

FINANCE MANAGERS MEETING

THURSDAY 17 MAY 2007, 10.30am – 3pm
BECHSTEIN ROOM, WIGMORE HALL, LONDON



Chaired by Stephen Maddock *Chief Executive, City of Birmingham Symphony Orchestra*

A G E N D A

Stephen Maddock, *Chief Executive, City of Birmingham Symphony* welcomed attendees and began the introductions.

Cultural VAT exemption

Simon Baxter, *Director, Indirect Taxes Group, Deloitte* explained that the Mayflower case had been successful at High Court and the Court of Appeal, but that it had not been a wholly satisfactory win.

The Inland Revenue deemed that there was a direct and immediate link between running a production and income from extra sources i.e. the bar and programmes. They also stated that tickets linked with sponsorship should be taxable. To calculate the VAT payable the invoice from the producer (or supply of production services) should be used.

The update on the Bournemouth case was that they had been unsuccessful in the Court of Appeal. Deloitte's were currently compiling a complaint to the European commission. There was still a desire to fight this case for Bournemouth as another major orchestra also had their Managing Director on the board and had exemption.

All at the meeting agreed that there was a lack of uniformity, especially in different regions. It seemed that wherever the local VAT office was determined how your case was considered.

Les McConachie, *Scottish Chamber Orchestra*, had a board comprised of three local authority members, players and the Managing Director (as per their Memorandum and Articles of Association). The local Scottish VAT office had deemed both the Managing Director and local authority representatives as having a financial interest and therefore the orchestra was not culturally exempt.

Richard Simmons, *London Mozart Players*, explained that they had purposefully put their Managing Director on the board so as not to be exempt, which worked in their favour.

Stephen Maddock concluded that the ABO membership was split as the exemption worked for some and not for others.

Simon Baxter advised that it was worth making a retrospective claim (up to three years after the particular tax year) rather than waiting on other High Court decisions, such as the Conde Nast case (in November 2007). His other advice was that all costs from one-off events could be exempt from VAT. Simon advised to get agreement from the Revenue in writing before such an event.

Simon's presentation is available for download from the ABO website. His contact details are sibaxter@deloitte.co.uk / 023 8035 4238.

ABO/MU Agreement 2007/08

A working party had been formed to discuss the agreement with the MU consisting of Elaine Baines Robins, *City of London Sinfonia*, Timothy Walker, *London Philharmonic Orchestra* and Russell Jones, ABO. The offer of 3% increase had now gone to the MU executive and was awaiting confirmation. This was significantly lower than the 4.8% APR figure from February 2007 that the MU had initially proposed.

Touring in Germany

Les McConachie, *Scottish Chamber Orchestra* spoke of their forthcoming tour to Germany in August with two separate promoters. The promoters wanted to know how much each player would earn whilst in Germany for tax purposes. Les was in the process of providing a contract via the SCO Trading subsidiary and was interested in how other orchestras dealt with such matters.

Both the RPO and CBSO confirmed that they were not liable to pay tax in Germany and had not experienced any problems whilst touring. They recommended signing a contract as a charity registered in UK.

Action : Gather examples of Inland Revenue letters that show exemption and share anonymous templates of these letters.

Rolled-up holiday pay

A newspaper article from PAY magazine (May 2007) was circulated that stated that rolled-up holiday pay (RHP) was considered unlawful. Les McConachie, *Scottish Chamber Orchestra* explained that they paid a flat fee constantly and paid a holiday payment to players in quieter periods. In Scotland a building contractor had taken their employer to court and had received extra pay even though they had had holiday pay included in their fee and had taken appropriate leave. Les explained that the 8.3% holiday pay was accrued over the year and paid by the SCO 3 or 4 times a year. He questioned whether the ABO/MU agreement should include this.

Action : ABO to check ABO/MU agreement and confirm with Elaine as to it's validity in the agreement.

Performing Rights Society

Les reported on a festival that the Scottish Chamber Orchestra had recently promoted. The SCO were under the impression that the variable versus fixed scale rate should have been determined by the venue of the concert but the PRS stated that the promoter should have that choice. Les asked for clarification from other venues/orchestras.

Stephen reported that when the CBSO play at Symphony Hall the Hall pays the PRS. This amount is then deducted from the box office income that is paid to CBSO. Stephen also stated that a return to the PRS should be made each quarter, and that the whole return should be variable or fixed, and not a mixture of each. The PRS did not allow orchestras to register directly.

There was confusion amongst the group regarding rates, variable versus fixed rates and the different rates applied at different venues. The fixed rate of 4.8% had a 0.5% rebate if paid within six weeks of the performance. The variable rate differed between 0.1 and 0.8%, based on length of the piece. All agreed that they would like some action taken to enable orchestras to choose the rate, and not have the rate determined by the venue.

Charities SORP

The recent changes to Charities SORP would make the Trustees report clearer. Several attendees commented that the first attempt of completing the report in the new format was quite challenging but the format could be carried forward to the following year.

The discussion also covered risk assessments.

Action : SM to share his risk assessment. Areas of high risk were highlighted to the board and wording on the assessment explained how to mitigate each risk.

AOB

A general discussion included who had disaster and emergency plans in place. Also the topic of Trustee Cover was discussed, to cover the board and senior staff.

DATE OF NEXT MEETING : Thursday 18 October