



August 19, 2010

The Rt. Hon Stephen J. Harper, P.C., M.P.
Prime Minister of Canada
House of Commons
Ottawa, ON
K1A 0A6

Dear Prime Minister,

We are writing to the leaders of all parties in the House of Commons, to outline our concerns with Bill C-470, *An Act to amend the Income Tax Act (revocation of registration)*. The Bill was authored by the Hon. Albina Guarnieri, Member of Parliament. We have met with Ms. Guarnieri and discussed these same concerns with her.

Bill C-470 received second reading in the House of Commons on April 21 and was referred to the House of Commons Standing Committee on Finance. The Bill has two components: it would effectively cap the compensation that charities and foundations could provide to any employee or executive at \$250,000 a year; and it would allow for the publication of specific compensation details for the five most highly compensated employees or executives of any charity or foundation.

Canada's charities and non-profits are strongly committed to transparency and accountability. They depend heavily on the trust and goodwill of Canadians and we believe that donors and potential donors should have easy access to all of the information they feel is necessary in deciding which organizations and causes to support. In 2009, the Canada Revenue Agency strengthened existing provisions regarding the reporting and disclosure of salary information by charities and this information is made publicly available on CRA's website. We support these new measures.

To the extent that Bill C-470 seeks to further strengthen transparency and disclosure requirements, we are in principle supportive. There are, however, some serious issues we have identified with Bill C-470, as it is currently drafted, which we will outline below.

We oppose in principle the concept of a compensation cap as it undermines the autonomy of volunteer boards of directors and hinders them in fulfilling their fiduciary obligations to make decisions in the best interest of their organizations and the communities they serve. Implementing a cap, would in effect impose wage controls on the sector, and would hinder rather than improve transparency and accountability. In addition, the specific proposals in Bill C-470 would lead to a number of unintended consequences, including the following:

- The premise of the Bill suggests that because charitable organizations receive tax-credited dollars to support their public good activities, the government has a responsibility to direct the uses of all charitable funds, particularly for compensation. Yet other sectors of the economy also benefit from substantial public investment, such as the high-technology sector (i.e. through the research and development tax credit, worth more than \$3 billion annually), and do not face the prospect of government intervention in their compensation practices.
- Implementing a cap would in many cases violate existing legally-binding agreements. Organizations that honour their contractual obligations would face deregistration. Those that comply with Bill C-470 would face significant legal, operational and reputational costs when contracts were violated.
- We do not believe that the Bill as drafted allows Ministerial discretion to permit organizations to exceed the compensation cap. Even if it did, CRA would need to bureaucratize the review of compensation at considerable cost to the government and to charitable organizations. Organizations would need to develop comprehensive dossiers justifying the proposed compensation and the “pay czar” would have to independently and comparatively assess a multiplicity of factors in determining whether a particular compensation level was justified. These include but are not limited to:
 - the size of the organization, in terms of revenues, expenditures, and staff;
 - the number and variety of income streams, expenditure streams, mandates and programs;
 - the number of government departments and agencies that must be dealt with and the complexity of the regulatory environment in which the organization operates;
 - whether the organization is growing or attempting to grow;
 - the general qualifications and experience required of the individual in question, as well as specialized qualifications that may be required;
 - the prominence or significance of the organization, such as with internationally-renowned cultural organizations;
 - labour market conditions, specifically the compensation that an individual could expect in the private or public sector or with a similar organization overseas.

- There is no escalator for the compensation cap, meaning that its real value will decline over time. As salaries rise with inflation, over time more and more people will fall into the \$250,000+ category. We have seen a similar phenomenon with provincial sunshine laws, where people who were originally making half of the income level that triggers full disclosure, now see their salaries published with no clear public benefit.
- The cap would mostly affect larger charities, including major cultural institutions, universities, colleges, hospitals, regional health authorities and other large, complex organizations. Highly-compensated individuals at these institutions – much like those at leading private sector companies – are very mobile and in demand globally. The prospect of a cap would make recruitment difficult, while the enforcement of a cap would likely result in a brain drain.
- The cap is inconsistent with other Government of Canada policies, such as the Science and Technology Strategy that is recruiting the most sought after researchers in the world to come to Canada – with appropriate compensation.

If there were a compensation cap, the practical issues involved would make it extraordinarily difficult, costly and time-consuming to administer.

With regard to the disclosure aspects of Bill C-470, there are also unintended consequences that you should be aware of and that would need to be considered. Among these are:

- The disclosure requirements do not have a minimum threshold. This would be problematic for the vast majority of charities that are very small and have five or fewer employees. These small charities would be forced to publicly disclose the salaries of all of their staff, regardless of how much or how little they are paid. This invasion of privacy, particularly in rural or smaller communities is unjustified.
- The disclosure requirements could increase risks for people in certain fields:
 - People working in international development are often in some of the most dangerous places on the planet. Public disclosure of their compensation could put them at higher personal risk.
 - People working in rape crisis centres and domestic abuse shelters are often anonymous to increase their personal safety. To the extent they fall under the disclosure requirements, they would lose this anonymity and could be at higher risk.
- CRA's reporting systems are not set up to compile or report data in the manner envisioned by Bill C-470, and would require significant investment to ensure that information is easily accessible to Canadians.

We understand that Members of Parliament will decide individually how to vote on Bill C-470, but we want to ensure that the leaders of all four parties are fully aware of our serious concerns and the very negative impact this Bill would have on the charitable sector in Canada.

Thank you for your attention to this important issue. We would welcome the opportunity to meet with you and your staff to discuss our concerns further.

Sincerely,



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Co-signatories

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