

You're In Business

- Tax and business advice for dancers

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You're In Business

The business of being a dancer can be a rewarding and challenging experience.

When you leave training and start freelancing you are artistically independent, on the way to finding your own creative path. During this transition from student to freelance artist it is important to remember that according to the law you are very probably 'in business'.

The law classifies anyone not an employee (i.e. not working full-time for a set wage) as being 'in business' if:

- You start charging others for goods and services you produce
- You supply these goods or services on a regular basis
- You intend to make a profit from doing so.

It is VERY likely that as a trained freelance dancer, working sporadically in the industry that you will be deemed to be 'in business', most likely as a sole trader. Your business is dancing for a living – even if some of the time you're not working as a dancer.

Once you're in business you have legal tax obligations. (These are set by the Government and administered by the IRD). You do NOT have to own or run a business to be 'in business' according to the tax laws.

It can be easy to forget this, or not really understand your obligations when you first begin your professional career. You might have a few dance jobs at different times of the year and supplement your income with part-time work, or need to go on and off the unemployment benefit. Even if you are going from job to job with pockets of 'down' time, according to tax law you are 'in business'.

You are in effect working for yourself in your chosen profession (even if it is only sporadically).

If you are beginning a new studio teaching business, or have an existing one, you need to be aware of your tax obligations, and also what you can claim as a legitimate business expense.

This updated resource will provide you with guidelines for where you can find advice and information for your independent dance career.

Getting advice and support

There is a wealth of support offered to people wanting to set up small businesses in New Zealand, especially with accessing information and advice.

It is important to fully understand your legal and tax obligations, as either a sole trader or someone running a company. A good knowledge of your legal obligations can save you a lot of time and money.

We strongly advise people to seek out the free advice and support packages listed below.

Business Advice

Regional Business Development Agencies

Most towns and cities in New Zealand have business advisory services, which are often free.

For example, Auckland City Council contracts Gosling Chapman to undertake business development programmes. For people living in Wellington there is an excellent service called Positively Wellington Business. They provide a range of business assistance from training for people with little or no business experience to assisting established companies raise capital and develop new markets and products.

As an example, they offer **free** business clinics for advice on starting or expanding a business. For those needing more in-depth help, they provide one-on-one, confidential business advice with an experienced business adviser.

- **Free Business Clinics:** These are provided to people thinking of starting a business or expanding their business into a new area of activity.
- **Business Advice:** These sessions are for when more in depth help and advice for more complex issues and projects is required. Can include advice regarding access to various capital investment, technology and development programmes.
- **Be Your Own Boss:** This is a full time, two-week course for people with little or no business experience. At the end of the course you will have a draft business plan that will help you determine the viability of your business ideas and help you decide whether being self-employed is right for you.
- **Start Your Own Business:** This is a four week course, comprised of two sessions per week, for people who want to improve their existing skills, acquire new skills or need help with setting business goals.

There is a full list of these business development agencies on www.edanz.org.nz (under membership). In some centres Councils may offer programmes themselves, ring your Council to see what services are available. Also find out if the Council has a Recreation or Community Development Advisor, as these people will often be a good first point of contact.

Business Information Zone: www.biz.org.nz

A key website for free information and training

This is an invaluable information resource, with huge amounts of information about setting up a business - from checklists to see if starting up a business is right for you, to information on ACC, Occupational Safety and Health, tax and financial advice. The site is designed to make it easy for people to find information pertinent to them.

This site is a very good place to start as you move into professional practice and need to understand what being in business means. Remember that you are very likely to be considered already 'in business' by the IRD, so it is good get a legal understanding of what this means.

As well as information and advice Biz Info also has many publicly funded workshops and online courses to help you expand your business and improve your management skills. Courses cover a wide range of business topics, from basic accountancy and business management systems to complying with laws and regulations. These courses are free.

There are 29 Biz centres nationwide, visit the Business Development section of www.nzte.govt.nz for a list of them or contact Biz Info on 0800 42 49 46 to see what is available in your area.

Do not underestimate what you can learn from free programmes, or from other people also working in small businesses.

Tax Advice

Tax Information

The Inland Revenue Department (IRD) have a team of Business Tax Information Officers (advisors) that can visit your home or office **for free** and give you tax advice.

You should meet with an advisor if you want to freelance or are thinking of forming a company or co-operative, employing people or registering for GST.

An advisor will be able to explain what being a sole trader means and explain what your current and future tax obligations are (please see the Tax section below for further explanation of this).

Work out in advance what kind of advice you need from the tax advisor and some of the topics you would like covered. This will make your time with them more efficient.

Your topics may include:

- Grants – paying tax on grants
- Registering as an Employer
- Paying Withholding Tax on behalf of employees
- Co-operatives/collectives:
 - Individual tax responsibilities
 - Employing dancers – who registers as the employer?
 - How much tax does each dancer pay, and when?
- The difference between a Sole Trader and an Employee
- GST:
 - When and how to register
 - Filing GST returns
- De-registering for GST
- De-registering as an Employer
- Student Loan tax obligations:
 - As an Employee
 - As a Sole Trader
 - If you leave the country
- Annual Personal Tax Returns
- Annual Company Tax Returns

Most of these topics the advisor will already expect to cover. So be as specific as you can be to your particular situation so you get the specialised advice you need.

Do not be afraid to ask the advisor anything! Remember they are there to help. If anything they want to know how you are planning to operate so they can check that you will not be breaking the law. It is much better to be told now that you can't do something, than risk being audited and penalised later on.

The advisory service was set up by the IRD to actively help people manage their tax correctly.

Meet as a group

An advisor will come and visit just one person, but it can be better value to get a group of people together and have a shared session, as more issues may get covered with a larger group.

It is especially good if you are wanting to set up a co-operative that everyone meets with the advisor – even though not everyone will be running the accounts and organising the tax. People are often surprised to learn of their individual tax obligations when working as a co-operative.

If you are thinking of setting up a co-operative, collective or company then a free session with an advisor will be invaluable, and we strongly advise it.

You can arrange a meeting by ringing the IRD directly on 0800 377 774, or contact details for some IRD advisors are listed below.

Auckland

Manukau: Tony Gray, (09) 984 2055
Email: tony.gray@ird.govt.nz

Takapuna: Anne Newman (09) 984 1056
Email: anne.newman@ird.govt.nz

Christchurch

Anne Williams (03) 968 3027
Email: anne.williams@ird.govt.nz

Wellington

Dennis Wright, (04) 890 3298
Email: dennis.wright@ird.govt.nz

Further tax resources

The advisor will come with information, most likely a 'Smart Business Kit'. One of the most important parts of the kit is the booklet titled:

- **Smart Business. An introductory guide for businesses and non-profit organisations.** It is coded IR320.

This book is an invaluable tool. Every co-operative should have one and at least one person needs to understand it.

The booklet contains detailed information on:

- Bookkeeping
- Income tax for businesses
- Expenses – what to claim, how to claim
- GST
- Being self-employed
- Being an Employer
- Further services the IRD offers.

If for some reason you cannot meet with an advisor you can ring the IRD on 0800 377 774 and request this booklet.

Please only do this as a last resort – information in the book may seem overwhelming, and it could be counter-productive. The best thing you can do is meet with an advisor who will explain it to you.

Why is understanding tax important?

Everyone has to pay tax, so it is important to understand your legal obligations. Understanding how the tax system works can also save you money. For example, fines for late payments and late GST returns can be expensive and distressing.

As your employment and income levels change, so too can your tax obligations. It is important at all times throughout your career to keep up to date with your tax obligations.

For example, if you turn over more than \$40,000 in one 12 month period (not necessarily a calendar year) you are required to register for GST. So if you have a part-time job and receive some funding grants it can be easy to go over the income threshold, at which point it is compulsory to register.

A more complicated example is that if you're in business and turn over enough money to have tax owing in one year that is over \$3,000 then you are legally required to pay Provisional Tax for the following year. Provisional tax is separate to your annual returns and GST, and is determined by the amount of tax you owe NOT by your legal status. So it does not matter whether you are a registered company or sole trader, you still may be required to pay this tax. Individuals/sole traders can be liable for Provisional Tax as they are 'in business' legally.

To avoid being penalised it is best to understand what your tax and legal situation is currently and what could alter it.

IRD advisors are there to help with all issues that could change your current tax obligations.

Who gets taxed?

The short answer to this is everybody. But how your taxes get paid and how much you have to pay can vary depending on your work situation.

Full-time wage earners - employees

Employees are people employed fulltime by a company or organisation. They receive a weekly wage. Their taxes are paid monthly to the IRD by their employer at a rate determined by their wage level. ACC levies are also paid on their behalf by their employer. Employees are entitled to annual leave, holiday pay, bereavement leave and other benefits, and other legal and statutory implications such as employment conditions, union matters will impact on them.

Sole traders

If you are not an 'employee' then you are 'in business'. The term for this is a sole trader. Even if you have only one job a year you are still a sole trader.

Sole traders work for a contracted fee on projects that happen over a fixed period of time. They go from project to project and may have part-time work sustaining them during 'down' time from their primary occupation. Usually they are contracted for a specific project for a set amount of time, e.g. a 6-week dance project.

As a sole trader you will pay your own ACC premiums. A bill will arrive in the mail a few weeks after you have filed a tax return. Your ACC premiums are set from the amount of income you have earned that is liable for tax (your minimum taxable income). It is important to have an accountant to work this out for you.

Accountants know all of the expenses you can claim upon, which means that your ACC premiums may be reduced. You need to be prepared to pay ACC bills when they come.

As a sole trader you are not entitled to holiday pay or annual leave from the people or organisations contracting you. However you can claim expenses incurred as a result of your work, which may reduce the amount of tax you have to pay.

Sole traders can deduct expenses incurred in the running of their business. Once all expenses are deducted you will pay tax on the remainder as income. Thus a sole trader, like an employee, is subject to taxation within specified income brackets depending on their level of income.

How sole trader's tax is worked out

The amount of tax you will need to pay as a sole trader is worked out at the end of the tax year. However, this does not mean that you don't pay tax throughout the year. Whoever is contracting you should take Withholding Tax (for theatrical performers it is 20%) out of your earnings before they pay you. Withholding Tax is paid to the IRD on your behalf by the person contracting you. It is not the entire amount of tax you may be liable to pay – however, it may end up being too much once your expenses are taken into account. That is when you will get a refund from IRD (some money back).

Accountants work out the amount of tax you owe, or is owing back to you, by seeing how much you got paid and comparing it to how much you personally spent working on that contract and maintaining your ability to work in your chosen profession. They do this by looking at all your business receipts.

Keep your receipts

As most of time you will be working as a sole trader another very important thing to remember is to keep your receipts and bank statements. As soon as you begin freelancing keep all the receipts for every business expense you pay for. At first it may seem odd, but it is an important habit to develop and one that will save you money at the end of the financial year.

Apart from groceries for your home and dental bills (which you can't claim on) a lot of your expenses will be related to the show you are working on or related to your profession. Expenses such as travelling to auditions or classes, dance classes, dance clothes, music equipment, your cell phone, make-up for a show, research items for your work (which can include magazines and going to films) and tickets to theatre shows are all legitimate expenses that an artist working as a sole trader might incur. All these expenses will be deducted from your income for the year and the amount of tax you owe, or the refund owing to you, is then calculated. It is best to get an accountant to do this for you as some expenses such as costume, make-up, house rent, power and phone bills will need to be apportioned and business assets depreciated at standard tax department rates.

You must keep your receipts, cheque books and bank statements for 7 years. Even after your tax return has been filed and your payment or refund made, it is important to keep all your financial records safe. The 7 year period is a requirement set by the law. The IRD can audit your tax returns up to 5 years after you have filed a return. Without receipts to verify the claims made, they may reverse the expenses claimed.

If you are GST registered then the same process happens – all your receipts get collated and the GST component of your expenses is subtracted from the GST component of your income. **This is separate to your personal tax return.** GST returns are filed and then later on in the same year a personal tax return will be filed, but the same receipts will be used for both returns.

Note that for GST you are acting solely as an agent of the IRD to collect it, so whatever is owing must be paid to the IRD. Evidence of payment is acceptable for expenses under \$50, but for GST claims for expenses over \$50 a tax invoice is required (from the person you have paid).

Grants

Grants are taxable income so receipts for your expenses need to be kept and then claimed against the grant. You must spend the entire grant on your project for the purposes outlined in your application. Make sure you keep all invoices and receipts to do with the project, such as the lights you hired, the posters you got printed and the bill for the venue hire. Often people underestimate their business expenses.

Any donations to your project (as opposed to grants) can be spent more flexibly and donations are not taxable. A person making a donation must do so on the understanding that they will receive no benefit from their act of generosity – otherwise their donation will be classed as income for tax purposes. Either way, remember to include them in the income part of your budget. A copy of your final budget will need to go to the accountant to ensure that all expenses are accounted for in your income tax return.

Paying people out of the grant money

Once you've secured a grant you will find yourself in a position where you have to pay people, including yourself. It can be tempting to illegally pay people under the table, but that is not in your or their best interests, especially if you want to claim other expenses on the project. If everyone is filing tax returns then no matter how small the fee is, after Withholding Tax, everyone is able to claim expenses, which ultimately is best for everyone.

Once you have secured funding and intend to pay people you have to register as an employer with the IRD. You will need to register as an employer even if you are not employing people as "employees" for the purposes of the Employment Relations Act 2000, but are, instead, contracting them under contracts for services – that is, they will still remain as sole traders, despite being employed by you. This is because you are not employing them full-time. (Full-time means ongoing employment, not full-time over a set number of weeks or months).

When discussing paying people the term "wages" will be used for the rest of this chapter in relation to both payments to employees (for which PAYE and ACC levies are payable), and payments made to sole traders (i.e. pursuant to contracts for services for which withholding tax is payable). Please note that when we're talking about paying sole traders (your dancers) out of a grant then strictly speaking the correct term would be 'earnings'. 'Wages' are what full-time employees only receive, however, it is easier reading all round if the term 'wages' is used.

Registering as an employer

This can be done online on the IRD website, or if that doesn't suit you, you can ring and request that the forms be mailed to you. If you have an accountant then they should have the forms available as well.

You can request a visit from an IRD advisor (as detailed above) who will answer any queries you may have concerning being a first time employer. This is definitely worthwhile, no matter how small the project. Once you become an employer you will have certain obligations to the IRD, such as regular Withholding Tax payments. An advisor will talk you through this and help you set up appropriate systems to meet your obligations.

As an employer you must make sure that everyone who works on the project – everyone that you pay, even if it's a one-off payment – fills in an IR330 form. The IRD will send these to you after you have registered with them as an employer. It is your responsibility to make sure that everyone fills them out as they show that the person you have hired has let you know what tax rate to use. Everyone should be on WT (Withholding Tax), as you are contracting them for a short period only and they are actually maintaining their self-employed, sole trader status by doing so.

This is in your best interest as otherwise you would have to pay holiday pay and a number of other benefits, which on a small specific project grant you won't be able to afford. You must keep the IR330 forms along with all financial records concerning the project. IR330's do not get sent back to the IRD, but you must be able to show them if for some reason you were audited by the IRD in the future.

Withholding Tax

Paying people can be done weekly, fortnightly or monthly – really whatever suits you and the people involved on the project. However the 20% that you must take off the wages as Withholding Tax (WT) must be paid to the IRD by the 20th of the following month.

The IRD will send you an Employer Monthly Schedule at the beginning of the month. This must be filled out and returned with your payment. The payment is the 20% of the wages that you set aside and didn't pay out to the people you have contracted. The Employer Monthly Schedule is not hard to fill out and the IRD advisor will make sure you know what to do. It is very easy to make payments online. Most internet banking services include ways of paying tax. If you don't want to do it online you can send a cheque to the IRD once a month.

On the Employer Monthly Schedule there is a column for 'Earnings not liable for earner premium (ACC)'. Make sure you include everyone's gross wages for the month here or you will be faced with paying everyone's ACC premiums at the end of the tax year - which is not your responsibility. As sole traders they pay must their own ACC premiums.

Managing Withholding Tax

Managing your accounts so that you are always able to pay the WT is very important. An easy system is to have two different bank accounts. The grant goes into one account, usually a cheque account, and from this account all payments are made. Every time you pay your dancers their wages put the 20% WT into a separate account. For example, if someone's gross wage was \$550 per week, you would pay them \$440 and put \$110 (20% of their gross wage) into

your tax account. When it is time to pay the WT (by the 20th of the month) the money you owe the IRD will be available and separate to the money you have left to spend on the project.

You never want to be in a position where you are spending WT money, so it is best to separate the 20% tax amount as the wages get paid. You may want to separate it all out at the beginning but sometimes circumstances change, so it can be just as easy to separate the WT at the same time as the wages go out. Your projected budget will not be affected as the amount you've budgeted for wages should be the gross amounts and include the WT component.

Withholding Tax and GST invoices

If someone on your project is GST registered then they will give you a GST invoice for their work. The GST rate is 12.5%, so if you have agreed to pay someone a fee of \$1,000 then they will give you an invoice for \$1,125 – the \$1,000 fee and \$125 for GST. If you are not GST registered you should try and negotiate fees to be GST inclusive to save costs.

Payments to people that give you a GST invoice are still subject to WT, though the GST component of their invoice is not taxed. For instance if someone gives you an invoice for \$100 + GST the total amount invoice will be for \$112.50, as \$12.50 will be the GST component. You would tax the \$100 at 20% then pay them the full GST amount. So they would get \$92.50, which is made up of \$80 + \$12.50. People who are registered for GST should also fill out an IR330 form.

It is a common misconception that people who are GST registered do not need to be taxed WT. Frequently GST invoices are paid out at the full amount while people not GST registered will be taxed the WT amount. This is not correct. GST does not replace or make up for the income tax that all of us have to pay, it is a separate tax, so it is in your best interests to take WT off a GST invoice and make sure that person fills out an IR330 form. Some people registered for GST may not want this to happen so talk to your accountant, or call the IRD advisory service (0800 377 772) about it if it comes up.

If you are contracting a company the total fee is paid without deduction of WT and GST is paid if the company is GST registered and provides a Tax Invoice for the services provided.

Being GST registered

If as a sole trader you turn over \$40,000 a year, or have the potential to turn over \$40,000 over a 12 month period then it is compulsory to register for GST. (The 12month period can start at any time; it is not the tax year, nor the calendar year).

You can do this online or through your accountant. For example, if you were awarded a \$25,000 grant, it may be in your interest to register for GST as by the end of 12 months you may have earned \$40,000 once your work outside of the project is taken into account.

Any sole trader can voluntarily register for GST no matter what their income level, and it can be in people's best interest to do so. It is slightly more work for you or your accountant (as there is another set of tax returns) but it means that the GST component of your expenses can be claimed against your income.

It is always better to be GST registered if you receive a grant as then you get paid the grant plus GST. All of your expenses, apart from wages, will have a GST component and this can get very expensive to absorb into your budget if you haven't received the GST amount. For example, if the venue hire was \$1,200 + GST, then a GST registered person would have the extra \$150 available. For someone not GST registered the venue hire is actually \$1,350.

GST returns are separate from your annual tax returns.

These can be made at either 2 monthly or 6 monthly periods. It is recommended when first registering for GST that you choose the 2 monthly option. It can otherwise be tempting to spend money that must go to the IRD.

Keeping track of the GST

The most important thing to remember is that GST is NOT income. It's not extra money that you have to spend on the project. If you don't spend as much GST as you receive then you will need to pay it back.

Good budgeting will mean that you are always aware of how much GST you have spent in relation to how much GST you received with the grant.

Remember when you first register for GST that an IRD tax advisor is available to take you through all the processes. It is strongly advised that people new to GST take advantage of this free service.

Setting aside money for tax

As a sole trader you may sometimes get paid without any tax being paid. For example, if you give someone a GST invoice they may not tax you WT, even though they really should. You should set aside a portion of those fees to ensure you can pay any tax owing.

If you receive payments that have not been taxed and you are not registered for GST then set aside a minimum of 20%. If you are GST registered then the minimum amount to set aside is 30% - this will allow for the 12.5% GST and the WT amount. This way you should not end up with a bill you are unable to pay. Any money you have earned that takes your income over \$38,000 (after deductions for business expenses have been made) is taxed at a higher amount, so you will need to set aside more.

You need the advice of an accountant if you are a sole trader earning that much, but remember two grants and one part-time job in one tax year could put you in that position.

As your freelance career continues your knowledge of the tax system will need to improve. This section has only covered sole traders' obligations, as that is the position many start in.

Once you move into limited liability companies the obligations change. All these issues need to be discussed with your accountant, and at all times it is advisable to seek tax advice from the IRD.

It's not important that you understand everything to do with tax now, but it is important that you realise that tax is something that you will need to have knowledge of and keep being aware of.

Accountants

As stressed throughout this section it is advisable to get an accountant as early as possible, or familiarise yourself with your tax obligations and develop a good understanding of the processes. Most big accountancy firms charge a lot, and are not that interested in dealing with artists as they have relatively small incomes compared to their bigger corporate clients. So a smaller independent accountant will probably be more suited to your needs. DANZ has names of some accountants that specialise in working for artists and smaller clients. Contact:

DANZ National; phone (04) 801 9885, Email danz@danz.org.nz

DANZ Tamaki; phone (09) 815 1420, email auckland@danz.org.nz

Web sites - for further information

General information to start with:

www.business.govt.nz - ***we highly recommend this site***

www.edanz.org.nz

Accident Compensation Corporation: www.acc.co.nz

Australasian Performing Rights Association: www.apra.co.nz

Business in the Community: www.businessmentor.org.nz

More detailed information related to running a business:

Companies Office: www.companies.govt.nz

Customs Service: www.customs.govt.nz

Employment Relations: www.ers.dol.govt.nz

Export New Zealand: www.einz.co.nz

Intellectual Property: www.iponz.govt.nz

Inland Revenue Department: www.ird.govt.nz

Inventors Trust: www.inventors.co.nz

Ministry of Economic Development: www.med.govt.nz

New Zealand Trade & Enterprise: www.nzte.govt.nz

NZ Tourism: www.newzealand.com

Privacy Commissioner: www.privacy.org.nz

Small & home business: www.homebizbuzz.co.nz

Statistics NZ: www.stats.govt.nz and www.stats.govt.nz/businesshelper

Technology New Zealand: www.technz.co.nz

Tourism and Sport: www.tourism.govt.nz

Venture Capital: www.vcapital.co.nz

Women in business: www.bpwnz.org.nz

Legal information : www.nzfvwo.org.nz/keepingitlegal/