

Reference
18/13/5

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Date
22 August 2005

Ms. Noelene Lesley
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South African Revenue Service

Pretoria Head Office
299 Bronkhorst Street,
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P O Box 402, Pretoria, 0001
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Dear Ms. Lesley

USAGE FEES

I refer to your letter addressed to Mr. Vlok Symington dated 16 August 2005. Thank you for the clarification in respect "usage fees".

This office wishes to reiterate the contents of the letter issued to Ms. Keyser dated 22 July 2004. However, the view held in the above mentioned letter does not necessarily apply to "usage fees" paid to performers/ actors/ models.

A "usage fee" is typically defined in a contractual agreement as a payment to the performer/ actor/ model for the use of the performance. According to your letter, the "usage fee" is invoiced and fully paid for at the time of recording and is not based on the number of times that the recording is broadcast. Such a payment is included in the definition of "remuneration" in paragraph 1 of the Fourth Schedule to the Income Tax Act No. 58 of 1962 for employees' tax purposes and PAYE (Pay as you Earn) should therefore be collected on these fees and other similar payments.

An IRP5 must be issued in respect of the "usage fees" and the applicable employees' tax must be deducted accordingly.

Sincerely

Ms. D. Govender
for **COMMISSIONER FOR THE SOUTH AFRICAN REVENUE
SERVICE**