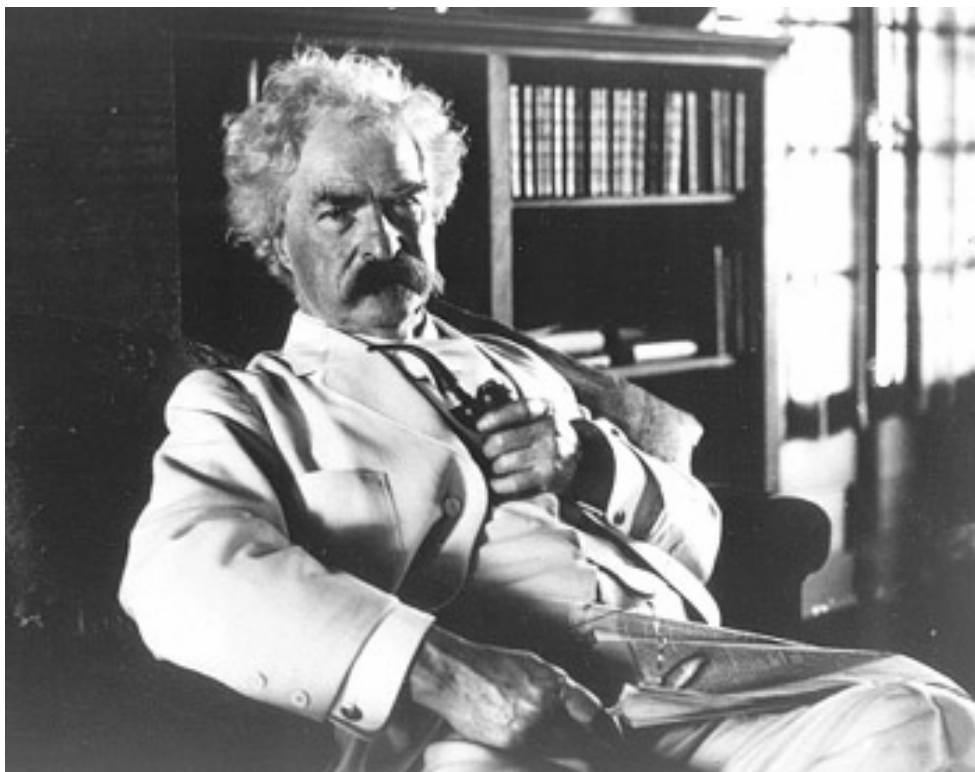


IAMA

German Withholding Tax on remunerations paid to artists and musicians

June 2009, Royal Albert Hall



MARK TWAIN, 1835 - 1910

**AGE IS AN ISSUE
OF MIND
OVER MATTER**

**IF YOU DO NOT MIND
IT DOES NOT MATTER**

**Withholding tax is
different even if you
don't mind it does
MATTER**

Agenda

1. Basics about German withholding taxes for artists and musicians
2. Second level withholding tax
3. Details regarding potential tax exemptions

1. Basics about German withholding taxes (I)

- What is taxable?
 - Remunerations for artistic or music performances held in Germany
- Who has to report?
 - German or foreign payer of the remuneration
- Which German tax office is responsible?
 - Tax office which is responsible for the location where the performance is held (in case of a tour, where the first performance is held)
- Are exemptions available?
 - Tax treaty based exemptions (mainly for corporate recipients)
 - Domestic exemptions for artists or ensembles predominately sponsored by public funding
 - General exemption in case the remuneration per artist and performance is less than EUR 250,00

1. Basics about German withholding taxes (II)

- What is the withholding tax base?
 - Remunerations paid for the performance
 - NOT included: reimbursements of travel costs by the conductor as long as they are not higher than actual costs (for example hotel costs)
 - Lump sum payments for meals as long as they are not higher than the lump sum payments permissible under German income tax law
- Could business expenses be deducted from the withholding tax base?
 - Yes, for recipients resident in the EU, however special procedures and tax rates apply.
 - The expenses which shall be deducted from the tax base must directly relate to the German performance and must be proofed by sound documents.
- What is the withholding tax rate?
 - 15 % from January 1, 2009 onwards



**CONFIDENCE
IS WHAT YOU HAVE**

**BEFORE
YOU UNDERSTAND**

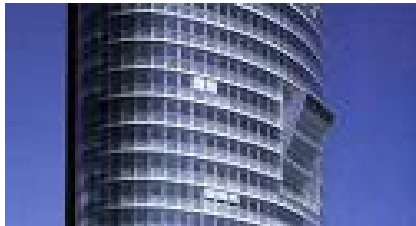
THE PROBLEM!

WOODY ALLEN, 1935 -

2. Second level withholding tax

- Applies in case a foreign corporate entity is the recipient of the remuneration for the performance and pays its artists out of the remuneration it receives

- **Tour Management**



remuneration



- **Orchestra-Ltd.**



remuneration



- **Artist**



- If payment from Tour Management to Orchestra Ltd. suffers full German withholding tax, payment from Orchestra Ltd. to Artist does not suffer second level withholding tax
- If payment from Tour Management to Orchestra Ltd. has not suffered full German withholding taxes, payment of Orchestra Ltd. to Artist is subject to second level withholding tax

3. Exemptions from withholding taxes

- **Tax Treaty based exemptions**

- Payments for performances from a German Operator to a foreign corporate recipient can be exempt from German based on the following tax treaties for example Australia, Belgium, France, Greece, Ireland, Israel, UK, US, Spain
- Advance Application Procedure at the Federal Tax office required
- Exemption does not cover second level withholding tax

- **Domestic tax exemption**

- Payments from a Tour Management to a foreign Orchestra for a performance can be exempt from German WHT if the following requirements are fulfilled:
 - No tax treaty based exemption available
 - Performance in Germany will be sponsored from governmental/public sources (either German sources or sources of the countries of residence of the Orchestra)
 - Advance Application Procedure at the Local Tax office being responsible for the performance required
 - Second level withholding tax NOT be covered based on the current view of the tax administration (wording of the ruling is unclear in this respect)



**THE TAX ADMINISTRATION
CAN REMAIN IRRATIONAL**

**LONGER
THAN YOU
CAN REMAIN SOLVENT...**

John Maynard Keynes 1883 - 1946

Thank you for your attention.

PricewaterhouseCoopers AG Wirtschaftsprüfungsgesellschaft

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