanent establishment (see Article 5 for definition) in the U.S. and gross receipts, including expenses from all U.S. sources in a given tax year is \$15,000 or less. Otherwise, all amounts are taxable.

⁴⁰ See n. 14, *supra*

⁴¹ If income is paid to a related person or entity (general meaning that Artist participates directly or indirectly in the profits of the payee), income is exempt from U.S. Income Tax if gross receipts, including expenses from all U.S. sources in a given tax year is \$15,000 or less. Otherwise, all amounts are taxable.

⁴² See n. 10, *supra*

⁴³ See n. 6, *supra*