

**Special Compliance Office
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Foreign Entertainers Unit
Group Leader: **Steve Robinson**

Date : November 2000

Our ref : SCO7/489/F46/SRR

Your ref :

NEWSLETTER 9

Dear Sir or Madam,

This letter is the latest in an occasional series of Newsletters giving details of items of interest for individuals or firms.

This particular issue is devoted entirely to the Unit's proposed reaction to developments in the quantity and quality of Reduced Tax Payment Applications being made under Regulation 5.

Dealing with such applications has always formed a significant part of FEU's day to day work and this is of course bound to continue. You may be interested to know that the number of applications received has increased from just under 2,000 in the year to 5 April 1989 to almost 4,500 in the year to 5 April 2000. Latest projections for the current year suggest that the figure will again increase appreciably this year.

Applications cover all types of entertainer (generally sporting personalities are unable to make applications as they are unable to predict their success and therefore their level of income) and reflect a wide spectrum of earning potential. Since the legislation provides this opportunity for non-resident entertainers to agree their liability at the time of performance, we have always tried to accommodate all applications (whether large or small) in as efficient and fair a way as possible.

It is our aim to provide you with a high level of service and that is why we set out some guidance notes in Newsletter 7 (content included in Reduced Tax Payment Applications). However, a recent review of applications produced some disturbing results and has caused us to question whether our current practice of attempting to accommodate all applications (regardless of their respective merits) does in fact serve to encourage applicants to get the applications right first time. The key findings from that review may be highlighted as follows;

1. Of the applications reviewed, no more than 25% had been made within the time limit allowed in the withholding tax legislation – i.e. at least 30 days before the date of payment (it is impossible to be absolutely precise as the date of payment was not always apparent from the applications reviewed).

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Director: John Middleton



2. Around 10% had been submitted with less than 7 days before the UK performance, leaving almost no time for any kind of discussion/clarification on any unclear or difficult issue.
3. Approximately 25% of the applications reviewed had actually been received by FEU after the UK performances had taken place – many with no clear indication as to whether or not the payer would be able to give effect to any retrospective application and agreement.
4. Quite apart from the timing issues, many of the applications were lacking in some significant element (e.g. missing contracts, not all anticipated income sources covered, insufficient background information to easily discern the appropriate basis on which income/expenses had been or were to be apportioned, no computation of the UK tax liability).

The results clearly demonstrate that many applications are falling far short of what the legislation envisages and are also not meeting the kind of criteria set out in our Newsletter 7. While I appreciate that the entertainment world does not always lend itself to perfect planning in advance, I do not think that FEU can allow this disturbing trend to go unaddressed – without our overall level of service being seriously jeopardised.

We have therefore decided to introduce a process whereby all applications are monitored on the day of receipt (or very shortly thereafter) to ensure that they meet certain essential criteria. **If any of these criteria are lacking we will immediately issue a letter (see draft attached) indicating what is lacking and asking for this to be supplied within 7 days of receipt of our letter.** Although 7 days may seem a very short time, it should be borne in mind that we will only be asking for items which should in any event have been available and submitted as part of the application itself. **We will not proceed with the application in the interim and if the missing information is not received, we will consider the application lapsed.**

The submission of the missing information does not of course mean that the application will then be agreed immediately. As with any application, further enquiries might be required once the application is looked at in detail and in some cases the particular circumstances might make it necessary to refuse the application. However, where refusal could be an option, this would be considered at the earliest possible opportunity to avoid unnecessary enquiries and compliance costs in attempting to pursue an application which might ultimately fail.

Yours faithfully

S R ROBINSON
Group Leader

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Foreign Entertainers Unit
Group Leader: **Steve Robinson**

Draft

Date : 21 November 2000

Our ref : SCO7/489/NYA

Your ref :

Dear

Entertainer

Thank you for your application dated to agree UK withholding tax to be deducted from forthcoming performances.

I must inform you that I am unable to consider this in its present form since it does not contain one or more of the essential requirements highlighted below;

Details of all anticipated income sources from or connected with the UK performances (including such sources as venue merchandising, income from TV/video/radio rights, sponsorship income and any support or contribution received to supplement income or subsidise expenditure)	
Verification for each source of income in the form of a copy of the contract or agreement (including any riders and/or addenda) under which each source arises	
A schedule of the UK appearances, indicating venues and dates (this schedule to include details of non-UK appearances where, for example, UK and non-UK appearances form a "natural" group – e.g. a tour or tour leg ; or part of a whole – e.g. a film involving work in the UK and other countries, and this is relevant in any apportionment of income/expenditure between the UK and elsewhere)	
An itemised schedule of all expenses being claimed as appropriate to the UK activity (including the basis on which the figures have been arrived at)	
A computation of the anticipated UK liability (including the liability of any accompanying non-resident entertainers – e.g. backing band members)	

If you wish to proceed with the application, please supply the missing item(s) within 7 days of the receipt of this letter. Once the missing details have been supplied, the application will be considered further. This may include the possibility of further enquiries arising out of the information supplied or, in some cases, refusal of the application.

Foreign Entertainers Unit

