

American Federation of Musicians Symphonic Services Division Canada

May 2001

CCRA Set to Issue Tax Status Guidelines

After many months of industry meetings, internal debate, and information sharing, the Joint Industry Task Force (JITF), consisting of representatives from OCSM, the AFM, and Orchestras Canada, is anxiously awaiting draft interpretation guidelines from the Canada Customs and Revenue Agency (formerly Revenue Canada). The purpose of the anticipated guidelines is to clearly identify factors or combinations of factors in an orchestra/musician relationship that would point to employment, and those that would point to self-employment, for tax purposes. The issue became a priority for the CCRA when the matter was brought to the forefront at the November 2000 Chalmers Conference on Self-Employment and the Artist. The JITF has been assured by CCRA personnel that the guidelines will be presented in draft form and that the interested parties will have an opportunity to provide input before they are finalized.

In October 2000 the AFM conducted a survey of elected representatives of the symphonic membership. It became clear at that time that the preferred outcome would be to receive assurance from the CCRA that the status quo could be maintained, whether one of employment or self-employment. Any other outcome would almost certainly create serious transition problems for orchestras and musicians facing an imposed change of status. People and organizations quite naturally adapt to existing circumstances. It would be just as devastating for currently employed musicians to lose their Employment Insurance benefits, as it would for currently self-employed musicians to lose much of their ability to write off business expenses against their symphonic income. It is clear, however, that without clear guidelines from the CCRA, our orchestras and musicians cannot reasonably hope to maintain the status quo. The Thunder Bay Symphony crisis, caused by a Revenue Canada ruling in 1996, was just the

beginning. Since then, orchestras in Windsor, London, Trois-Rivieres, and most recently Charlottetown, have all had changes of status imposed at either the federal or provincial level.

Despite concerns about possible transition problems, the JITF remains convinced that clarity, in whatever form it might take, is preferable to the ongoing problems caused by continuing uncertainty. In a letter sent in late April, the JITF has urged the CCRA to move forward quickly on this issue. The problems identified in the letter include financial hardship caused by unexpected imposed rulings, difficulty in attracting and retaining board members, a chilling effect on negotiations, and increasing unfairness and disparity as organizations take divergent approaches to the problem.

When musicians have clarity as to their tax status and reasonable certainty that their status will no longer be subject to sudden and unexpected change, the members of the JITF will be able to move forward with a concerted lobbying effort aimed at securing access for all musicians to social benefits such as EI as well as to the right to claim reasonable business expense deductions. These benefits are similar to those enjoyed by workers in other industries who, like musicians, are not easily categorized. In an environment where the Liberal government is demonstrating an increased level of support for the arts, it is the task of the JITF to persuade the government that such support must include a fair and equitable taxation policy.

Musicians Will Benefit from Copyright Levy

Until March, 1998, copying sound recordings for almost all purposes infringed on copyright, even though in practice the law was difficult to enforce. An amendment to the *Copyright Act* enacted on March 19, 1998, legalized private copying, and made provision for a levy to be imposed on blank audio recording media in

order to compensate "authors, performers, and makers". The levy, which was initially set in December, 1999, is being paid by manufacturers and importers of blank recording media. It applies to analog audio cassette tapes, MiniDiscs, CD-Rs Audio and CD-RWs Audio, and CD-Rs and CD-RWs. The Canadian Private Copying Collective (CPCC) has been designated as the collecting body, and is responsible for distributing funds generated by the levy to the collective societies representing eligible authors, performers and makers. Musicians are represented by the Neighbouring Rights Collective of Canada (NRCC). For more information, the Copyright Board's web site can be accessed at www.cb-cda.gc.ca, - the relevant part of the act is Bill C32, Part VIII.

The Canadian Office of the AFM is currently setting up a distribution process for the funds that are being generated by the new levy. To ensure that musicians receive appropriate shares of the revenue, the office is asking member musicians to sign forms authorizing the AFM to act on their behalf in the collection of the levy fees. Members are also being asked to provide details of any recordings on which they have performed. Details required include the name of the recording, date of recording, song titles if necessary, the names and social insurance numbers of the musicians on the recording, and the names of the producer, label and studio.

To obtain forms or for more information on NRCC and the levy, call the Canadian office at 416.391.5161 and speak to Ghislaine Bernier or send e-mail to: gbernier@afm.org.

National Task Force on Harassment

In 1999, Canadian Actors' Equity Association invited the AFM, along with PACT, Union des Artistes, and Orchestras Canada to work together in establishing model harassment policies that could be used by arts groups and organizations across Canada. As a participating organization, the International Executive Board of the AFM endorsed the following statement of principle in November, 1999:

"Harassment and discrimination are contrary to the spirit of the performing arts. We are committed to working together to help provide

an environment that is free of harassment and discrimination and supportive of the dignity, self-esteem and fair treatment of everyone taking part in the performing arts."

The task force, which was assisted in the process by Alan Shefman, President of The Edge Quality/Communications Consultants, has developed two model policies, one short and one long version, to be used as a guideline for arts companies in the development of their own workplace harassment policies and procedures. Actors' Equity is in the process of developing a brochure for their members which gives an overview of the policies and how they may be used. Other organizations involved in the project will be using the Equity brochure as a model for their own discipline-specific materials.

Having a harassment policy in place clarifies issues and simplifies work situations. By defining what does and does not constitute harassment, a good policy educates both management and artists about appropriate behaviour. Both of the task force model policies go on to outline a step-by-step resolution process, and offer a clear and effective method for dealing with any workplace harassment issues.

The task force is currently working on promoting the use of these policies in arts organizations across Canada, and educating artists on how to best use the policies as they are put in place. The Toronto Musicians' Association has begun including harassment policies as an item in contract negotiations, and both the Vancouver Symphony Orchestra and the Vancouver Opera Company have harassment policies included in their current agreements. The Canadian Office will be making the two model policies available to Local officers across Canada.

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