

Existing transparency and accountability provisions

Canadian charities are already required to publicly account for their organizational activities and finances, including information on staff compensation.

- Canada Revenue Agency requires all registered charities to complete a Form T3010 annually. The completed form must be submitted within six months of the end of a charity's fiscal year.
- Form T3010 requires the provision of a substantial amount of information, including:
 - contact information, including a contact name;
 - details about directors;
 - detailed revenue and expenditure information;
 - description of charitable programs;
 - political activities;
 - transfers to qualified organizations; and
 - fundraising revenues and expenditures.
- Charities must also report compensation information on Schedule 3 to the T3010 which includes the total number of full-time staff, total amount of staff compensation and the total amount paid to part-time staff.
- As well, for the charity's ten highest-compensated employees, charities must report the number of employees that fall within each compensation range as defined by CRA. These ranges are:
 - \$1 – \$39,999;
 - \$40,000 – \$79,999;
 - \$80,000 - \$119,999;
 - \$120,000 - \$159,999;
 - \$160,000 - \$199,999;
 - \$200,000 - \$249,999;
 - \$250,000 - \$299,999;
 - \$300,000 - \$349,999; and
 - \$350,000 and above.
- Most information contained on the T3010 form, and schedules (e.g. financial disclosure, compensation) are publicly available on the CRA's Charities Directorate website. Searches can be conducted by charity name. In addition, financial statements of each charity are available by request to CRA.
- Failure to submit required T3010 information within six months of the end of the fiscal year can result in the revocation of charitable status. (For the sake of comparison, in the United States a charity can fail to file for three years before revocation of status is possible.)
- In the 2009-10 fiscal year, the Charities Directorate revoked the charitable status of 593 organizations for failing to file their annual return within the required period.

A revised Fundraising Guidance developed by CRA in 2009 with significant consultation and engagement with the charitable sector provides national guidelines regarding charities' fundraising practices.

- CRA has made significant efforts to engage the sector in developing the Fundraising Guidance. This has generated trust and goodwill and CRA's responsiveness to input will help to ensure broad compliance with the Guidance.
- CRA has issued comprehensive guidance to charities to indicate what approaches to fundraising are appropriate, and detailing how fundraising expenditures and revenues are to be calculated and reported.
- Fundraising expenses and revenues are reported on the T3010 form, which is publicly available.
- The Fundraising Guidance provides information on what constitutes fundraising. The definition of fundraising encompasses more than explicit fundraising campaigns. All costs associated with fundraising – both the cost of external fundraisers, and pro-rated staff costs – must be calculated and reported.
- The Fundraising Guidance requires charities to calculate the ratio of gross and net fundraising revenues.
- The Fundraising Guidance outlines good practices to which charities are encouraged to adhere, and also outlines a number of practices that will raise concern and potential investigation. These include sole-sourced or non-arm's length contracts to provide fundraising services.
- CRA has the obligation to audit charities periodically and the ability to deregister those that do not comply.

The *Income Tax Act* provides the authority for CRA to investigate and impose penalties in cases of excessive private benefit, which includes excessive compensation to any individual or contracted service provider.

- CRA Policy CSP - U02 states that “[u]nder the Income Tax Act, a registered charity cannot confer on a person an undue benefit (e.g., a transfer of property or other resources of the charity to a person who does not deal with the charity at arm's length or who is the beneficiary of a transfer because of a special relationship with a donor or charity.) A registered charity that confers on a person an undue benefit is liable to a penalty equal to 105% of the amount of the benefit. This penalty increases to 110% and the suspension of tax-receipting privileges for a repeat infraction within 5 years. A registered charity that contravenes or continues to contravene the Act could also have its registration revoked.”
- The Fundraising Guidance provides further clarification regarding fair market value. In the Fundraising Guidance CRA notes:
 - “c) Good staffing processes
Where fundraising activity is carried on as a staff function, the charity should make adequate effort to ensure that compensation paid does not result in

employees receiving excessive benefits. The salary and/or benefits for any fundraising position should never exceed the fair market value for the services provided.

Determining fair market value may involve:

- contacting organizations with a profile similar to the charity's to determine reasonable compensation for the type and amount of fundraising to be undertaken;
- basing the compensation on a salary survey; and
- setting compensation that is appropriate based on the remuneration received by other employees of the charity in light of the respective responsibilities and requirements of the positions.

A charity should establish accountability processes for the supervision and evaluation of in-house fundraising personnel. A charity should avoid performance evaluation based solely or excessively on fundraising performance or results achieved (for example, bonuses or incentives exclusively tied to the number or amount of donations)."

No other jurisdiction has unilaterally capped compensation in the charitable sector and jurisdictions such as the United States that require executive compensation disclosure have seen compensation skyrocket as a result of this disclosure.

- The US Internal Revenue Service requires charities to disclose the compensation of CEOs of charities.
- This disclosure, rather than contain salaries, has fuelled excessive compensation.
- Canada has one of the most digitized information systems in the world which greatly facilitates access to information about charities and provides a much more comprehensive and searchable compliance system than other countries.

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