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ARTS BUZZ

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Tory tax ruling whacks Orchestra London Windsor tax office says orchestra owes \$128,281 retroactive to Jan. '95

SCENE HAS LEARNED that a recent decision of the Windsor District employee health tax office has serious and immediate ramifications for Orchestra London and in all likelihood, community orchestras right across the province.

A Windsor tax bureaucrat has determined that Orchestra London's musicians, members of the London Musician's Association (Local 279 of the American Federation of Musicians of the USA and Canada) are deemed to be employees and not self-employed, independent contractors. According to Bill Murphy, president of Orchestra London's board of directors, they "are now required to remit 1.95 per cent of the musicians' earnings to the provincial government -- retroactive to January of 1995." The total tax bill is \$128,281.

Orchestra London's request for financial assistance with the unexpected payroll tax went to Board of Control on Wednesday, December 15. At press time, London's senior city administration has recommended loaning the orchestra the money at regular city rates. On Monday, December 13, Deputy-Mayor Anne Marie DeCicco said that the city is "sympathetic to the orchestra's predicament" and feels that the decision "has not been thought through properly by the provincial Ministry of Finance" Orchestra London plans to appeal the ruling.

"For non-profit organizations [such as Orchestra London] it represents a big financial hit and will probably have a very negative impact on orchestras across the province," says DeCicco. "There's been no consultation on this matter and our city administration is recommending making a loan to the orchestra, noting their good track record in the past [in repaying a \$150,000 loan three years ago]." DeCicco also says, "We've made the local MPPs aware of the situation and how we feel about it."

Paul Sharpe, president of the London Musicians Association, says, "a similar decision was recently made against the Windsor Orchestra. an they're appealing it. They [the Windsor employee health tax auditor] came into London, looked at our collective agreement with Orchestra London and determined the musicians were employees. Anyone that supports the arts will obviously be disappointed with the Harris government. We will fight this, but I think the Orchestra is crazy to pay it." Sharpe feels the decision should be appealed before payment is made, but delaying payment could rack up interest charges.

Both Sharpe and Bill Murphy say a similar problem arose with the federal government in Thunder Bay with their community orchestra. Thunder Bay musician filed a claim for employment insurance (formerly unemployment insurance) and Revenue Canada determined the musician had been an employee even though no premiums had been remitted. An appeal of the ruling was unsuccessful. Sharpe says the Thunder Bay orchestra now has no collective agreement in place and "now treats their musicians like [itinerant] rock 'n rollers" with concert-to-concert contracts, to avoid paying the premiums.

Sharpe says the tax decision "raises the costs of the orchestra and this impacts the musicians. With many arts organizations already suffering from decreased grants from the provincial government, the latest hit only makes the problem worse."