



## Tax exemption as a marketing tool: The Irish Republic and profits derived from artistic creativity

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### ABSTRACT

The Republic Of Ireland (Eire), though a relatively new nation, having been chartered in 1923, reflects a culture more than twenty-five centuries old. This Irish culture has been the source of much uniquely creative fine art, writing, drama, and philosophy. Creativity as a vocation and source of work-product seems endemic to the Irish mentality. As a result, the Irish look upon creativity differently than do most cultures. They have created a tax exemption for many of the financial rewards reaped by creators of "art" in any of the forms mentioned above and some new forms as well. This paper examines the marketplace effects of the Irish exemption from taxation of personal income derived from artistic creativity.

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### 1. Introduction: pre-Christian Ireland

The indigenous Irish are predominantly of Celtic ancestry. The Celts, first referred to by that name by the Greek geographer Hecataeus about 500 B.C., had by that time occupied much of southern France, Marsalia (Marseilles) being one of their cities. They were certainly present at the sacking of Rome in the early fourth century B.C. and at that of Delphi in 273 B.C. (Rolleston, 1911). Ultimately, some members of this hardy stock sailed west around the island of England, avoiding the Jutes and Angles already there, and settled Ireland. Exactly when this happened is not known, but it occurred well before the beginning of the Christian Era.

If a race or ethnicity can be said to have traits, the Celts have several that set them apart from most of the other ancient tribes of Europe. Of significance here is their tendency to be creative, more inclined than many cultures to confect objects and ideas that are new, different, sometimes startling, but often beautiful. It cannot be stated for certain that Celts made the cave paintings at Lascaux in the Dordogne, France (Joyce, 1908; Brett, 1996; Pierce, 1996; O'Brien, 2003). The Lascaux work may have been done earlier, but it is not entirely impossible that it is Celtic work.

The Celtic Irish embraced Druidism (Joyce, 1908), and as such created objects related to their religious beliefs. A number of these artifacts have survived and generally show a high level of cleverness in their conception and skill and craftsmanship in their execution. The level of civilization enjoyed by the Irish during the Druidic period cannot, on the whole, be said to have been advanced by comparison with the rest of Europe. Thus, finding these aesthetically advanced works in Ireland was a bit surprising to early archaeologists. Ireland was pretty much of a backwater – if an oceanic island can be called a backwater – at that time, but then Patrick (now known as St. Patrick, Bishop of Ireland) appeared on the scene.

### 2. Early Christian Ireland

Patrick is generally described as a native of Scotland who was captured and enslaved by the Romans, while in their thrall embraced Christianity, and returned to his native land to convert its people (Catholic Encyclopedia Online, 2004). One of the early true charismatics in the array of famous Christian preachers and proselytizers, Patrick rapidly built a core of priests and believers who spread the Christian Gospel across the Emerald Isle. As a result, the Irish changed their religion and its symbols but kept much of their cultural heritage. The creativity that once went into forging ceremonial sickles and carving Druid religious objects now shifted to the creation of Christian religious art. The Celtic cross, when embellished by an Irish artist/craftsman, is one of the most elaborate of Christian symbols regardless of whether fashioned of iron, gold, stone, or any of a number of other

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materials. A similar style of artistic embellishment was also lavished on other religious objects, and ultimately on more mundane objects such as jewelry for both men and women.

With the fall of the Roman Empire in the fourth century Ireland, by then staunchly Christian, became the “offshore repository” of Western Civilization. Irish copyists, the majority of them monks, continued to produce copies of written materials that were lost on the mainland of Europe as ignorance and vandalism caused continental book production to come to a standstill and European libraries to collapse and their collections to be used as fuel. It can safely be said that, between the fourth and fourteenth centuries A.D., Ireland preserved western culture (Cahill, 1996). Moreover, Irish thinkers, never shy about their intellectual capacity or their expression of it, committed to parchment their interpretations and conceptualizations of and sometimes even their disagreements with the mostly religious materials they sought to preserve.

The church in Rome, usually quick to attack critics of its dogmatic positions, often to the point of labeling those critics heretics or schismatics, tended (with remarkable tolerance) to accept Irish reinterpretations of older Roman thinking. As civilization gradually returned to Europe after the plague epidemic of the mid-fourteenth century (Tuchman, 1964) that killed one-third of the continental population, it was Irish clerics who went to revivify the continental church. Hence they earned for their homeland the name “Land of Saints and Scholars.” The Irish embraced the name and the concept it stood for and, even six centuries later, Ireland still provides the world with, on the basis of its population of some 3.6 million people, a disproportionate number of (Catholic) priests and other clerics, and a similarly disproportionate number of authors and playwrights – James Joyce, George Bernard Shaw, Oscar Wilde, Paddy O'Rourke, and Anne McCaffrey – architects such as New Orleans' James Gallier, musicians, and actors than those numbers would ordinarily be expected to generate.

### 3. Ireland under the English

But Ireland fell upon bad times at the hands of the English. As that nation completed the subjugation of the other kingdoms on its own island of Great Britain, it was inevitable that it would turn its vision to the west and decide to take over Ireland. Luckily (for the Irish), the Scots proved to be a difficult, expensive, and time-consuming race for the English to bring ultimately to heel. When the English were finally able to turn their attention to Ireland in the sixteenth century, they found in the Irish another race not easy to defeat on the battlefield and very difficult to keep toeing the mark to English demands. To save time, money, and effort, the English decided on a new strategy of subjugation for the Irish. They would simply ship some of their new Scots subjects to Ireland and let them subjugate the Irish by intermarriage and by empowering the Scots by placing them in high official positions. Accordingly, they began sending Protestant Scots to the six northern counties of Ireland (Ulster) with a brief to, in effect, assimilate into the Irish population and make them Protestant and “English.” This strategy didn't work for two reasons: first, the Scots didn't like the English and they weren't fond of the Irish, either, even though Celtic blood ran in many Scots veins. Second, there was the issue of religion. The Irish are very serious about their religion, as are many of the Scots, and in the early seventeenth century Catholicism and Calvinism just didn't mix (Magnusson, 2003).

The net result of the English attempt to Anglify the Irish by using Scots as a change agent was to create a new ethnicity, the Scotch-Irish, who are the Protestant residents comprising the majority in the six Ulster counties of the north of Ireland. Very little English presence was established in the remaining counties of Ireland. Ultimately, after three centuries of effort, the British gave up on the southern counties, and in 1923 the Republic of Ireland, or Eire, was born.

### 4. Modern Ireland: the development of the current situation

Prior to the seventeenth century, the issue of the worth of creativity, especially creativity related to the printed word and objects of art, was not a serious one. Making multiple copies of anything involved someone making each copy one at a time by hand. Even when the objective was to print written work, most of it was done by block printing. Hans Gutenberg invented a printing press featuring movable type in 1455 ([www.gutenberg.de/deutsch/erfindung.html](http://www.gutenberg.de/deutsch/erfindung.html)), thus speeding up the process of printing significantly, but the development of printing as a serious medium was very slow. The first printer to reach the British Isles was William Caxton, and he didn't show up until 1476 (Delamare, 2003). So regulated were printers by the English Licensing Acts of 1644 and 1662 that by the end of the seventeenth century there were a grand total of only twenty printers in all of England, of whom 18 were in London (Delamare, 2003). It is unlikely that, at that time, any printers were plying their trade in Ireland where the population was but a small fraction of that of England and the literacy rate very low.

The early eighteenth century saw the first European law favoring the author of a document as owner of the product of his or her creativity. The law was the Statute of Anne, passed in England in 1710 during the rule of Queen Anne (Feather, 1980; Talimo, forthcoming). This law, in effect, created a monopoly position for authors over their works. During the next century and a half, most of the world's major nations passed copyright laws, but their content was widely varying.

In 1886, therefore, many of the leading nations of the world met in Berne, Switzerland, to negotiate a treaty to regularize the granting and extension of copyrights. The resulting document, formally known as the Berne Convention for the Protection of Literary and Artistic Works (Sept. 9, 1886; UNTS 221 of 1972), has been amended eight times since its adoption, most recently in 1979. For the most part, with respect to the mechanisms of trademark registration, patents, and copyrights, the Republic of Ireland (Eire), a signatory of the Berne Convention, has maintained a posture similar to the rest of western Europe. Under the Convention, the claimant has a monopoly right over his or her copyrighted work. For nations that are signatories of the Berne Convention, the minimum duration of such a copyright is the life of the (last-living) author plus fifty years. In addition, six rights are warranted to the copyright holder: the right to translation, reproduction, public performance, adaptation, paternity, and integrity. Some nations grant broader coverage: the United States, for example, has extended copyright coverage to seventy years after the death of the last living author of a work (17 USC 301–304).

On January 1, 2001, a new Irish law, The Copyright and Related Rights Act of 2000, restated the copyright code, bringing Eire into conformity with the terms of several international treaties and European Community (EC) directives. In essence, the new law does not basically change the principle behind the previous law, but reorders and restates many concepts and brings Irish copyright law closer to that of the rest of Western Europe.

### 5. The Irish extension of the benefits derived from copyright

Eire's small size (68,890 km<sup>2</sup>) and population (3.57 million inhabitants) (Car and Jelincic, 2005), make it the EC nation with the second smallest population. Its population remains the same today as it was in 1888. Once an “EU poverty region,” Eire now has one of the highest rates of economic growth in Europe, driven, in part by the “preoccupation with cultural identity at the intellectual and artistic level” (Car and Jelincic, 2005).

The Irish Finance Act of 1969, whose provisions are seminal to this paper, “exempted some artists' incomes from income tax and surtax” (Car and Jelincic, 2005). More recently, Section 195 of the Taxes Consolidation Act of 1997 empowers the Revenue Commissioners of Ireland (2004) to “make a determination that certain artistic works

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