

## PERFORMING ARTISTS

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### EMPLOYEES OR SELF-EMPLOYED?

The Sub-Committee has concluded that it is time for a change in the general approach to the employment status of performing artists. Canada's tax system classifies working individuals as employees or self-employed. For most taxpayers, the status is clear and the results appropriate. The status of some performing artists, however, may be very difficult to determine. The Sub-Committee believes that performing artists should generally be presumed to be self-employed for income tax purposes.

Witnesses from the performing arts referred to the Interpretation Bulletin entitled "Musicians and Other Performers"<sup>(8)</sup> in discussing the question of employee and self-employed status and pointed out numerous deficiencies in it.

The Bulletin states that:

The question to be decided is whether the contract between the parties is a contract of service or is a contract for services. A contract of service generally exists if the person for whom the services are performed has the right to control the amount, the nature and the direction of the work to be done and the manner of doing it. A contract for services exists when a person is engaged to achieve a prescribed objective and is given all the freedom he requires to attain the desired result."

(para. 4)

Although this is an accurate statement of the law, serious difficulties arise in applying the test to performing artists. Indeed, the Bulletin itself states that for a performing artist, "this factor of supervision and control of the manner in which he does his work may not be as critical and decisive." (para. 5) Nevertheless, the Bulletin insists that the nature and terms of the contract decide the issue.