



19TACD2020

BETWEEN/

APPELLANT

Appellant

V

THE REVENUE COMMISSIONERS

Respondent

DETERMINATION

Introduction

1. This appeal involves a claim for exemption pursuant to Section 195 of the Taxes Consolidation Act 1997, as amended (hereinafter “TCA 1997”), which affords a relief commonly known as the “artists’ exemption.”

Matter under Appeal

2. The Appellant is the author of a book entitled ‘*REDACTED*’, which was published in *REDACTED*. The Appellant submitted an artists’ exemption claim form in *REDACTED* and by letter dated 8 October *REDACTED*, the Respondent advised the Appellant that they did not find it possible to make a determination in accordance with Section 195. The Appellant duly appealed that decision pursuant to Section 195(6)(b) of TCA 1997 on 15 January *REDACTED*.
3. This appeal is being determined, by agreement of the parties, without a hearing in accordance with Section 949U Taxes Consolidation Act (TCA 97).

Relevant Legislation

Section 195 of TCA 1997.

This section is set out in Appendix 1

Guidelines drawn up under Section 195(2) of the Taxes Consolidation Act 1997 for the Artists Exemption Scheme by An Comhairle Ealaíon and the Minister for Arts, Heritage and the Gaeltacht.

These are set out in Appendix 2. (“The Guidelines”)

Submissions by the Appellant

4. It is submitted by the Appellant that the book, the subject matter of the appeal,

“... **REDACTED**.”

5. In his Statement of Case to this Appeal, the Appellant states that he is submitting the book under Paragraph 7 (b) (ii) where the work is autobiographical.

The author states:

“**REDACTED**.”

“The guidelines state that an item qualifies if it is:

“an autobiography that incorporates the author’s unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on the person or by changing the generally accepted understanding of the person”

*It is my case the book is about **REDACTED** Therefore, I believe it qualifies for exemption.”*

Submissions by the Respondent



6. The Respondent has submitted the following arguments in support of its decision not to make a determination qualifying the work for Artists Exemption:

“It is submitted that the onus of proof lies on the Appellant to satisfy the Appeal Commissioners that the Section 195 exemption is warranted and that this onus can only be discharged by the Appellant proving that his book comes clearly within the terms of the exemption currently applicable to the category of “a book or other writing”.

In considering this appeal, the Appeal Commissioners must, in compliance with Section 195(13)(b) TCA 97 have regard to the guidelines in force under Section 195(12), and the work in question must satisfy the mandatory requirements of those guidelines.

Conditions for Section 195 exemption

Exemption under Section 195 TCA 97 applies to an individual who has written, composed or executed, either solely or jointly with another individual, a work generally recognised as having, cultural or artistic merit.

For the purposes of the exemption a ‘work’ means an original and creative work which is within one of the five categories in Section 195(1).

The first of the five categories in Section 195(1) is ‘a book or other writing’. The Respondents accept REDACTED is a book and that it is ‘original and creative’ within the meaning of Section 195 and the guidelines thereunder.

Cultural or Artistic Merit

For the purposes of the Section 195 exemption, a work can only be regarded as having cultural or artistic merit, and hence as qualifying for exemption, if it meets either of the tests set out in paragraphs 5 and 6 of the guidelines.

The Paragraph 5 test

Paragraph 5 of the guidelines states that, for the purposes of a determination under Section 195, a work shall be regarded as having cultural merit only if by reason of its quality of its form and/or content it enhances to a significant degree one or more aspects of national or international culture.



The Paragraph 6 test

Paragraph 6 of the guidelines states that for the purposes of a determination under Section 195, a work shall be regarded as having artistic merit only if its quality of form and/or content enhances to a significant degree the canon of work in the relevant category.

The Respondents accept that the work satisfies at least one of tests set out in paragraphs 5 and 6 of the guidelines.

Criteria for Non-fiction work

Paragraph 7 of the guidelines specifies criteria by reference to which the questions whether a non-fiction book is original and creative and whether it has, or is generally recognised as having cultural or artistic merit are to be determined...

...(b) that the work, in the opinion of the Revenue Commissioners, is a work in one of the following categories:

(i) a biography,

(ii) an autobiography,

that incorporates the author's unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on the person or by changing the generally accepted understanding of the person..."

7. The Respondent goes on to state:

"In the Appellant's application for a determination to the Respondents and in his Outline of Arguments to the Tax Appeals Commission it is claimed that the book is autobiographical and thus comes within the terms of paragraph 7(2)(b)(ii) of the guidelines.

The Respondents accept that there is a small amount of autobiographical material in the Appellant's work, however it is the Respondents view that the primary subject matter of the book is REDACTED is insufficient to regard the book as an autobiography.



The Respondents also submit that the appellant has failed to meet all the criteria in paragraph 7(2)(b) of the guidelines which requires that the work incorporates the author's unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on the person or by changing the generally accepted understanding of the person.

The Respondents submit that many of the situations described in the book are commonly encountered REDACTED are therefore not unique to the appellant..."

In summary it is the Respondent's view that the work does not clearly come within the criteria for non-fiction work set out in paragraph 7(2) of the guidelines and that the appellant in his submissions has failed to clearly demonstrate that the work meets the criteria necessary to be eligible for the artists exemption scheme.

Analysis and Findings

8. Having read and reviewed the book, REDACTED, I am reluctant to determine that the work is an autobiography of REDACTED. There are autobiographical elements laced throughout the work, REDACTED. He himself states:

"REDACTED."

9. I cannot agree with the Appellant's assertion that his work is:

"an autobiography that incorporates REDACTED"

In my view, the focus of the book is REDACTED.

For that reason, I agree with the Respondent that the Work "REDACTED" cannot qualify for artist's exemption under S.195 TCA 1997 on the grounds that the work is an autobiography under paragraph 7(2)(b) of the Guidelines.

10. To my mind, the work is more akin to a diary of the author's experiences REDACTED. He states:



The book is **REDACTED**.

The word “diary” comes from the Latin diarium (“daily allowance,” from dies “day”) ...Wikipedia describes a diary as

“a book which a person writes about what they have seen or heard or what they have been doing. Diaries are usually handwritten. People like to keep diaries (meaning: write a diary) for a variety of reasons: they may want to keep a record for themselves about what they have done during their life. They may sometimes want to publish it so that other people can read it. Some diaries may be important for business or military purpose. Children in schools are often asked to write a diary. This helps them to write about what they have been doing and expressing their thoughts...In modern times people write blogs on the internet. This is a modern kind of diary.

11. Paragraph 7 of the Guidelines which govern the artists exemption scheme sets out the criteria to be met in order for a non-fiction book to qualify for the artists exemption scheme and states:

(2) The criteria include:

(a) that the work, in the opinion of the Revenue Commissioners, following consultation with the Arts Council, is a work in one or more of the following categories:

... (iv) artists’ diaries,

that incorporates the author’s unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it,

12. The question as to what constitutes “artists’ diaries” was examined by Appeal Commissioner Kennedy in a previous determination of this Commission 2TACD 2019. The following is an extract from this determination:



Artists' diaries

In determining this appeal and to determine whether the Work constitutes "artists' diaries", significant reliance has to be placed on Paragraph 7(2)(a)(iv) of the Guidelines that requires that the Work: 10 "...incorporates the author's unique insight into the subject matter and is regarded as a pioneering work that makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it ..."

In a previous determination of this Commission, 21TACD2017, reference was made to the High Court decision in Coleman –v- Revenue Commissioners [2014] IEHC 662 arising from a case stated made by the Appeal Commissioners in relation to the 'artists' exemption', where Donnelly J held that: "On the basis of the decision in Doorley, the Appeal Commissioner was obliged to give effect to the clear and express terms of the legislation in considering the artist's exemption from income tax. The liability to income tax having been established, that exemption must be brought within the letter of the Act of 1997 and the Guidelines made thereunder as interpreted by the established canons of construction. There was no basis in law for adopting any other approach to the interpretation of the Act and the Statutes."

In this regard and based on the evidence of the Respondent, there is no record of any application made by an individual seeking to claim 'artists' exemption' under the classification 'artists' diaries'. As such no interpretative assistance can be derived to establish the type of work that could be classified as 'artists' diaries' that gives a "unique insight into the subject matter and is regarded as a pioneering work that makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it".

As such the standard approach in statutory interpretation as applied by Donnelly J. in Coleman, is in accordance with the 1st test in Inspector of Taxes v Kiernan [1981] 1 I.R. 117 where Henchy J. said: "Where statutory provisions are addressed to the public generally, a word should be given the meaning which an ordinary member of the public would intend it to have when using it ordinarily",



13. While the work is not written in a conventional diary style, *REDACTED*

Within each section of the book, the author describes his *REDACTED*

The next question is whether the book can be construed as the diary of an artist or an artist's diary to come within the classification "artists' diaries" within the Guidelines?

14. There is no doubt the author is very creative in his writing, in *REDACTED*. Are writers artists?

Wikipedia describes the present-day concept of an artist in the following terms:

"Artist is a descriptive term applied to a person who engages in an activity deemed to be an art. An artist also may be defined unofficially as "a person who expresses him- or herself through a medium". The word is also used in a qualitative sense of, a person creative in, innovative in, or adept at, an artistic practice.

Most often, the term describes those who create within a context of the fine arts or 'high culture', activities such as drawing, painting, sculpture, acting, dancing, writing, filmmaking, new media, photography, and music—people who use imagination, talent, or skill to create works that may be judged to have an aesthetic value. Art historians and critics define artists as those who produce art within a recognized or recognizable discipline. Contrasting terms for highly skilled workers in media in the applied arts or decorative arts include artisan, craftsman, and specialized terms such as potter, goldsmith or glassblower." (emphasis added)

15. From the above it can be seen that the term "artist" has evolved from the more traditional concept on a person who is a practitioner of the visual arts to a broader palette of creative activity, including writing.

16. For this reason, I am satisfied that the work "*REDACTED*" may be classed as an artist's diary.



17. Having accepted that the work “**REDACTED**” falls within the category of “artists’ diaries” within the Guidelines, in order to qualify for artist’s exemption, it must still meet the condition that it is a work:

“that incorporates the author’s unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it”,

18. There is little doubt but the work sets out and incorporates the author’s **REDACTED**.

19. Pioneering work is work that has not been done before. This work **REDACTED**

20. The work does in my view make a significant contribution to the subject matter **REDACTED** by casting new light on the subject matter.

21. In considering whether the book the subject of this appeal satisfies these requirements of Section 195 and the Guidelines made thereunder, I must also have regard to the decision of *Kennedy CJ in Commissioners of Inland Revenue –v- Doorley* [1933] 1 I.R. 750, where he stated:-

“The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, excepts for some good reason from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as applicable.”

22. More recently, in a case stated by the Appeal Commissioners to the High Court in relation to the artists’ exemption, *Donnelly J in Coleman –v- Revenue Commissioners* [2014] IEHC 662 held that: -

“On the basis of the decision in Doorley, the Appeal Commissioner was obliged to give effect to the clear and express terms of the legislation in considering the artist’s exemption from income tax. The liability to income tax having been



established, that exemption must be brought within the letter of the Act of 1997 and the Guidelines made thereunder as interpreted by the established canons of construction. There was no basis in law for adopting any other approach to the interpretation of the Act and the Statutes."

23. I am wholly satisfied, and find as a material fact, that "**REDACTED**" is properly classed as a work of non-fiction. Accordingly, the book can only be considered original and creative and to have, or to be generally considered as having, cultural or artistic merit if it satisfies the criteria detailed in paragraph 7(2) of the Guidelines. Within paragraph 7(2) there are five categories of qualifying non-fiction works, viz., (a), (b), (c) (d) and (e) (See Appendix 2).
24. The Appellant originally sought to have his work classified under Paragraph 7(2)(b) of the Guidelines. I fully accept the Respondent's view that the book does not meet any of the classifications of non-fiction work within paragraph 7(2)(b).
25. Having read and considered the book "**REDACTED**", I am satisfied that the book is a work falling within paragraph 7(2)(a)(iv) of the guidelines for determining that this non-fiction work is original and creative and has cultural or artistic merit.

Determination

For the reasons outlined above, I find that: -

26. The book the subject matter of this appeal is a non-fiction work within paragraph 7(2) of the Guidelines.
27. I therefore conclude that the Appellant is entitled to the Artists' Exemption.





28. I will, therefore, allow the appeal and determine that the decision of the Respondents that the Appellant is not entitled to the exemption afforded by Section 195(3) of the Taxes Consolidation Act 1997, as amended, should not stand.

29. This appeal is thus determined in accordance with S.949AL TCA 1997.

PAUL CUMMINS

APPEAL COMMISSIONER

16 January 2020



Appendix 1

The provisions of Section 195 of TCA 1997, as they were as of the date of the application for exemption, provided as follows: -

“(1) In this section...

“work” means an original and creative work which is within one of the following categories:

- (a) a book or other writing;*
- (b) a play;*
- (c) a musical composition;*
- (d) a painting or other like picture;*
- (e) a sculpture.*

(2)(a) This section shall apply to an individual –

(i) who is —

(I) resident in one or more Member States, or in another EEA state, and not resident elsewhere, or

(II) ordinarily resident and domiciled in one or more Member States, or in another EEA state, and not resident elsewhere, and

(ii) (I) who is determined by the Revenue Commissioners, after consideration of any evidence in relation to the matter which the individual submits to them and after such consultation (if any) as may seem to them to be necessary with such person or body of persons as in their opinion may be of assistance to them, to have written, composed or executed, as the case may be, either solely or jointly with another individual, a work or works generally recognised as having cultural or artistic merit, or

(II) who has written, composed or executed, as the case may be, either solely or jointly with another individual, a particular work which the Revenue Commissioners, after consideration of the work and of any evidence in relation to the matter which the individual submits to them and after such consultation



(if any) as may seem to them to be necessary with such person or body of persons as in their opinion may be of assistance to them, determine to be a work having cultural or artistic merit.

(b) The Revenue Commissioners shall not make a determination under this subsection unless

–

(i) the individual concerned duly makes a claim to the Revenue Commissioners for the determination, being (where the determination is sought under paragraph (a)(ii)(II)) a claim made after the publication, production or sale, as the case may be, of the work in relation to which the determination is sought, and

(ii) the individual complies with any request to him or her under subsection (4).

(3)(a) An individual to whom this section applies and who duly makes a claim to the Revenue Commissioners in that behalf shall, subject to paragraphs (aa) and (b), be entitled to have the profits or gains arising to him or her from the publication, production or sale, as the case may be, of a work or works in relation to which the Revenue Commissioners have made a determination under clause (I) or (II) of subsection (2)(a)(ii), or of a work of the individual in the same category as that work, and which apart from this section would be included in an assessment made on him or her under Case II of Schedule D, disregarded for the purposes of the Income Tax Acts.

(aa) The amount of the profits or gains for a year of assessment which an individual shall be entitled to have disregarded for the purposes of the Income Tax Acts by virtue of paragraph (a) shall not exceed €40,000 for the year of assessment 2011 and each subsequent year of assessment.

(b) The exemption authorised by this section shall not apply for any year of assessment before the year of assessment in which the individual concerned makes a claim under clause (I) or (II) of subsection (2)(a)(ii) in respect of which the Revenue Commissioners make a determination referred to in clause (I) or (II) of subsection (2)(a)(ii), as the case may be.

(c) The relief provided by this section may be given by repayment or otherwise.



(4)(a) Where an individual makes a claim to which subsection (2)(a)(ii)(I) relates, the Revenue Commissioners may serve on the individual a notice or notices in writing requesting the individual to furnish to them within such period as may be specified in the notice or notices such information, books, documents or other evidence as may appear to them to be necessary for the purposes of a determination under subsection (2)(a)(ii)(I).

(b) Where an individual makes a claim to which subsection (2)(a)(ii)(II) relates, the individual shall –

(i) in the case of a book or other writing or a play or musical composition, if the Revenue Commissioners so request, furnish to them 3 copies, and

(ii) in the case of a painting or other like picture or a sculpture, if the Revenue Commissioners so request, provide, or arrange for the provision of, such facilities as the Revenue Commissioners may consider necessary for the purposes of a determination under subsection (2)(a)(ii)(II) (including any requisite permissions or consents of the person who owns or possesses the painting, picture or sculpture).

(5) The Revenue Commissioners may serve on an individual who makes a claim under subsection (3) a notice or notices in writing requiring the individual to make available within such time as may be specified in the notice all such books, accounts and documents in the individual's possession or power as may be requested, being books, accounts and documents relating to the publication, production or sale, as the case may be, of the work in respect of the profits or gains of which exemption is claimed.

(6)(a) In this subsection, "relevant period" means, as respects a claim in relation to a work or works or a particular work, the period of 6 months commencing on the date on which a claim is first made in respect of that work or those works or the particular work, as the case may be.

(b) Where –

(i) an individual –

(I) has made due claim (in this subsection referred to as a "claim") to the Revenue Commissioners for a determination under clause (I) or (II) of subsection (2)(a)(ii) in relation to a work or works or a particular work, as the case may be, that the individual has written, composed or executed, as the case may be, solely or jointly with another individual, and



(II) as respects the claim, has complied with any request made to the individual under subsection (4) or (5) in the relevant period,

and

(ii) the Revenue Commissioners fail to make a determination under clause (I) or (II) of subsection (2)(a)(ii) in relation to the claim in the relevant period, the individual may [appeal to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the end of the relevant period] on the grounds that –

(a) the work or works is or are generally recognised as having cultural or artistic merit,

or

(b) the particular work has cultural or artistic merit, as the case may be.

(7) The Appeal Commissioners shall hear and determine an appeal made to them under subsection (6) as if it were an appeal against an assessment to income tax and, subject to subsection (8), the provisions of the Income Tax Acts relating to such appeals and to the rehearing of such an appeal and to the statement of a case for the opinion of the High Court on a point of law shall apply accordingly with any necessary modifications.

(8)(a) On the hearing of an appeal made under subsection (6), the Appeal Commissioners may

(i) after consideration of –

(i) any evidence in relation to the matter submitted to them by or on behalf of the individual concerned and by or on behalf of the Revenue Commissioners, and

(ii) in relation to a work or works or a particular work, the work or works or the particular work, and

(ii) after such consultation (if any) as may seem to them to be necessary with such person or body of persons as in their opinion may be of assistance to them,

determine that the individual concerned has written, composed or executed, as the case may be, either solely or jointly with another individual –

(a) a work or works generally recognised as having cultural or artistic merit, or



(b) a particular work which has cultural or artistic merit,

and, where the Appeal Commissioners so determine, the individual shall be entitled to relief under subsection (3)(a) as if the determination had been made by the Revenue Commissioners under clause (I) or (II) of subsection (2)(a)(ii), as the case may be.

(9) For the purposes of the hearing or rehearing of an appeal made under subsection (6), the Revenue Commissioners may nominate any of their officers to act on their behalf.

(10) For the purposes of determining the amount of the profits or gains to be disregarded under this section for the purposes of the Income Tax Acts, the Revenue Commissioners may make such apportionment of receipts and expenses as may be necessary.

(11) Notwithstanding any exemption provided by this section, the provisions of the Income Tax Acts regarding the making by the individual of a return of his or her total income shall apply as if the exemption had not been authorised.

(12)(a) An Comhairle Ealaíon and the Minister for Arts, Heritage, Gaeltacht and the Islands shall, with the consent of the Minister for Finance, draw up guidelines for determining for the purposes of this section whether a work within a category specified in subsection (1) is an original and creative work and whether it has, or is generally recognised as having, cultural or artistic merit.

(b) Without prejudice to the generality of paragraph (a), a guideline under that paragraph may –

(i) consist of a specification of types or kinds of works that are not original and creative or that have not, or are not generally recognised as having, cultural or artistic merit, including a specification of works that are published, produced or sold for a specified purpose, and

(ii) specify criteria by reference to which the questions whether works are original or creative and whether they have, or are generally recognised as having, cultural or artistic merit are to be determined.

(13)(a) Where a claim for a determination under subsection (2) is made to the Revenue Commissioners, the Revenue Commissioners shall not determine that the work concerned is original and creative or has, or is generally recognised as having, cultural or artistic merit unless it complies with the guidelines under subsection (12) for the time being in force.



(b) Paragraph (a) shall, with any necessary modifications, apply to –

- (i) a determination by the Appeal Commissioners under subsection (8) on an appeal to them under subsection (6) in relation to a claim mentioned in paragraph (a), and*
 - (ii) a rehearing by a judge of the Circuit Court of an appeal mentioned in subparagraph (i) and, to the extent necessary, to the determination by the High Court of any question of law arising on such an appeal or rehearing and specified in the statement of a case for the opinion of the High Court, by the Appeal Commissioners or, as the case may be, a judge of the Circuit Court.*
- (14) Where a determination has been or is made under clause (I) or (II) of subsection (2)(a)(ii) in relation to a work or works of a person, subsection (3)(a) shall not apply to any other work of that person that is in the same category as such work or works and is or was first published, produced or sold on or after the 3rd day of May, 1994, unless that other work is one that complies with the guidelines under subsection (12) for the time being in force and would qualify to be determined by the Revenue Commissioners as an original or creative work and as having, or being generally recognised as having, cultural or artistic merit.*
- (15) On application to the Revenue Commissioners in that behalf by any person, the Revenue Commissioners shall supply the person free of charge with a copy of any guidelines under subsection (12) for the time being in force.*
- (16)(a) The Revenue Commissioners may publish, or cause to be published, the name of an individual who is the subject of a determination under subsection (2).*
- (b) Publication under paragraph (a) may, as appropriate, include the title or category of the work of an individual.”*



Appendix 2

Guideline drawn up under Section 195(2) of the Taxes Consolidation Act 1997 for the Artists Exemption Scheme by An Comhairle Ealaíon and the Minister for Arts, Heritage and the Gaeltacht.

Introduction

These Guidelines have been drawn up under the provisions of Section 195 of the Taxes Consolidation Act 1997 for the purposes of determining whether a work within a category specified in subsection (1) is an original and creative work and whether it has, or is generally recognised as having, cultural or artistic merit.

General

1. *Section 195(1) provides that a “work” for the purposes of the Section must be both an original and creative work in one of the following categories, namely:*
 - (a) a book or other writing,*
 - (b) a play,*
 - (c) a musical composition,*
 - (d) a painting or other like picture,*
 - (e) a sculpture.*
2. *To secure exemption under Section 195, a work must be determined by the Revenue Commissioners to be a work which is both original and creative and a work which has, or is generally recognised as having, either cultural or artistic merit.*
3. *In making a determination under Section 195, the Revenue Commissioners may, as provided for in that Section, consult with such person or body of persons as may, in their opinion, be of assistance to them.*

Original and Creative

4. *A work shall be regarded as original and creative only if it is a unique work of creative quality brought into existence by the exercise of its creator’s imagination.*



Cultural Merit

5. *A work shall be regarded as having cultural merit only if by reason of its quality of form and/or content it enhances to a significant degree one or more aspects of national or international culture.*

Artistic Merit

6. *A work shall be regarded as having artistic merit only if its quality of form and/or content enhances to a significant degree the canon of work in the relevant category.*

Criteria for Non-fiction Work

7. *(1) This paragraph specifies criteria, in accordance with subsection (12)(b)(ii) of Section 195, by reference to which the questions whether a work, being a nonfiction book or other non-fiction writing, is original and creative and whether it has, or is generally recognised as having, cultural or artistic merit are to be determined.*

(2) The criteria are:

(a) that the work, in the opinion of the Revenue Commissioners, following consultation with the Arts Council, is a work in one or more of the following categories:

(i) arts criticism,

(ii) arts history,

(iii) arts subject work, being a work the subject matter of which is, or is any combination of, visual arts, theatre, literature, music, dance, opera, film, circus or architecture,

(iv) artists' diaries,

(v) belles-lettres essays,

(vi) literary translation,

(vii) literary criticism,

(viii) literary history,

(ix) literary diaries,



that incorporates the author's unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it,

or

(b) that the work, in the opinion of the Revenue Commissioners, is a work in one of the following categories:

(i) a biography,

(ii) an autobiography,

that incorporates the author's unique insight into the subject matter and is regarded as a pioneering work and also makes a significant contribution to the subject matter by casting new light on the person or by changing the generally accepted understanding of the person,
or

(c) that the work, in the opinion of the Revenue Commissioners following consultation with the Heritage Council,

(i) is a work related to a function or functions of the Heritage Council as described in the Heritage Act 1995, and

(ii) incorporates the author's unique insight into the subject matter and is regarded as a pioneering work that makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it,

or

(d) that the work, in the opinion of the Revenue Commissioners, relates to archives which are more than 30 years old relating to Ireland or Irish people, is based largely on research from such archives, incorporates the author's unique insight into the subject matter, and is regarded as a pioneering work that makes a significant contribution to the subject matter by casting new light on it or by changing the generally accepted understanding of it, or

(e) any combination of (a), (b), (c) or (d) above.

Types of Works Excluded from the Artists Exemption Scheme.



8. *Notwithstanding anything else in these Guidelines, a work-*

(a) shall not be an original and creative work, and

(b) shall not have, or shall not be generally recognised as having, cultural or artistic merit if, in the opinion of the Revenue Commissioners following, where appropriate, consultation with the Arts Council, it is a work of any of the types or a combination of the types, specified in subparagraphs (i) to (vi) below –

(i) a book or other writing published primarily for, or which is or will be used primarily by-

(I) students pursuing a course of study, or

(II) persons engaged in any trade, business, profession, vocation or branch of learning as an aid to trade or business-related practice, or to professional, vocational or other practice in connection with a trade, business, profession, vocation or branch of learning,

(ii) any work of journalism, published in a newspaper, journal, magazine, or other similar medium or published on the internet or on any other similar medium,

(iii) any writing, visual or musical work, or other like work, created for advertising or publicity purposes,

(iv) any arrangement, adaptation or version of musical composition, or other like work, which is not of such musical significance as to amount to an original composition,

(v) types or kinds of photographic, drawing, painting or other like works which are primarily of record, or which primarily serve a utilitarian function, or which are created primarily for advertising, publicity, information, decorative or other similar purposes,

(vi) types or kinds of works of sculpture which primarily serve a utilitarian function.”

