



**American Federation
of Musicians &
Employers' Pension Fund**

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Requirements for Contributions of Proceeds of “Donated Concerts”

Some symphony orchestras hold periodic concerts for which musicians do not receive wage payments. Instead, the proceeds of these benefit concerts, also known as "donated concerts" or "pension concerts," are used for various purposes set forth in the collective bargaining agreement, such as making a contribution to the American Federation of Musicians and Employers' Pension Fund (the “Fund”). In order for the Fund to be able to legally accept the proceeds of these concerts, the collective bargaining agreement must provide for it. The following provides examples of collective bargaining language that can be used, depending on how the bargaining parties intend for the proceeds of the concert to be used.

Additional Contribution to Aid the Fund (Not to Be Credited to Particular Musicians)

A collective bargaining agreement may provide for donated concert proceeds that are intended to be used to improve the funding level of the Fund. In that case, the collective bargaining agreement should make clear that the donated concert proceeds that will be contributed will not be taken into account in determining any benefit payable under the Plan or any Participant’s vested status.

The following language can be used in the collective bargaining agreement or side letter in order for an employer to contribute donated concert proceeds without any allocation to participants:

_____ (the "Employer") and the Local _____, AFM (the "Union") hereby agree as follows:
In addition to the contributions set forth in Section ____ of the collective bargaining agreement between the Employer and the Union, the Employer shall make a pension contribution to the American Federation of Musicians and Employers' Pension Fund (the "Fund") in the amount of the proceeds of a concert to be held on (INSERT DATE(S) OF CONCERT(S)). The contribution will be paid to the Fund no later than the end of the month immediately following the month in which the concert occurred. It is understood that such contribution will not be allocated to any musician, will not be used to determine any benefit payable by the Fund, and will not be taken into account in determining the vested status of any participant in the Fund.

Additional Contribution to Be Credited to Particular Musicians

A collective bargaining agreement may also provide for donated concert proceeds to be contributed to the Fund (*in addition to the employer’s otherwise required contribution*) to be credited to particular musicians as covered contributions for the purposes of determining the amount of their pensions. In order to do that, the collective bargaining agreement (or side letter) must specify that the donated concert proceeds will be allocated to specific musicians based on an identified amount of actual Covered Earnings (generally, not in excess of scale wages) of each of those musicians.

In that case, the collective bargaining agreement or side letter must contain the language set forth below, or similar language to the same effect, specifying the wages on which the contribution shall be based. The wages may be wages from any past performances. (However, keep in mind that contributions are due to the Fund no later than the end of the month immediately following the month in which the services occurred; to avoid late fees, the parties should limit the wages on which the additional pension will be based to wages for performances in the same month as the one in which the donated concert occurred.)

The following language is acceptable in order to allocate donated concert proceeds contributions to the musicians, as described in the preceding paragraph:

_____ (the "Employer") and the Local ____, AFM (the "Union") hereby agree as follows:
In addition to the contributions set forth in Section ____ of the collective bargaining agreement between the Employer and the Union, the Employer shall make a pension contribution to the American Federation of Musicians and Employers' Pension Fund (the "Fund") in the amount of (INSERT AMOUNT) with respect to wages earned for the performances in [month of donated concert] ("Performances"). The contribution will be paid to the Fund no later than the end of the month immediately following the month in which the Performances occurred, and will be allocated among all musicians who earned wages for the Performances in the same proportion that each musician's wages for the Performances bear to the total wages earned by all musicians for the Performances. A list showing each such musician, and the wages earned for the Performances, is attached hereto.

Proceeds Towards Existing Pension Obligation

A collective bargaining agreement may also provide that donated concert proceeds contributed to the Fund will be credited towards the employer's *existing pension obligation* set forth in the collective bargaining agreement, and the Fund will accept the proceeds. For example, the collective bargaining agreement requires contributions to be paid in the amount of 8% of scale wages, and the proceeds of a donated concert are contributed to the Fund to satisfy the applicable portion of the 8% pension obligation. (This type of donated concert helps the employer fund its existing obligation.)