
BILL C-470 RECEIVES THIRD READING AND REFERRED TO SENATE

*By Terrance S. Carter **

A. INTRODUCTION

On March 8, 2011, Bill C-470, *An Act to Amend the Income Tax Act (revocation of registration)*, passed third reading in the House of Commons. The Bill received first reading by the Senate on March 9, 2011. Bill C-470 introduces new disclosure obligations for charities under the *Income Tax Act*, which will require all registered charities to disclose to the Minister the name, job title and annual compensation of any executive or employee who is paid aggregate compensation in respect of a taxation year of the executive or employee exceeding \$100,000. “Compensation” includes salaries, wages, commissions, bonuses, fees and honoraria, plus the value of taxable and non-taxable benefits.

B. LEGISLATIVE HISTORY OF BILL C-470

Bill C-470 had originally proposed a salary cap of \$250,000 for any executive or employee of a charity, and mandatory disclosure of compensation for its five highest-paid executives or employees.¹ The Bill was referred to the Standing Committee on Finance for review in November 2010, at which time amendments to the Bill, including the elimination of the \$250,000 salary cap and the introduction of a threshold of \$100,000 for salary disclosure requirements, were introduced by Albina Guarnieri, MP for Mississauga East – Cooksville, the original sponsor of the Bill. On December 6, 2010, further hearings commenced before the Standing Committee on Finance, at which members of the charitable sector voiced strong opposition to the

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¹ As previously reported in the *Charity Law Update, January 2011* (<http://www.carters.ca/pub/update/charity/11/jan11.pdf>).

Bill. Nonetheless, the Committee reported an amended version of Bill C-470 to the House of Commons on December 10, 2010, including some amendments which were not discussed at the hearings.

No motions were brought at the report stage on March 8, 2011 and the House proceeded without debate to a motion to concur in the Bill, which motion was agreed to. The Bill was subsequently put to third reading and passed. The Bill received first reading by the Senate on March 9, 2011.

C. SUMMARY AND COMMENTS

Bill C-470 as passed by the House of Commons includes a disclosure floor of \$100,000, and no longer has a salary cap provision. However, the amended Bill C-470 expands the salary disclosure requirement to all executives or employees of a charity who are paid \$100,000 or more, rather than only the five highest-paid employees earning \$100,000 or more. The \$100,000 disclosure floor is to be indexed in respect of 2012 and following taxation years. Bill C-470 also makes it mandatory for the Minister to make salary disclosures available to the public, but includes an allowance for Ministerial discretion not to do so where "it is otherwise justified."

A concern which charities should be aware of is with regards to the definition of compensation in Bill C-470 in that it now includes non-taxable benefits, and may therefore bring some employees or executives within the scope of Bill C-470 even though their actual income level is well below \$100,000. This will raise the question of what is considered by CRA to be a non-taxable benefit. It is important for charities to monitor communications from CRA in this regard and to obtain assistance from their professional advisors in determining what constitutes a non-taxable benefit.

Whether or not Bill C-470 will become law is unclear at this time due to the possible vote of non-confidence and resulting federal election. Bill C-470, can be accessed through the Parliament of Canada website at <http://www2.parl.gc.ca/Sites/LOP/LEGISINFO/index.asp?Language=E&query=6906&List=toc&Session=23>