

tion in appropriate cases and that such a course is in keeping with the manner in which this kind of issue is normally resolved.

RECOMMENDATIONS

17. That Revenue Canada revise IT-312 to reflect the *Mermaid* case and clarify the role of duration in a contract;
18. That the criteria listed in the Bulletin indicating employment and self-employed status be revised;
19. That factors in the Bulletin allegedly indicating employment status but in fact essential to the organization of any group of performers, employees or not, be excluded;
20. That the assumption of a heavy burden of expenses create a presumption of self-employment for all performing artists.

SPECIFIC DEDUCTIONS

Performing artists presented to the Sub-Committee two distinct problems. The first, their general status as employees or self-employed, has been addressed above. The second problem is the more diffuse and difficult one of specific deductions. Deductions such as lessons undertaken to increase skill or expertise in general have been characterized by the department as either capital or personal expenses and disallowed completely. Other deductions have been limited or made subject to stringent tests.

In both situations, representatives of performing artists called the decisions unfair. One group called for certainty in the ability to deduct and most wished to see the range of allowable deductions broadened.

The Sub-Committee is sympathetic to the reactions of any taxpayer required to explain an expense to Revenue Canada. This process always seems to be emotional. Taxpayers' concerns are compounded if the auditor seems unfamiliar with the nature of the business involved. However, there is no stigma to a reassessment or to a request to verify or explain deductions.

The predictability sought by some witnesses is important but absolute certainty is impossible. Even if a definitive list of permissible deductions for performing artists were enacted, auditors would still ask questions because expenses would still need to be reasonable in the circumstances. All taxpayers must be prudent in the deductions they seek to make.

Indeed, such a course is counter-productive if it limits eligible deductions to those named. No list can foresee all possibilities. The present test of business deductibility is very broad: any expense is deductible if incurred to gain income from business, provided it is reasonable in the circumstances and not of a capital nature. This business-purpose test seems open-ended and flexible enough to accommodate performers' expenses. The Sub-Committee recommends no statutory change.