



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;
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 - the prominence or significance of the organization, such as with internationally-renowned cultural organizations;
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- 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.

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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,



Don McCreesh
Chair of the Board, Imagine Canada
donmccreesh@cogeco.ca
416.230.3717

c.c. Hon. James Flaherty, PC, MP
Hon. Keith Ashfield, PC, MP
Hon Diane Finley, PC, MP
Ted Menzies, MP
Jacques Gourde, MP
Kelly Block, MP
Bernard Généreux, MP
Russ Hiebert, MP
Mike Wallace, MP
Hon. John Baird, PC, MP

Co-signatories

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Leader of the Opposition
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Ottawa, ON
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Leader of the New Democratic Party
House of Commons
Ottawa, ON
K1A 0A6

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Ottawa (ON) K1A 0A6

Monsieur,

Nous adressons cette lettre aux chefs de tous les partis à la Chambre des communes, pour expliquer nos préoccupations à l'égard du projet de loi C-470, *Loi modifiant la Loi sur l'impôt sur le revenu (révocation d'enregistrement)*. Le projet de loi a été rédigé par l'hon. Albina Guarnieri, députée. Nous avons rencontré Mme Guarnieri pour discuter avec elle de ces mêmes inquiétudes.

Lors d'une deuxième lecture à la Chambre des communes le 21 avril, le projet de loi C-470 a été renvoyé au Comité permanent des finances de la Chambre des communes. Ce projet de loi comporte deux volets : il aurait pour effet de limiter à 250 000 \$ les rémunérations accordées aux employés et cadres des organismes de bienfaisance ou des fondations et il permettrait la publication des détails de rémunération spécifiques des cinq employés les mieux rémunérés.

Les organismes de bienfaisance et sans but lucratif canadiens sont résolument en faveur de la transparence et l'imputabilité. Ils doivent compter en grande partie sur la confiance et la bonne volonté des Canadiens et nous croyons que les donateurs et les donateurs potentiels devraient disposer d'un accès facile à toutes les informations qu'ils jugent nécessaires pour décider quelles organisations et quelles causes ils veulent appuyer. En 2009, l'Agence du revenu du Canada a renforcé les dispositions actuelles concernant la communication et la divulgation des renseignements sur les salaires des organismes de bienfaisance. Ces informations sont accessibles au public sur le site Web de l'ARC. Nous appuyons ces nouvelles mesures.

Dans la mesure où le projet de loi C-470 vise à renforcer la transparence et les exigences en matière de divulgation, nous y sommes en principe favorables. Toutefois, nous avons décelé de sérieux problèmes associés au projet de loi C-470 dans sa forme actuelle, tel qu'expliqué ci-dessous.

Tout d'abord, nous nous opposons, en principe, au concept d'un plafond salarial. Un plafond salarial nuirait à l'autonomie et à la responsabilité fiduciaire des conseils d'administration bénévoles de prendre des décisions dans le meilleur intérêt de leurs organismes. L'établissement d'un plafond, qui imposerait effectivement un contrôle des salaires dans le secteur depuis Ottawa, n'améliorerait aucunement la transparence ni l'imputabilité. En outre, les propositions précises du projet de loi C-470 pourraient entraîner des conséquences inattendues, notamment les suivantes :

- Le principe fondamental du projet de loi laisse entendre que, puisque les organismes de bienfaisance reçoivent du financement non imposable pour soutenir leurs activités publiques, le gouvernement fédéral a une responsabilité d'affecter tous les fonds de charité, notamment au chapitre des salaires. Pourtant, d'autres secteurs de l'économie bénéficient également d'importants investissements publics, tel que le secteur de la haute technologie (c.-à-d. au moyen du crédit d'impôt à la recherche et au développement, dont la valeur annuelle se chiffre à plus de 3 milliards de dollars), et ne se trouvent pas devant la perspective d'une intervention du gouvernement fédéral dans leurs pratiques de rémunération.
- Dans bien des cas, l'établissement d'un plafond constituerait une violation des ententes juridiquement contraignantes qui sont en vigueur. Les organismes qui honorent leurs obligations contractuelles seraient confrontés à la radiation. Ceux qui respectent le projet de loi C-470 devraient assumer des frais juridiques et souffrir des conséquences sur la réputation de l'organisme s'ils contreviennent à ces ententes.
- Nous ne croyons pas que la version actuelle du projet de loi donne au ministre du Revenu le pouvoir discrétionnaire de permettre aux organismes de dépasser le plafond salarial, mais même si c'était le cas, l'ARC devrait bureaucratiser les examens de rémunération. Le « tsar des salaires » à Ottawa devrait considérer une multiplicité de facteurs en déterminant si un certain niveau de rémunération serait justifié. Ce sont notamment :
 - la taille de l'organisation en ce qui a trait aux revenus, aux dépenses et au personnel;
 - le nombre et la variété des sources de revenus, des sources de dépenses et des programmes;
 - le nombre de départements et d'organismes gouvernementaux qui sont impliqués et la complexité du cadre réglementaire dans lequel l'organisme œuvre;
 - si l'organisme est en train de croître ou tente de croître;
 - l'expérience et les compétences générales requises de la personne en question, ainsi que des compétences spécialisées qui peuvent être nécessaires;

- le profil et levée de l'organisme, par exemple, dans les cas des grands organismes culturels de renommée internationale (Orchestre symphoniques, Musées, etc.);
 - les conditions du marché du travail, notamment ce à quoi une personne peut s'attendre comme rémunération dans le secteur privé ou public ou dans un organisme semblable à l'étranger.
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- Aucune indexation ne sera intégrée au plafond, ce qui signifie que sa valeur réelle diminuera au fil du temps. Les salaires augmentent avec l'inflation, ce qui signifie que de plus en plus de gens relèveront de la catégorie salariale qui dépasse 250 000 \$. Nous avons déjà été témoins d'un phénomène semblable, en Ontario notamment, sur la transparence administrative, pour lesquelles les salaires qui étaient, à l'origine, la moitié du seuil de la divulgation complète, sont maintenant publiés.
 - Le plafonnement toucherait surtout les plus grands organismes de bienfaisance, y compris les grandes institutions culturelles, les universités, les collèges, les hôpitaux et d'autres grands organismes complexes. Les individus bien rémunérés à ces institutions – tout comme ceux des grandes sociétés du secteur privé – sont très mobiles et en demande partout au monde. Tandis que la possibilité d'un plafond rendrait difficile le recrutement, l'application d'un plafond entraînerait vraisemblablement une fuite des cerveaux.
 - Le plafond n'est pas conforme aux politiques du gouvernement du Canada, telles que la Stratégie nationale des sciences et de la technologique qui recrute les chercheurs les plus demandés dans le monde pour travailler au Canada -- pourvu qu'on bénéficie d'une rémunération appropriée.

En raison des problèmes pratiques liés à un plafond salarial, il serait très difficile, coûteux et fastidieux à administrer.

Il faut également tenir en compte les conséquences imprévues liées aux aspects du projet de loi C-470 concernant la divulgation. Ce sont notamment :

- Les exigences de divulgation n'ont pas un seuil minimum. Ce serait problématique pour la grande majorité des organismes de bienfaisance qui sont très petits ou qui ont cinq employés ou moins. Ces petits organismes seraient obligés de divulguer les salaires de l'ensemble de leur personnel, quel que soit leur niveau de rémunération.
- Les exigences de divulgation pourraient augmenter les risques pour les gens qui œuvrent dans certains domaines :
 - Ceux qui travaillent dans le cadre du développement international se trouvent souvent dans certains des endroits les plus dangereux de la planète. La divulgation publique de l'information sur la rémunération pourrait les exposer à un risque personnel accru.

- Les gens qui travaillent dans les centres d'aide aux victimes d'agression sexuelle et dans les foyers pour les victimes de la violence domestique sont souvent anonymes pour des raisons de sécurité personnelle. Dans la mesure où ils sont tenus à respecter les exigences de divulgation, ces individus n'auraient plus la sécurité que leur apporte l'anonymat.
- Les systèmes de déclaration de l'ARC ne sont pas destinés à rassembler ou présenter des données de la manière prévue par le projet de loi C-470. En plus, ces systèmes exigeraient des mises à jour. L'ARC serait tenu d'effectuer un remaniement majeur à son site Web afin de rendre les informations facilement accessibles aux Canadiens.

Nous comprenons que les députés décideront individuellement comment voter sur le projet de loi C-470, mais nous voulons veiller à ce que les chefs des quatre partis soient pleinement conscients de nos sérieuses réserves et de l'impact négatif qu'aurait ce projet de loi sur le secteur de bienfaisance au Canada.

Je vous remercie de l'attention que vous portez à cette question. Nous serions heureux d'avoir l'occasion de vous rencontrer, ainsi que votre personnel, pour en discuter davantage.

Veuillez agréer mes sentiments distingués,



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Cosignataires

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James Knight	Président-directeur général	Association des collèges communautaires du Canada
Mark Climie-Elliott	Président, Canada Council	Association des professionnels en philanthropie
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