

## TAX & MUSICIANS

The following is a guide on how to approach numbers for music business and how to help you help yourself when it comes to running your own business.

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Aside from what is covered in this guide, there are a wealth of articles on the Generate [blog](#) and loads of useful information on the ATO [website](#). Failing that, give your accountant a call!

### 1. YOUR SITUATION

As musicians find themselves in such a wide variety of situations from playing backrooms for beers (common) to touring the world with Radiohead (uncommon), giving general advice is quite difficult. However, in this guide we've attempted to cover a variety of situations and give you some basic information with which to arm yourself.

#### General points

- Bank account. When starting a new business (regardless of the structure), it is important to establish a new bank account for this business. Use this account for all business transactions and only business transactions. This is beneficial because it keeps record keeping simple with only one source of information required. It also helps you to keep track of how the business is going.
- Private health insurance. If you don't have private hospital cover then you might be liable for an extra tax in the form of the Medicare Levy Surcharge. This can add up to an extra 2% in tax each year. Check the [ATO website](#) to review the current threshold.
- Centrelink. If you're on benefits and your situation changes, you must let Centrelink know otherwise you may not only be liable to repay the benefits, but you may also incur penalties and interest charges.

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## SOUND ADVICE

- Advice. It is important to get professional advice once things get going. This means speaking with a lawyer and an accountant - both with music industry experience. Ask people you trust for referrals and don't leave it too late and always get advice before signing anything.
- Contracts. Try to ensure that all contracts include the right to novate your services and creative rights and the right to audit/review. Speak to your lawyer about this. Asking the right questions on day one could save you loads in later years.
- Less is more. Don't feel the need to establish a company when you're only turning over a few thousand dollars a year. Talk to an accountant about a structure that suits your current needs and has room to grow, but isn't overly complicated and expensive to establish and maintain. Also remember to run any structuring decisions by your lawyer.

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## 2. STRUCTURES

A 'structure' refers to the type of entity that you operate your business through. There are a few different options available, each with their own strengths and weaknesses. What follows is a very basic run through of the common structures used by musicians. And remember, always get advice from your lawyer and accountant before setting up any structure.

### SOLE TRADER

#### What is a sole trader?

A person who wishes to start a music business can simply trade under their own name. All income and expenses for the music business will go in the 'Net income or loss from business' section in your individual tax return.

#### Set up procedure

- Appoint a lawyer and accountant
- Register for an ABN
- Register for GST (if you turnover more than \$75,000 a year)
- Register for PAYGW (if you will have employees)
- Register a business name with ASIC (if required)
- Get a bookkeeping system in place
- Get the relevant insurances in place

#### Advantages

- Simple
- Minimal compliance
- Lower maintenance costs
- Capital gains tax discount is available
- Total control of assets
- Minimal setup costs

#### Disadvantages

- No asset protection – individual person is liable
- Not able to take out workers compensation insurance to cover yourself
- The structure has limited life as on the death of the individual the business and assets must change hands
- Taxed at your marginal rates (i.e. 0% through to 47%)
- Inflexible tax planning
- Restrictions on superannuation contributions

#### General comments

This type of structure is suited for someone with little or no assets and is just starting out in a solo business with little turnover.

The income tax is either paid at the end of the year after lodgement of the tax return or paid through an Instalment Activity Statement (IAS) during the year with an adjustment at the end.

Tax is paid on net (taxable) profit, not what you draw out of the business.

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## PARTNERSHIP

### What is a partnership?

Two or more people can enter into an agreement (either verbally or under written contract) to carry on a business and share in the risks and profits. This is a typical structure for a band just starting out. Note that even without a written agreement in place, when people come together to 'earn income jointly' the tax law says that a partnership is in place.

### Set up procedure

- Appoint a lawyer and accountant
- Register partnership for TFN
- Register partnership for ABN
- Register for GST (if you turnover more than \$75,000 a year)
- Register for PAYGW (if you will have employees – note the partners are not employees)
- Register business name with ASIC (if required)
- Putting a partnership agreement in place is recommended
- Get a bookkeeping system in place
- Get the relevant insurances in place

### Advantages

- Reasonably simple
- Minimal compliance
- Low – medium maintenance costs
- Minimises workers compensation and superannuation requirements of band members
- Net profits/losses pass through to partners to return in their tax return

### Disadvantages

- No asset protection – partners are each jointly and severally liable
- Not able to take out workers compensation insurance to cover the partners
- Partnership splits income at the same ratio each year per the partnership agreement
- Limited tax planning available
- If a partner joins or leaves it may mean the end of the old partnership and the start of a new one

### General comments

This type of structure is suited when two or more people enter into an agreement to run a business.

Profits are split equally unless specified otherwise in a valid partnership agreement.

Income tax is paid by the individual partner when they do their personal tax return and not paid by the partnership itself.

The partners take drawings as opposed to wages like from a company, but these drawings are not considered a deduction to the partnership, they are merely an advance on net profits.

As each partner is jointly and severally liable for the debts of the partnership, the partners should be mindful of personal asset protection.

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## COMPANY

### What is a company?

A company is a separate, legal entity. It is managed by the officers (directors) and is owned by the members (shareholders). The shareholders liability is limited to any amounts that may be unpaid for their shares. The liability of directors can be quite broad and may include unpaid superannuation and PAYGW for employees (including the directors themselves), unpaid GST, as well as debts incurred if the business was trading whilst insolvent (i.e. unable to pay debts when due).

### Set up procedure

- Appoint a lawyer and accountant
- Establish a new company
- Register company for TFN and ABN
- Register for GST (if you turnover more than \$75,000 a year)
- Register for PAYGW
- Putting a shareholders agreement in place is recommended if there is more than one person involved
- Get a bookkeeping system in place
- Get the relevant insurances in place

### Advantages

- Limited liability
- Corporate tax rate lower than the top individual marginal rate (25% vs 47%)
- Flexible in distribution of income, though note the restrictions on Personal Services Income
- Tax paid by company is credited to shareholders when profits are paid out via dividends
- Superannuation contributions deductible

### Disadvantages

- Cost of establishing and maintaining is higher
- Director's potential liability in case of unpaid debts, negligence or insolvent trading
- Compulsory workers compensation and superannuation on wages drawn
- Losses cannot be distributed to shareholders
- More compliance issues – accounting standards, ATO and ASIC
- No capital gains discount available

### General comments

This is a popular structure and a natural progression for people running a business where there are third party contractual arrangements including employees.

The structure provides asset protection and allows for effective tax planning, but has strong, and sometimes complex, compliance issues. One such issue is the Personal Services Income (PSI) legislation which seeks to limit the tax benefits of a company for people who earn their income as a result of their labour (e.g. musicians).

It is important not to set up a company without fully understanding the responsibilities that come with being a director. Common issues include not paying employees superannuation on time and failing to meet lodgement obligations with the ATO or ASIC.

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## TRUST

### What is a trust?

A trust\* is a relationship between a person (called the trustee) and another person (called the beneficiary) in which the trustee holds property (called the trust property or trust fund) for the benefit of the beneficiary. There can be more than one trustee and there are often many beneficiaries. Key to note is the separation of legal ownership, which resides with the trustee, and beneficial (or equitable) ownership, which resides with the beneficiaries. If the legal owner becomes the beneficial owner, the trust will cease to exist. In plain English? A trust is an entity that can conduct a business and hold onto assets on behalf of someone. The trust isn't a legal entity as such so it needs someone or something to act on its behalf much the same as how an underage child can't enter into legal contracts on their own. This person who acts on behalf of the trust is known as the trustee and is typically an individual or a non-trading company.

### Set up procedure

- Appoint a lawyer and accountant
- If using a corporate trustee – a company is incorporated to handle the trustee role
- A trust deed is organised, signed off, and stamped at the relevant state revenue office
- A settlor (typically an accountant or lawyer) pays the settlement sum to establish the trust
- Register ABN and TFN
- Register for GST and PAYGW
- Putting a legal agreement in place is recommended if there is more than one person involved
- Get a bookkeeping system in place
- Get the relevant insurances in place

### Advantages

- With a corporate trustee – limited liability
- Asset protection – legal title separated from beneficial interest
- Flexibility in distribution of income, though note restrictions, in particular on Personal Services Income
- Distributions from trust do not attract workers compensation and superannuation requirements
- Capital gains tax concessions flow through to beneficiaries
- Can distribute to a company utilising the company tax rate (restrictions apply)

### Disadvantages

- Cost of maintenance
- Constantly changing legislation
- Tax is paid at the beneficiary's level hence possibly losing the 25% company rate
- Loses the land tax threshold if it owns property
- Must distribute profits each year, cannot retain anything (failing to do so attracts top tax rate)

### General comments

Most businesses that use a discretionary trust are after asset protection and require the flexibility of distributing to various different entities for the tax effective flow of income and related tax.

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Assets are often accumulated in a discretionary trust so as to keep these assets separate from the trading company that deals with the clients or customers. In the case of musicians, copyright is sometimes assigned to a trust and a separate company is used for touring.

In the case of musicians, certain rights can sometimes be assigned and please note that trusts are complicated structures and should be approached with caution. They are not typically recommended for bands to trade through when there is more than one member with an equity interest in the band. As always, seek professional advice. If you can't afford the advice, you can't afford the structure.

\*Note: This summary is referring to a discretionary trust. For information on unit, fixed or hybrid trusts, please contact an accountant.

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## 3. REGISTRATIONS

When you start a business you are required to register your intentions with a few different government bodies. This is a very simple and straightforward procedure, but it is important it gets done right at the beginning. You can now do most of it through a single registration service as per below.

### Business Registration Service

- TFN (Tax File Number). Most people will have one of these already. It's your primary identification number with the tax department. In addition to individuals, all entities that lodge tax returns must have one and this can include partnerships, trusts, and companies.
- ABN (Australian Business Number). This is the number issued to all entities carrying on a business in its own name. This covers sole traders (individuals), partnerships, trusts, companies, etc. This number needs to be shown on the invoices that you issue. Avoid the common mistake of unintentionally registering for GST when applying for an ABN. Note that people under 18 are unable to register for an ABN. Also note that if music is just a hobby for you then you don't need an ABN.
- GST (Goods & Services Tax). If your business has a turnover in excess of \$75,000 you must be registered for GST. This means you will need to charge GST on your invoices and lodge a quarterly Business Activity Statement (BAS) to report the GST you have collected/charged and the GST you have paid – you then have to return the net difference to the ATO. See section 5 for more information.
- PAYG Withholding. This is the tax withheld on wages paid to employees. If you employ people in your business you generally need to withhold tax on their behalf and return it to the ATO periodically. Typically this forms part of your quarterly Business Activity Statement (BAS) reporting. Note that if you employ people you will need to make superannuation contributions on their behalf to the value of 11% (2024FY rate) of their gross wage. These contributions need to be made quarterly. Note that superannuation requirements often extend to contractors.

### Australian Securities & Investments Commission (ASIC) (or Business Registration Service)

- Business Name (previously known as Trading Name). If you have a unique business name you wish to register you must do it with the ASIC. For a small fee they will register a business name to a particular entity (that might be an individual, trust, company, etc.). This registration lasts for either one or three years after which time you will need to renew the name in order to keep it. It isn't compulsory to register a business name, but it does protect your name from someone else coming in and trading with it. Note: A business name is different to a trademark. See your lawyer if you have any questions regarding trademarks. Also note that if you set up a company with the name you wish to trade under you don't need to register a separate business name.

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## APRA

- Once you've written a song, it's really important to register it with APRA. This will ensure that the writer/s can get paid when the song starts getting some public airing. If you have co-writers, you will need to discuss who gets what % of each track and then submit this to APRA.
- You'll need an ABN when you register a track with APRA. It isn't compulsory, but if you don't do it and you earn more than \$500 in royalties in a year then they will withhold tax at 47% from any royalty payments. You can get this back as a tax credit when you do your tax return, but it is definitely better to just provide them with the ABN and avoid the hassle.
- If you are registered for GST, you must let APRA know so they can pay you properly.
- APRA royalties must be registered to an individual. While you can direct APRA to pay the royalties wherever you like this doesn't change who is actually earning the royalty income and who will be liable for the tax on them. This can cause headaches when it comes to tax planning. While it's great to get a fat royalty cheque, the tax bill that follows shortly after isn't so desirable. Be sure to keep in mind that any APRA income doesn't come taxed (with the exception of foreign royalties – see section 11) so be sure to keep a little bit aside for tax time.

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## 4. RECORD KEEPING

The importance of good record keeping cannot be understated. It's the difference between a painless (and relatively cheap) tax experience each year and a horrible pain-filled experience for both you and your accountant.

The record keeping requirements will vary depending on your structure and your business.

Substantiation refers to the ability to 'back up' your income and expense claims. A summary (e.g. Excel, Xero, etc.) is great when it comes to preparing financial statements and income tax returns, but the original invoices and proof of payment (e.g. bank statement) are still required for the claim to be allowed and should be kept for a period of 5 years after lodgement of the relevant tax return in case of tax department audit. There are some great apps available to help you keep copies of your receipts – ask your accountant about it.

### Simple business

Would be suitable for a sole trader (eg. part-time DJ, or session musician).

Excel spreadsheet detailing all income and expenses with the following info:

- Date of invoice
- Description of invoice
- Category of income or expense
- Amount (if GST registered you will need to show gross, net, and GST amounts)

### Slightly more complicated

Now, generally people who create amazing music do not create amazing financial records. It's for this reason that it's probably best to hire someone to keep records for you. Bookkeepers don't just keep track of your income and expenses and maintain it all in a neat and tidy format, they can also prepare and lodge your quarterly Business Activity Statement, maintain your payroll and liaise with your accountant. Most people in business agree – a good bookkeeper is money very well spent.

A step up from a bookkeeper would be to engage a business manager. Not as common here in Australia as they are overseas, a business manager does everything the bookkeeper does but can also manage accounts payable, tour budgets and reconciliations, forecasts and reporting, and more. You may want to look into this as you grow.

### Other things to know

#### Travel

Fact: Most musicians travel for work.

Fact: Most musicians keep terrible records whilst on the road.

There are great apps for keeping track of your receipts which can be handy for sole traders and for those in a partnership.

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If you are considered an employee of your music business, the ATO allows a rate per day deduction and these rates can be quite generous, but to be eligible you must keep a travel diary – in fact it's advisable for anyone doing any work-related travel to keep a solid travel diary.

A proper diary will include the following information:

- Dates
- Location
- Reason for being in that location on that day (eg. meetings, rehearsals, gig, travel day, etc.)

## Motor vehicle

There are two methods the ATO allows for claiming motor vehicle deductions:

- Set rate per km – This is the simplest method. Allows claims up to 5,000km without document substantiation using a cents-per-km travel rate established by the ATO.
- Log book – A log book is kept for a continuous period of 12 weeks and is valid for a period of 5 years. The log book documents all travel in the vehicle in question and at the end you'll have a business-use percentage. This percentage is then applied to all motor vehicle expenses to see what is deductible and what is not. For this reason it makes sense to create the log book during a period when you are doing a lot of work-related driving.
- Another point to note with motor vehicles is that vehicles considered commercial in nature are generally 100% deductible and don't require a log book to be kept. Commercial vehicles include those with a carrying capacity of one tonne or more and those that seat 9 or more passengers.

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## 5. GOODS & SERVICES TAX (AKA GST)

GST has been with us for more than 20 years now but still causes plenty of confusion and headaches. Please read on to get an understanding of the basics and if you've still got questions, check the ATO website or speak with an accountant.

Your business is required to be registered for GST if the turnover is \$75,000 or more.

If you are registered for GST you are required to report your sales/expenses and the associated GST that you've collected/paid each quarter on your Business Activity Statement (BAS). The BAS is relatively simple to complete and your accountant will generally reconcile what was lodged on the BAS during the year when they do the year end tax work to ensure it's been done correctly. If you've collected more GST than you've paid then you'll need to pay the net amount to the ATO when you lodge the quarterly BAS. This is the typical situation for businesses turning a profit. If you're running at a loss, or if you've just bought a large new asset such as a car, then you might have actually paid more GST than you've collected and will be due a refund from the ATO for that particular quarter.

The key thing to note as a business registered for GST is that it doesn't cost you anything (aside from paperwork related headaches and possibly extra bookkeeping/accounting fees). In fact, it can actually be of benefit. How so? Example:

- Say you are not registered for GST and you play a gig for \$1,000 and you then have venue costs of \$550 (that's \$500 plus GST as the venue is registered for GST and is obligated to charge it). You walk away with \$450.
- Now, if you were registered you would have charged \$1,100 for the gig (being your fee of \$1,000 plus the 10% GST of \$100). Your expenses are still \$550 (including GST). You have net cash in your pocket of \$550. However, this is before you do your BAS for the quarter. On the BAS you put down the \$100 you charged in GST and you put the \$50 you paid in GST. This means you will have to pay the ATO \$50 as this is the net difference in collected vs paid. After this is paid you walk away with \$500. That's \$50 more than if you weren't registered for GST.
- Why are you getting more? Simple – if you're registered you can get a refund/credit for the GST you are paying to suppliers, but if you aren't registered you can't.

So, to summarise, the person in the supply chain who isn't GST registered is considered the 'end user' of a product/service and it is them who actually pays the tax. If you are registered, you're merely a collection point passing things along, it doesn't actually cost you anything.

If you need to be registered for GST it is strongly recommended that you have a computerised record keeping system in use – either by yourself or a bookkeeper – such as Xero. This keeps everything neat and tidy and means preparing the quarterly BAS is very quick and easy. It also makes the year end tax work much simpler. The person doing the bookkeeping needs to have been trained in the relevant software – a messy file can sometimes be worse than no file at all. Note: The above refers only to quarterly BAS reporting as this is the most common type of reporting for musicians in business. It is possible to be registered for annual reporting if your turnover is quite low. Likewise, it is possible to be registered for monthly GST reporting if the business turnover is quite high.

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## 6. THE TAX DEPARTMENT LIKES... YOU?

Believe it or not, the ATO understands that the music business can be tough and unpredictable. In light of this they offer some concessions to assist you along the way. There are also some general small business concessions available.

### Special Professional Income Averaging Offset

The ATO acknowledges that artist income can vary quite significantly from year to year and this offset helps to stop you paying no tax in one year and then excessive tax the next. The actual calculation is quite complex, but essentially it takes the last 4 years of artist income, averages it, then compares current year artist income to that average. If you've earned more than the average then you get a discount on your tax. So if you have steady years the offset doesn't have much of an effect, but if you have quiet years and then good years you will see significant savings.

### Non-Commercial Losses

Typically losses generated by an individual or partnership in business where the gross income (income before deductions) is under \$20,000 are not tax deductible. This means that the losses will be 'quarantined' and carried forward to be used in future years when the business generates profits. However, there are ways around this.

Assuming you earn less than \$40,000 from other sources (eg. working at a pub, reception work, etc.) and the loss has been generated by a Professional Arts Business (as is the case for a musician) then you can claim the loss as a deduction in the year you incur it.

Why care? Typically in the early years you'll be making losses in your music business and working another job to pay the bills. This other job typically has PAYG tax being withheld by your employer and the ATO. If you can claim the loss from your music business it works as a deduction against this other job and you might be able to get a tax refund or at least reduce any tax payable.

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## 7. SUPERANNUATION FOR CONTRACTORS

Does your business pay people? Then you need to pay attention here. This is an important issue that causes much confusion.

Employees need to have superannuation paid on their behalf at 11% (2024FY rate) of their wages and contractors don't get any super. Right? Wrong.

Just because someone says they are a contractor (e.g. they issue invoices with their ABN) doesn't mean the law will also consider them to be a contractor. If they are actually considered to be an employee under the relevant law then the person paying them (the 'employer') will be expected to make a superannuation contribution on their behalf.

Note that this is the employer's obligation and not that of the employee/contractor. The employee/contractor cannot collect the money under the promise of paying the superannuation contribution themselves.

Some indicators that will assist in determining if the contractor is an employee or not include:

- Control - can the contractor determine how and when they do the work?
- Ability to delegate - can they send someone in their stead?
- Being paid to achieve a result (e.g. fix the mixing desk) rather than to perform a duty (e.g. operate the mixing desk).

If you are paying people you need to be 100% sure of your superannuation obligations. If in doubt, ask your accountant or check in with the ATO, they have a handy decision making tool and we recommend using it everytime you engage a contractor and saving a copy just in case payments you make to the contractor are ever reviewed by the ATO.

**We developed this [flowchart](#) you can use to see if you should be paying (or getting paid) superannuation. As with above, we recommend checking every time you engage a contractor.**

The government doesn't want to, nor can afford to, fund everyone in retirement and for that reason they take employer superannuation obligations seriously. They are increasingly auditing small businesses and they tend to win.

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## 8. I'M WITH THE BAND

If you've started a band then there are a few financial things you need to be aware of right from the start:

- Buying equipment. Is the band buying the equipment or is the individual? Generally it makes more sense for the individual to own their equipment and not the band. This means the expense/depreciation claim is made by the individual. This helps to reduce arguments about what the band can afford (new drums vs PA vs guitar vs microphone) and makes it simpler if someone leaves the band.
- APRA splits. As soon as a song is finished the writing splits need to be decided upon and registered with APRA. This will determine who gets what % of the royalties for a particular track. Note that APRA royalties are paid direct to the individual and are taxable in the individual's name – they cannot be run through a trust/company etc for tax purposes. See section 3 for more information.
- Band agreements are very important. They cover things like:
  - Exit procedures – what happens when someone wants out? (voluntary or forced)
  - Entry procedures – what happens when you add a new member?
  - Costs – who pays what? What is a band expense and what is an individual expense?
  - Name – who owns the band name? What happens if that person wants to leave?
- Management agreement. It is important to get the management agreement between the band and management in writing and signed off. This is crucial in case of a relationship breakdown or 'creative differences' and also in identifying upfront what costs are to be covered by the manager and what costs they can get reimbursed by the band. It should also cover what types of income commission are payable and whether the commission is calculated on gross or net income. It should also cover what management is and isn't responsible for.
- EMDG (Export Market Development Grant). Spending money travelling overseas to promote your sound? You might be eligible to get some cash back from the government in the form of an EMDG grant.
- Other grants? There are many organisations that offer grants and support to musicians. Some places to start looking include:
  - Creative Australia / Music Australia
  - MusicNSW (or the equivalent in your state/territory)
  - Ministry for the Arts
  - [www.business.gov.au](http://www.business.gov.au) for general small business grants

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## 9. TYPICAL INCOME & DEDUCTIONS

### Income

- Advances and royalties – publishing, recording etc.
- Live performance – tours, in-store, televised (guest appearances) etc.
- Sync licensing
- Merchandise
- CD/vinyl sales at gigs or online
- Grants
- Equipment sponsorships (that guitar you were given is likely to mean taxable income for you)

### Deductions

- Assets
  - Generally those under the SBE threshold are deductible in the year of purchase. This threshold changes from year to year and is currently \$20,000 (2024FY). We recommend checking with the ATO.
  - Those over the SBE threshold will need to be depreciated over a number of years.
- Costumes. Note that this is for costuming only. Just because you wore those black jeans at a gig doesn't mean it is deductible. It needs to be show/stage specific.
- Education. Music courses, singing lessons, small business courses, etc.
- General business expenses
  - Bank charges
  - Accounting fees
  - Legal fees (not all are deductible upfront and some are not deductible at all – ask your accountant)
  - Bookkeeping fees
  - Donations
  - Phone and internet\*
  - Domestic ground transport – taxis, public transport, parking, tolls, etc.
  - Stationery & postage
- Insurance
  - Workers compensation
  - Income protection
  - Public liability
  - Equipment
- Management commission
- Meetings. Catering a business meeting at your place of business is deductible, but going out to a café/restaurant is not. Whilst covering the tab after a gig might be seen as the manager's duty, it isn't a tax deductible one.
- Motor vehicle. It is generally a good idea to keep all receipts in relation to your motor vehicle in addition to a valid log book. This gives the greatest flexibility when deciding on what is deductible (see Section 4)
- Promotion. Advertising, branding, giveaways, CDs, online presence (incl. website), etc.

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- Recording costs. Studio hire, producers, engineers, etc.
- Reference materials. Anything you may use as a reference point in your artistic work. Might include concert tickets, CDs, records, DVDs, magazines, books, pay TV, theatre tickets, etc. Note there needs to be a direct connection to the work you're producing.
- Rent
  - Home. If you're renting your home then you might be able to claim a percentage of your rent and utilities. The percentage is based on the floor space and how much is dedicated to your music business. A sketch of the floor plan will help here.
  - Studio. This might be a permanent setup you've got or just a weekend at Studios 301
- Storage for your equipment
- Tour costs
  - Flights, accommodation, visas, meals and incidentals whilst away from home, etc.
  - Musicians, lighting, sound techs, guitar techs, FOH, tour manager, door person, etc.
  - Advertising, venue hire, insurance, merchandise, etc.
  - Car hire, drivers, petrol, freight costs, backline hire, etc.
  - Agent commission

\* % will need to be taken out for personal use

## Notes:

- Be aware there is a difference between a business expense and a tax deduction. Just because something is an expense of the business, doesn't mean the tax department will allow you to claim a tax deduction for it. A good example of this is buying drinks at gigs.
- A general rule for claiming deductions is that there needs to be a direct 'nexus' between the expense and the income received. Going overseas to check out other bands doesn't directly link to income earned, but travelling for a tour does. Once that 'nexus' is established the expense will generally be deductible unless there is a specific provision forbidding it (e.g. entertainment).
- Everyone talks gross, but you really need to know about the net. Be aware that a \$100,000 tour deal, after commissions, insurance, venues, travel costs, sound, lighting, crew, etc. might become a \$1,000 deal (or even a loss) in the blink of an eye. Being aware of the true costs involved in your business will help you to run your business more effectively.
- Put money aside for tax (both GST and income tax). Set up a separate savings account and put the GST you receive on income as well as a reasonable percentage of your gross income into this savings account so that when it comes time to pay your quarterly BAS or your annual income tax bill you'll have the money set aside.
- Most people get into music because they love it, but you should always remember that it's the music business. You have a much greater chance at longevity and success if you are business aware.

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## 10. INTERNATIONAL ISSUES – WE'RE HUGE IN JAPAN!

Making and spending money overseas most definitely has an impact on your Australian tax and it can be quite a complex area. Here is a rough overview of the basics you should know, but as always, please seek professional advice.

### Income

Typically band income earned overseas comes in two types – royalties (passive income) and performance income (active income). Here are a few things you should be aware of when earning international income.

- Withholding tax. Most foreign income will have a certain amount held back by whoever is paying you (venue, promoter, label) and returned to their local tax authority. This means you only receive in cash the net amount. Typically this will be a flat % rate. This amount that is withheld can then be used as a tax credit when doing your tax back here in Australia.
  - Example: You do shows in Canada and your fee is AU\$100,000 (ignoring costs for now) and the agent advises you they will be withholding 30%. This means you walk away with \$70,000. Now, when you do your Australian tax return you will actually show that you earned \$100,000, because that was your gross fee, but you will also get to put in your tax return that you've already paid \$30,000 in tax on this amount.
  - It's important to note that you cannot get excess foreign withholding tax credits refunded in Australia, nor can you use them to pay tax on Australian profits. What does this mean? If the foreign tour doesn't go so well and you make a loss then you cannot use the tax credits here in Australia – you'll need to lodge a foreign tax return in the relevant country to get those credits refunded.
  - To help with cash flow you will generally try to minimise any withholding tax – before going overseas, talk to your manager, agent and accountant about ways to do this. There are forms that can be completed to mitigate withholding requirements. In the US they are called Central Withholding Agreements, or CWAs.
- Double Taxation Agreements (DTA). These are agreements that our government has with other governments around the world to cap the withholding amounts (as explained in the above example). So you might be eligible to pay less withholding tax upfront depending on what country is paying you. That said, they don't apply automatically, you may need to complete forms to access the reduced rates of withholding.
- Entertainers. Please note that there are special rules regarding income earned in foreign countries by entertainers which you need to be aware of before heading off to perform overseas.
- Foreign income tax returns. You may be required to lodge a tax return in the foreign country you are performing in and in some cases this might prove to be beneficial. In the above example you may be able to get the foreign withholding credit refunded if the tour made a loss – this is important because otherwise the credits may have been lost here in Australia. Always get specific advice – we've heard stories of the IRS (US tax department) chasing down bands who merely played a free showcase gig at SXSW because they didn't lodge a US tax return and whilst they didn't earn any money the IRS considered them to be carrying on a business in the States and therefore required to file a return.

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## Expenses

- Just like any expenses (as explained in Section 9) if the costs are directly connected with earning income then you will most likely be able to claim them as a deduction. The tax laws don't really differentiate between domestic and international expenditure. As with any expenses make sure you keep good records.
- Promoting your work overseas and doing showcases? Keep very good records as you may be eligible for an EMDG (see above in Section 8).

## Other issues

- Some promoters (I'm looking at you, United States) like you to have a locally incorporated entity (a company) to tour with. This way they don't have to deal with a foreign entity when they tour foreign artists. This is fairly common. However, don't let them bully you into anything. Having one of these companies can be expensive – both to establish and maintain – and are usually only worthwhile if you tour that country a lot. There are accounting firms in these countries that offer the use of their own companies to provide this service which keeps the promoters happy and it minimises your costs. Talk to your manager or accountant about this.

## Final point to note

With all international tax issues it is best to speak to a professional advisor as it gets complicated quickly.

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## 11. AND FINALLY... SOME USEFUL CONTACTS AND LINKS

The tax department website is a surprisingly useful resource

[www.ato.gov.au](http://www.ato.gov.au)

The Business Registration Service is where you can register for an ABN

[register.business.gov.au](http://register.business.gov.au)

Looking at an Export Market Development Grant?

[www.austrade.gov.au](http://www.austrade.gov.au)

For more information on companies try the Australian Securities & Investments Commission

[www.asic.gov.au](http://www.asic.gov.au)

Fair Trading has a lot of useful information on starting a small business. This link is for NSW.

Ask Google about Fair Trading in your state or territory.

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

APRA | AMCOS – become a member, check your royalty statements, register a new song, etc.

[www.apraamcos.com.au](http://www.apraamcos.com.au)

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