

*Bill C-470*

**SUPPLEMENTARY QUESTIONS AND ANSWERS**

**1. What is the international practice regarding compensation caps or limits?**

We are not aware of any compensation caps being imposed on charities in other countries. There was a proposal in California several years ago to limit executive compensation at charities, but this was defeated; instead, the Nonprofit Integrity Act of 2004 requires that charities' boards (or an appropriate board committee) review and approve compensation levels for the President (or CEO) and Treasurer (or CFO) to ensure that they are "just and reasonable." This is exactly what Boards of Directors of Canadian charities already do.

There have been recent reports that the United States Senate and the Government of New Jersey are considering the issue of compensation caps but, to our knowledge, neither has made a firm public proposal.

The IRS does not impose any compensation caps. However, the IRS does require charities to list those employees who received more than \$100,000 of reportable compensation.

**2. Does the fact that charities benefit from public and governmental support justify federal intervention in autonomous Boards of Directors' compensation decisions?**

No other sector faces such a limitation, despite the fact that other sectors receive substantial federal financial support. For example, research and development tax credits cost the federal government \$1 billion a year more than charitable tax credits, but nobody is proposing to limit compensation in the high-tech sector, for instance, because of this. Additionally, corporations deduct salaries before calculating taxes payable; the foregone revenue is, in effect, a taxpayer subsidy of corporate salaries.

**3. At a time when many charities are seeking new ways to generate income, does a cap make it more difficult to attract employees with more business-oriented, legal or technical skills?**

Individuals with these types of skills are already in high demand in other sectors of the economy, and this demand will grow more acute as the labour force shrinks. Many of them will have their choice of jobs and will be able to command compensation reflecting the realities of the marketplace. If the charities that need the services of individuals like these face an arbitrary compensation cap, they will be less able to compete for people with these skills at the same time that governments and other funders are expecting charities to demonstrate that they can operate in a more entrepreneurial way. There is an obvious disconnect here: if charities are expected to be more market-oriented in their organization and approach, this also needs to be reflected in their human resource and compensation strategies. Finally, philanthropy is a global effort, meaning that individuals interested in charitable work can seek employment both within and outside of Canada. The imposition of a compensation cap on Canada's charities could make them uncompetitive in the international marketplace.

**4. If all charities are covered by the cap and have to play by the same rules, what's the problem with recruitment?**

Charities – like any other sector – face the reality of high demand for the pool of people with the skills and experience to successfully manage and operate large and/or complex organizations. Many charities do not just compete with each other for staff; they increasingly compete with the private sector, the public sector, and with organizations in the U.S. and abroad. None of those other entities face a compensation cap, meaning that Canadian charities and foundations would be placed at a serious disadvantage in competing for talent on a global basis.

**5. Could a cap dissuade new graduates from entering the sector or promising future leaders from remaining in the sector?**

The issues that charities address are becoming ever more complex. The environment in which they operate is also becoming increasingly complex – both because of rapidly changing technologies and ways of doing business, and because of an ever-evolving regulatory framework. Charities will increasingly need to seek people with specialized training in law, information technology, finance, and administration, among other fields.

New graduates represent a significant pool of potential new talent for charities particularly as we move into a tighter labour market. They may not expect competitive salaries in the immediate term, but they are fully aware of their longer-term financial prospects. If the compensation that could be offered by charities is arbitrarily capped, it may be much more difficult for some of these individuals to envisage a long-term future in the sector.

**6. If charities are already reporting the compensation ranges for their 10 most highly-paid employees, what additional transparency would Bill C-470 provide?**

Bill C-470 would authorize the publication of exact compensation (as opposed to compensation ranges that CRA publishes). It would authorize the publication of the names of the five most highly compensated employees, however high or low their compensation level. This would be in addition to the information already published by CRA. In the U.S., there is a similar compensation disclosure policy on the IRS's Form 990, but the IRS only requires charities to list those employees who received more than \$100,000 of reportable compensation.

**7. Is the proposed bill consistent with other Government of Canada policies?**

There are potential conflicts between Bill C-470 and other federal government policies. For example, the most recent federal budget, which announced changes to the current disbursement quota regime governing charities, emphasized the importance of providing charities with greater financial flexibility and independence to manage their affairs, albeit in a transparent and accountable manner. Contrary to this recent announcement, the proposed bill would reduce both the autonomy of the Boards of Directors to ensure stewardship of charities' funds and could limit charities' ability to make the decisions that will ensure that they are fulfilling their mandates in the most effective ways possible.

Similarly, the Canada Research Chairs program has attracted thousands of the best and brightest researchers to Canadian universities, with compensation rates that reflect this. Bill C-470 could limit the federal government's ability to implement its own science and technology policies and to attract top international talent.

## **8. What if universities, colleges and hospitals were exempted from the bill?**

Exempting universities, colleges and hospitals would be extremely difficult to do given the great diversity in size and scope even among these charities. Moreover, there would be great practical and administrative difficulties in treating different types of charitable organizations in a different manner, effectively creating two tiers of charitable organizations in Canada.

## **9. How would Bill C-470 affect corporate foundations?**

To the extent that corporations have established foundations, they will be affected by Bill C-470. Depending on their HR policies and how their foundations are staffed, they may no longer be able to staff their foundations in the way they see fit or may have to close down their foundations as they would no longer be registered charities insofar as they were unable to comply with the compensation cap. The contraction of the corporate foundation sector is a potential unintended consequence if Bill C-470 were to pass.

## **10. How would the proposed bill affect current HR agreements?**

The bill would have a direct impact on legally-binding collective and individual agreements into which charities have entered. Bill C-470 does not propose a realistic transition period, meaning that institutions such as hospitals, universities, and other large charities would face the choice of deregistering or violating these agreements – with all of the associated legal complications. In the case of medical professionals who are on staff at hospitals, compensation rates are determined by provincial governments in negotiation with representative organizations of physicians and surgeons. In this case, Bill C-470 would actually dictate to provincial governments how much they are allowed to pay these medical practitioners and in that respect would arguably represent an intrusion by the federal government into an area of provincial jurisdiction.

## **11. Is there a right way of deciding on compensation?**

There is no one answer to the question of how much compensation a charity should offer compared to organizations in other sectors. There are market forces at play and individual organizations have to decide what they need to pay for the skills and results they require, based on their own knowledge and expertise and on their experience in benchmarking compensation. Comparing jobs across different functions within an organization is challenging enough, but to try to compare and manage compensation across different-sized organizations, sectors and regions is a hugely subjective process. These decisions are best left in the hands of the volunteer Boards of Directors of individual charities, who have a fiduciary obligation to act in the best interest of their organization.

**May 14, 2010**