

AFM SSD Canada

UPDATE June 16, 1999

We would like to advise you of a late-breaking development.

A free-lance violinist has just received a letter from the Appeals Division of Revenue Canada's Vancouver Tax Services Office. The letter is in response to an appeal launched by the musician after he was found by Revenue Canada to be an employee of the Vancouver Symphony Orchestra, despite the fact that he had played only a few concerts with the VSO as a casual extra. The Appeals Division has overturned that finding, advising the musician on June 3, 1999 of their decision that CPP contributions and EL contributions are not payable by the musician because he was "not employed under a contract of service."

This ruling of the Appeals Division is an important clarification for the following reasons:

- We can reasonably conclude, despite the brevity of the ruling,, that symphonic extra musicians are not employees, even where there is a negotiated agreement that contains provisions covering their fees and conditions.
- The ruling suggests that it is both legal and reasonable to follow the Vancouver example, i.e. to negotiate a single symphonic agreement that contains provisions covering a) full-time musicians who might be, or might be found to be, employees of the symphony, and b) free-lance extra musicians who are self-employed.

A note about acquiring new agreements:

We do not currently have enabling legislation at the provincial level (Status of the Artist) for the negotiation of agreements covering part-time free-lance musicians. If we are to be successful in acquiring negotiated agreements with organizations that engage free-lance musicians, or in persuading a symphonic management to specify terms and conditions for subs/extras in the collective/master agreement, we require voluntary cooperation. Many local officers have been successful in this regard, and while we continue to work towards passage of provincial Status legislation, we are not without tools and strategies for achieving our bargaining objectives in this area. For more information, please contact SSD.