AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

93TACD2026

Between

[redacted]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

Contents

Introduction

1. This appeal relates to a refusal by the Revenue Commissioners (from here on referred to as the "Respondent") of a claim for exemption from income tax pursuant to section 195 of the Taxes Consolidation Act 1997 (from here on referred to as the "TCA 1997") in accordance with the guidelines drawn up under that section by the Arts Council and the Minister for Culture, Heritage and the Gaeltacht (from here on referred to as the "Guidelines").

2. Section 195 of the TCA 1997 is entitled "Exemption of certain earnings of writers composers and artists" (from here on referred to as the "Artists' Exemption").

Background

3. On 27 May 2025, the Appellant submitted a claim to the Respondent for an Artists' Exemption pursuant to section 195 of the TCA 1997.

4. The submitted application was in relation to original and creative work as defined by section 195(1)(b) of the TCA 1997 under the category "*a play*" in relation to a script entitled "[redacted]" (from here on referred to as the "Work"). The script had been produced into an animation which aired on terrestrial television.

5. On 18 June 2025, the Respondent issued a decision refusing the Appellant's application for the Artists' Exemption on the basis that the Work did not meet the required criteria set out in the section 195 of the TCA 1997 or the Guidelines.

6. On 29 October 2025, the Appellant submitted a Notice of Appeal appealing the Respondent's decision of 18 June 2025.

7. On 9 February 2026, the Respondent sought the opinion of the Arts Council in relation to the eligibility of the Work for the Artists' Exemption scheme.

8. On 12 March 2026, the Arts Council replied to the Respondent stating that in its opinion the Work was not eligible for the Artists' Exemption scheme on the basis that the Work is a TV / film script and is not a play. It was, as a result, the opinion of the Arts Council that the Work does not fall within the provisions of section 195(1)(b) of the TCA 1997 and does not come within the provisions of paragraph 7 of the Guidelines. It was the opinion of the Arts Council that the Work was original and creative in compliance with paragraph 4 of the Guidelines but that, as it was a TV script, it did not come within the provisions of paragraphs 5, 6, 7 or 8 of the Guidelines.

9. A remote oral hearing of the appeal took place on 8 June 2026.

10. At the oral hearing, the Appellant confirmed that she wished for this appeal to be held in private. As a result, the publication of this determination shall be made in a way that, in so far as it is possible, does not reveal the identity of any person whose affairs were dealt with on a confidential basis during the proceedings concerned in compliance with section 949AO(4) of the TCA 1997.

Legislation and Guidelines

11. The legislation relevant to this appeal is contained at section 195 of the TCA 1997 which is set out in full at **Annex I** of this determination.

12. In considering this appeal, the Commissioner is obliged, in compliance with section 195(13)(b) of the TCA 1997 to have regard to the Guidelines for the time being in force under section 195(12) of the TCA 1997. In order to qualify for an Artists' Exemption the Work must satisfy the mandatory requirements of those Guidelines which are set out in full at **Annex II** of this determination.

13. Section 195 of the TCA 1997 exempts from income tax certain earnings of writers, composers and artists that would otherwise be chargeable to tax under Case II of Schedule D. The exemption relates to types of works, including "*a play*", by such persons that are both "*original and creative*" and of "*cultural or artistic merit*".

14. Paragraph 4 of the Guidelines provides that a work shall be classed 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."

15. Paragraph 5 of the Guidelines provides that a work shall be classed 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."

16. Paragraph 6 of the Guidelines provides that 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."

Submissions

Appellant

17. The following is a summary of the Appellant's submissions.

18. The Appellant submitted the following Grounds of Appeal in her Notice of Appeal:

> *"I am respectfully appealing the decision on my initial application for the Artist Exemption. The grounds for this appeal are based on the submission of substantive supplementary evidence that more comprehensively demonstrates the originality and artistic merit of my writing.*
>
> *This submission will include six new scripts written for a broadcast series on* [redacted] *that focuses on storytelling and creativity. While commissioned, these works exemplify the sustained application of my unique creative voice within a professional, high-standard production environment, which was not fully evident in the initial application. I am confident that this additional record of my creative output confirms my eligibility for the exemption."*

19. The Appellant submitted the following in section 3 of her Statement of Case entitled "*Outline of Relevant Facts*":

> *"I am respectfully appealing the decision on my initial application for the Artist Exemption. The grounds for this appeal are based on the submission of substantive supplementary evidence that more comprehensively demonstrates the originality and artistic merit of my writing.*
>
> *This submission included six new scripts written for a broadcast series on* [redacted] *that focuses on storytelling and creativity, which I have attached again for your perusal. While commissioned, these works exemplify the sustained application of my unique creative voice within a professional, high-standard production environment, which was not fully evident in the initial application. I am confident that this additional record of my creative output confirms my eligibility for the exemption."*

20. Along with a copy of the Work, the Appellant submitted copies of other works which she has created as examples of her work. These works were not the subject of this appeal and the Respondent, in answer to a query from the Appellant, confirmed that it is possible for her to submit claims for the Artists' Exemption in relation to those works which will be considered by the Respondent.

21. At the oral hearing the Appellant submitted that the Work comes within the category of "*a play*" which is creative and original and which has, or is generally recognised as having, cultural or artistic merit.

22. The Appellant stated that, whilst the completed animation relies heavily on a music composition which was created by a third party composer, the completed animation reflects the intention of her script which is to encourage children who feel they do not fit in at school to follow their own paths.

23. The Appellant stated that she is a full time script writer, having been [redacted] for over 15 years. She submitted that, since completion of the Work, she has completed a number of other similar projects

Respondent

24. It is the Respondent's position that, having reviewed the application and additional information received from the Appellant, it was not satisfied that the Work came within the provisions of section 195(1)(b) of the TCA 1997 "*a play*" and that it had determined that the works came within the provisions of paragraph 8(v) of the Guidelines.

25. It was the opinion of the Respondent that the Work was a set of camera directions and a description of each shot and that it was not a play.

Material Facts

26. The following material facts are not in dispute between the parties and the Commissioner makes the following findings of material fact in this appeal:

    26.1. On 30 November 2024, the Appellant submitted a claim to the Respondent for an Artists' Exemption pursuant to section 195 of the TCA 1997.

    26.2. The submitted application was in relation to original and creative work as defined by section 195(1)(b) of the TCA 1997 under the category "*a play*" in relation to the Work.

    26.3. The Work is a script for an animated television programme which contains animation directions and scene descriptions along with dialogue, which said dialogue was not used in the completed animated programme.

    26.4. On 18 June 2025, the Respondent issued a decision refusing the Appellant's application for the Artists' Exemption on the basis that the Work did not meet the required criteria set out in section 195 of the TCA 1997 or the Guidelines.

26.5. On 29 October 2025, the Appellant submitted a Notice of Appeal appealing the Respondent's decision of 18 June 2025.

26.6. On 9 February 2026, the Respondent sought the opinion of the Arts Council in relation to the eligibility of the Work for the Artists' Exemption scheme.

26.7. On 12 March 2026, the Arts Council replied to the Respondent stating that in its opinion the Work was not eligible for the Artists' Exemption scheme on the basis that the Work is a TV / film script and is not a play and as a result does not fall within the provisions of section 195(1)(b) of the TCA 1997 and does not come within the provisions of paragraph 7 of the Guidelines. It was the opinion of the Arts Council that the Work was original and creative in compliance with paragraph 4 of the Guidelines but that, as it was a TV script, it did not come within the provisions of paragraphs 5, 6, 7 or 8 of the Guidelines.

Analysis

27. In circumstances where the Appellant is seeking to avail of an exemption from tax, the principle enunciated by the Supreme Court in *Revenue Commissioners v Doorley* [1933] IR 750 (from here on referred to as "*Doorley*") must be considered. The Commissioner has had regard to the dictum of Kennedy CJ at page 766, wherein he stated that:

> "*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, except 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.*"

28. 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 (from here on referred to as "*Coleman*") 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.*"

29. As a result, the Commissioner must apply the provisions of section 195 of the TCA 1997 in this appeal.

30. Section 195(13)(a) of the TCA 1997 states that, where an application for a determination is submitted, the Respondent shall not make a determination in respect of a work unless it complies with the Guidelines. This also applies to the Commissioner as set out in section 195(13)(b)(i) of the TCA 1997.

31. The Commissioner has read the Work and notes that it contains many animation directions and scene descriptions which said matters comprise the vast majority of the work. The Commissioner has also had the opportunity to view the completed television programme which aired on terrestrial television. The Commissioner notes that the programme is an animated work which, by the Appellant's own submission at the oral hearing, relies heavily on music which was composed by a third party. Dialogue does not form part of the completed animation.

32. Having considered the submissions received, both written and oral, having viewed the completed television programme and having considered the opinion of the Arts Council dated 12 March 2026, the Commissioner considers that it would not be appropriate to describe the Work as a play. A play is defined in the Cambridge English Dictionary as being "*a piece of writing that is intended to be acted in a theatre or on radio or television*".

33. The Commissioner is satisfied that the Work is a television / animation script which contains animation directions and scene descriptions which said matters comprise the vast majority of the Work. The Work, as submitted, is a set of directions and scene descriptions with limited dialogue, which said dialogue was not included in the completed animation. Applying the judgments in *Doorley* and *Coleman*, it is not open to the Commissioner to expand the scope of section 195(1)(b) of the TCA 1997 to incorporate television / animation scripts which contain animation directions and scene descriptions which said matters comprise the vast majority of the work into the meaning of "*a play*". To do so would, in the opinion of the Commission, expand the scope of section 195(1)(b) of the TCA 1997.

34. As a result, the Commissioner considers that the Work does not fall within the provisions of section 195(1)(b) of the TCA 1997 and is not "*a play*" within the meaning of section 195(1)(b) of the TCA 1997.

35. As the Work does not fall within the provisions of section 195(1)(b) of the TCA 1997, the Commissioner considers that the Respondent was correct in its decision of 18 June 2025 refusing the Appellant application for the Artists' Exemption in relation to the Work.

Determination

36. For the reasons set out above, the Commissioner determines that the Appellant in this appeal has not succeeded in showing that she is entitled to the Artists' Exemption pursuant to section 195 of the TCA 1997. The Appellant has, therefore, not succeeded in her appeal.

37. It is understandable that the Appellant will be disappointed with the outcome of her appeal.

38. The Commissioner wishes to emphasise that the outcome of this appeal in no way reflects on the quality of the Appellant's works or the skills required to produce the Work.

39. The Appellant was correct to check to see whether her legal rights were correctly applied.

40. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

41. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

42. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Clare O'Driscoll
Appeal Commissioner
22 June 2026

Annex I

Section 195 of the TCA 1997:

“(1)In this section—

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;

“EEA state” means a state which is a contracting party to the EEA Agreement;

“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, or in the United Kingdom, and not resident elsewhere, or

(II) ordinarily resident and domiciled in one or more Member States, or in an other EEA state, or in the United Kingdom, 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 €50,000 for the year of assessment 2015 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.

(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 or 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.

(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 determination by the High Court under section 949AR.

(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."

Annex II

"Guidelines drawn up under Section 195 (12) 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 practise 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.

The above Guidelines were drawn up by An Comhairle Ealaíon and the Minister of Arts Heritage and the Gaeltacht, with the consent of the Minister for Finance, in accordance with section 195(12) of the Taxes Consolidation Act 1997 and are effective for all determinations made by the Revenue Commissioners on or after 30 November 2013."