



Per Diems for Independent Contractors and Companies in the Screen Production Industry

May - 2006

1. Introduction:	Page 1
2. General Principles	Page 2
3. Conventional Method	Page 2
4. Exemption Method	Page 3
5. Additional Notes	Page 6
6. Resources	Page 6

1. Introduction

Per diem (per day) payments are provided to cover the cost of reasonable expenses incurred while contractors are working away from their town or country of normal residence. The amount of per diems paid are subject to agreement between the production company and the contractor and should reflect the actual cost of services and expenses such as meals, and laundry.

The per diem information in this guide applies to both New Zealand resident and non resident screen production industry personnel including technicians, producers, directors & actors engaged as contractors or individuals trading as companies.

This Fact Sheet does not apply to per diem tax free per diem allowances paid to employees.

There are two methods of dealing with per diems, the conventional treatment of per diems and the optional "exemption" method of dealing with per diems (part 4) that applies only to contractors subject to withholding tax.

Both production companies and contractors should take care not to assume that per diem payments of less than \$60.00 per day are paid free of tax and any requirement to keep records.

The NZF&VTG has consulted with The New Zealand Inland Revenue Department and production accounts in preparing this fact sheet.

2.1 General Principles

2.1 The IRD does not prescribe a Per Diem Rate:

The New Zealand Inland Revenue Department does not prescribe any recommended per diem rates for contractors. The NZF&VTG publishes recommended per diem rates for the screen production industry.

2.2 All per diem payments to contractors and companies are regarded as gross taxable income:

Payments such as fees for personal services, per diems, and accommodation allowances made to independent contractors must be treated as gross taxable income and are subject to withholding tax deductions (except contractors who hold an IRD withholding tax exemption certificate and individuals trading as companies).

2.3 Invoicing & Payment of per diems:

The production company must receive an invoice (or GST invoice where the contractor is GST registered). This invoice can be a separate per diems only invoice or a combined personal services and per diems invoice. The latter is recommended for short term engagement where the per diem is paid in cash in advance and the invoice is presented after the engagement.

Payments for per diems to screen production industry contractors & companies can be paid in cash or by bank deposit in advance, during or after the production.

The withholding tax can be deducted when the per diem is paid or when the contractor presents a combined personal services and per diems invoice.

3. Conventional Method

The contractor presents an invoice for the per diem as agreed with the production company. The production company then pays the contractor a per diem which is declared as gross taxable income in the annual tax return.

Contractors can claim any actual and reasonable expenses (meals, laundry, incidentals, etc) incurred as allowable tax deductions when working on productions away from their home base.

Contractors must keep accurate records including invoices and receipts of expenses incurred in their business activity to support any allowable tax deductions against their gross taxable income. To claim deductions, the contractor will have to file a tax return as a business entity.

3.1 When to use the conventional method:

This method applies to contractors subject to withholding tax, contractors with a withholding tax certificate and companies.

The NZF&VTG recommends that the conventional method is used in the majority of circumstances in the television commercial, television drama and feature film sectors.

3.2 Invoicing for per diems – conventional method:

All per diem payments received from the production company should be separately itemised on the contractors invoice for services or on a per diems only invoice before the withholding tax subtotal. The following wording is suggested:

Per Diems received cash in advance on DD/MM/YY \$xx.xx

3.3 Goods and Services Tax – conventional method:

Per diems are exclusive of GST. This means that GST registered contractors and companies must add GST to the Per Diem agreed on their invoice.

Where the payment is made by cash in advance to GST registered contractors and companies, the actual amounts paid can be exclusive of GST. GST registered contractors and companies will then have to invoice for the per diems paid plus GST and subsequently receive an additional GST payment.

If a contractors gross annual income including per diems is likely to exceed \$40,000.00 then they must register for GST.

3.3 Deduction of withholding tax by the production company - conventional method:

The production company must deduct withholding tax from the gross total for per diem payments paid to the contractor. Where the contractor has a certificate of exemption from withholding tax or is trading as a company, no withholding tax for per diems is required to be deducted.

The withholding tax can be deducted when the per diem is paid or when the contractor payment is made on a combined personal services and per diems invoice.

Production companies should provide adequate details of per diems paid to enable the contractor to accurately prepare the invoice.

3.5 Production Company monthly IR348 return, conventional method:

The production company is required to include the total value of per diems paid as gross earnings and the subsequent withholding payments on the **IR348** employer monthly schedule.

4. Optional “exemption” method

The New Zealand Inland Revenue Department has issued a determination under Regulation 7 of the Income Tax (Withholding Payments) Regulations 1979 with regard to the deduction of withholding tax from per diem payment in the screen production industry.

The determination allows any resident or non-resident contractor, or resident or non-resident entertainer subject to withholding tax, the option of electing to receive up to NZ\$60 per day in per diem payments without having withholding tax deducted or keeping receipts and invoices for per diem expenses. The determination is effective from July, 2003.

It must be emphasised that only the individual contractor (as the tax payer) can choose to use this optional method. The production company (as the tax collector) cannot insist that contractors use the “exemption” method.

Contractors are required to invoice the production company for the per diem and claim the exemption as an offset on the invoice. Per diems paid using the exemption method are treated as gross taxable income and the total exemption claimed in a tax year must be declared as an expense on the contractor’s annual tax return.

4.2 When to use the exemption method:

This method is optional only applies to contractors subject to withholding tax.

The NZF&VTG recommends the exemption method where the contractor has cash flow issues and cannot afford the tax deduction in the short term, or where the contractor receives a full per diem every day and production does not supply any meals.

***Example:** A contractor is paid a \$55 per diem as they are required to work away from their town of normal of residence. The contractor purchases all meals, incidentals and laundry services from the \$55. The production company does not have to deduct withholding tax because the total payment is less than \$60.*

4.3 \$60.00 is a nominal amount representing a full days per diems:

The \$60.00 is a nominal amount approved by the IRD “as expenditure incurred in the production of the withholding payment” (the “exemption”). The nominal \$60.00 can be increased by request to the IRD by a production company where it can demonstrate that the \$60.00 is inadequate (for example, where the local cost of meals requires a higher per diem).

4.4 Payment of per diems when catered meals are provided using the exemption method:

Where the production provides meals, the exemption claimed must be reduced on a pro rata basis by the cost of those meals (if they were reasonably purchased at a restaurant). This is because the recipient of the per diem has not actually incurred the expenditure. The production company must inform the contractor of their estimate of the cost of the meals.

***Example:** The production company pays \$70.00 for per diems on a full day off. On a work day, the production company provides breakfast and lunch. The per diem paid on a work day is reduced by the cost of providing the meals (say at the contractor’s accommodation - \$35.00). The per diem paid on the work day should equal \$35.00 representing the evening meal and incidentals.*

***Example:** A contractor is paid a \$60 per diem on a work day. The contractor is also provided with breakfast and lunch while working, either on the set or at another location. The contractor has not incurred the expense of purchasing breakfast and lunch therefore the production company must deduct withholding tax from the per diem equal to the value of purchasing the breakfast and lunch. If the cost of purchasing the breakfast and lunch is \$30.00 then withholding tax must be deducted from \$30.00*

4.5 Withholding tax must be paid on per diems in excess of the nominal \$60.00 using the exemption method:

If the production company pays more than the \$60.00 per diems and has not applied to the IRD to have the nominal amount raised, then Withholding tax must be paid on per diem in excess of the \$60.00

(Example: A contractor is paid a \$70 per diem as they are required to work away from their town of normal of residence. The contractor purchases all meals, incidentals and laundry services from the \$70. The production company must deduct withholding tax of the payment of \$10.00 in excess of \$60.00).

4.6 Expenditure in excess of \$60.00 can be claimed as a tax deduction when using the exemption method:

The contractor can claim legitimate per diem related expenditure as allowable tax deductions greater than the per diem paid by the production for any day, but they will need to keep all of the receipts and invoices in respect of that day.

Example: A contractor is paid a \$55 per diem per diem as they are required to work away from their town of normal of residence. The contractor purchases all meals, incidentals and laundry services to the value of \$80.00. The production company does not have to deduct withholding tax because the total payment is less than \$60. The crew member can claim the \$25 as an allowable tax deduction but they must keep all receipts and invoices for the days purchases of meals, incidentals and laundry services

4.7 Invoicing using the exemption method:

The Contractor is required to invoice the production company for the per diems received and then record the exemption claimed for each individual day as an offset on the invoice.

The following wording is recommended:

<i>Per Diems received cash in advance on DD/MM/YY</i>	<i>\$xx.xx</i>
<i>Daily exemption claimed for dd/mm/yy -</i>	<i>\$xx.xx</i>
<i>Daily exemption claimed for dd/mm/yy -</i>	<i>\$xx.xx</i>
<i>Daily exemption claimed for dd/mm/yy -</i>	<i>\$xx.xx</i>

The production company must provide the crew member with the daily details of the per diems paid. This information must specify the breakdown of payment for meals, incidentals and laundry services and the value of meals provided by the production company (such as catered lunch and breakfast) for the accurate claim of the daily exemption.

4.8 Contractors End of Year Tax Return using the exemption method:

The contractor must declare the per diems received as gross income on their end of year tax return.

The contractor should provide a statement of the annual total of the “exemptions” claimed which will then be used as an allowable expense on their end of year tax return.

4.9 GST Treatment using the exemption method:

Per diems are exclusive of GST. This means that GST registered contractors must add GST to the per diem agreed on their invoice.

Where the payment is made by cash in advance to GST registered contractors, the actual amounts paid can be exclusive of GST. GST registered contractors will have to invoice for the amount plus GST and subsequently receive an additional GST payment.

GST cannot be claimed as an expense on the exemption (up to the nominal \$60.00) amount. GST can be claimed on expenses in excess of the nominal \$60.00 if all expense invoices and receipts are kept. Contractors wishing to claim GST on the total of per diem expenses must use the standard method of accounting for per diems.

If a contractor's gross annual income including per diems is likely to exceed \$40,000.00 then they must register for GST.

4.10 Production Company IR348 return using the exemption method:

The production company is required to include the total value of per diems in the gross earnings payments and /or withholding payments box on the **IR348** employer monthly schedule, along with any other withholding tax deductions, even though no withholding tax has been deducted from the per diem allowance.

5. Additional Notes

5.1 Per Diem expenses greater than per diems provided by the production company:

It is possible that expenditure will be greater than the per diem received. The contractor can claim all legitimate per diem related expenditure as an allowable tax deduction.

***Example:** A contractor is paid a \$55 per diem per diem as they are required to work away from their town of normal of residence. The contractor purchases all meals, incidentals and laundry services to the value of \$80.00. The crew member can claim the full \$80.00 (standard method) or \$35.00 plus the exemption of \$55.00 (exemption method) as a tax deduction but they must keep all receipts and invoices for the days purchases of meals, incidentals and laundry services.*

5.2 High level per diem payments to international cast and crew:

It is common practice for international cast and crew to be contracted to receive a specific per diem payment which will not be lowered by New Zealand taxes. In these circumstances, the per diem payment should be "grossed up" to include both Withholding Tax and the contracted per diem amount.

6. Resources

IRD Tax Information Bulletin, Volume 15, Number 8, August 2003

IRD Payroll News Issue 56

IRD SPI information: <http://www.ird.govt.nz/industrguidelines/screen-production/>

NZF&VTG Web Site: www.nztecho.com

The New Zealand Film and Video Technicians Guild
Promoting professional standards in the New Zealand Screen Production Industry

Tel +64 9 3022 022, fax + 64 9 302 025, email info@nztecho.com

www.nztecho.com