



House of Commons
CANADA

Standing Committee on Finance

FINA • NUMBER 049 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Monday, November 29, 2010

—
Chair

Mr. James Rajotte

Standing Committee on Finance

Monday, November 29, 2010

• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call the 49th meeting of the Standing Committee on Finance to order.

Our order today, pursuant to the order of reference of Wednesday, April 21, 2010, is Bill C-470, An Act to amend the Income Tax Act (revocation of registration).

We have two panels with us at this meeting, or two one-hour sessions. In the first panel, from 3:30 to 4:30 p.m., we have our colleague, the Honourable Albina Guarnieri, member of Parliament for Mississauga East—Cooksville, and the sponsor of this private member's bill.

Welcome to our committee. It's a pleasure to have you here today. We have the first hour dedicated to your opening statement and questions from members. I believe you have an opening statement of around 10 minutes. We want to welcome you to the committee and have you begin at any time.

Hon. Albina Guarnieri (Mississauga East—Cooksville, Lib.): Thank you, Mr. Chair.

[Translation]

I would like to begin by thanking committee members for participating in the study of Bill C-470, which would bring about more transparency with regard to the salaries paid by charities.

[English]

Mr. Chairman, when I introduced Bill C-470 last fall, I genuinely believed it was a mere accessory to motherhood and apple pie. I doubted anyone would actually argue with the idea that Canadian charities should have the same type of salary disclosure that American charities already have, that all Canadian public corporations like Rogers and Bell have, and that most provincial governments already have. The fierce resistance made me wonder if I had innocently stumbled onto something.

I met with countless charities and with even more donors and started asking why transparency could be so frightening to so many. The small measure of transparency my bill seeks is the disclosure of the names, titles, and salaries of just the five highest-paid employees. Charities would still report ranges of the top ten, as they do now, but the top five would be fully disclosed.

A second prong of my bill adds to the minister's long list of rarely or never-used powers to actually regulate charities. It would allow the minister the discretionary ability to deregister a charity if it pays an executive more than a quarter-million dollars in a year. While

lately the media are full of reports of abuses by charities, I should say at the outset that there are many excellent charities in this country.

One is the St. Peter's Parish Dominican Relief Fund. It delivers hundreds of thousands of dollars in aid every year to Haitians living in the bateyes, in the Dominican Republic. Father Michael Corcione, Dr. Dario Del Rizzo, and a team of volunteers set up medical clinics, provide medical care, medicine, and clothing, and handle fundraising, logistics, and program delivery without spending a single dime in administration or fundraising costs.

At the other end of the scale is World Vision. It collects over \$350 million in donations annually, spends less than 20% on fundraising and administration, and pays its CEO \$188,000. The largest issuer of tax receipts in Canada appears to pay far less than the discretionary cap suggested by this bill. Tiny charities and massive charities can both put the cause first and keep salaries in check.

In the middle are charities as small as 2% of the size of World Vision that pay much more to executives and spend twice or three times as much on administration and fundraising. Transparency itself will not cure self-interest and the temptation to take home more charity in pay and perks; however, it will provide some measure of restraint and donor awareness. Better-run charities may benefit from donations redirected from those that burn more than half of every dollar on fundraising companies and administrative salaries, where the president hires himself as a consultant, where nepotism pays six-figure salaries to spouses and children, where the executives pocket donated prizes, or where the charity helps facilitate a \$2.5 billion tax fraud by issuing inflated tax receipts through gifting tax shelters.

To see why salary disclosure is so important to donors and so threatening to executives, let's look at the current state of disclosure. You will have read in *The Toronto Star* that the Oshawa Hospital Foundation paid its CEO \$200,000, five-figure benefits, \$10,000 a month in consulting fees, and more. All of this would have been a surprise to anyone looking at the return posted on the CRA website, which says the charity did not indicate that it incurred expenses for compensation of employees during the fiscal year. The *Toronto Star* total adds up to about \$350,000. The CRA publishes "zero" for 2009 and previous years.

You can get classified Pentagon documents on WikiLeaks easier than you can find compensation information about charities.

• (1535)

I would argue that early compensation disclosure would have prevented the Oshawa situation from turning into a crisis, as there never would have been a need for an investigative reporter to dig out the truth.

Mr. Chair, with the current state of disclosure, 88% of donors don't bother to look at the CRA site and the confusing and misleading information posted there. They don't have the time to figure out the shell games. They rely on the only real regulators of charities, the media: the *Toronto Star*, *The Globe and Mail*, and CBC, to name a few.

The CRA was kind enough to provide data on donors, donations, fundraisers, and management/administration costs. I've circulated some tables for your perusal. You will see that since 2000, donors have remained flat, so high-priced fundraising talent is not attracting more donors. Charitable receipts are growing barely faster than the rate of inflation, barely more than 1% a year on average, but fundraising costs defy gravity. For every percentage point increase in donations, fundraising costs rose three and a half percentage points. Even after accounting for inflation, fundraising costs rose more than 50%, three and a half times as fast as donations.

Management and administration costs marched skyward as well, rising even faster than fundraising costs, so secrecy has certainly been a booming success for fundraisers and executives in terms of pay. It is not much of a success for frugal charities that have to spend more and more to maintain their revenue against competition that can spend 50¢ of every dollar on fundraising and administration, without sanction or salary disclosure.

Let's look at the situation from the perspective of people who need the money to reach the cause, people hoping for a cure or a helping hand. Putting a personal face on it, if you will permit me, let's take a look at the MS Society. I know that donors and sufferers are disappointed to find out that the MS Society is spending more on fundraising than research. Fundraising, management, and administration together exceed research by 75%, and exceed the total spent on all charitable programs by 20%, according to the CRA listing. Despite this, the MS Society is one of the better performers among medical charities and may just be a victim of the inflationary reality created by the fundraising industry, which you will hear from later.

Charities have become a filter that too often shrinks donations by half and leaves federal and provincial taxpayers paying for the bulk of actual programs through credits and deductions. The question my bill asks is whether secrecy is working. Are unlimited and undisclosed salaries for executives bringing down the costs or driving them up? Should Canadians continue to have to look to U.S. registrations to find out how much Canadian charities are paying themselves?

You will hear from charity executives themselves. You will hear from their lawyers and private fundraisers who rely on them. What do Canadians think? What do donors think?

I asked Pollara to ask 2,000 Canadians, and here is what they found. Only 12% said they had looked at the CRA website, so there needs to be another way to bring light to blind generosity.

When asked, do you agree or disagree that the five highest-paid executives from all Canadian charitable organizations should be required to disclose their salaries, 83% agreed and 11% disagreed.

When asked, are you aware that some charity executives earn more than \$250,000 a year, 68% said no. Do they think there should be a limit? Sixty-eight per cent said yes; 22% said no.

• (1540)

What limit do they think is appropriate? Of those who supported a cap, 82% said it should be \$100,000 or less. The median answer was \$75,000. Only 3% of donors thought the cap should be higher than \$250,000. So that is the best sense as to what donors are saying at large and might be saying to you. But alas, you will hear that the minister might deregister a hospital or someone might pay more than the limit for a brain surgeon. You might hear any number of other red herrings from people who know well that the minister already has the grounds to deregister countless charities on the basis of disproportionate private gain, and hasn't done so. He's hardly going to deregister a hospital, university, or orchestra for paying doctors, professors, or conductors.

Nonetheless, I have agreed to delete the part surrounding the cap, because I don't want that tangential debate to be the shield that keeps exorbitant salaries secret.

I have received assurance from the parliamentary secretary that the government will explore the murky issue of contract fundraisers and fundraising companies. Perhaps we will finally see full disclosure of all fundraising salaries earned from donations that never make it to the cause.

Moreover, I don't want anyone to be able to hide a \$1 million salary behind a secretary's privacy concerns, as if they're worried about the privacy of low-paid workers. So I have offered another amendment to create a disclosure floor of \$100,000.

In conclusion, we now have a bill with a single, unambiguous purpose of delivering transparency for high-paid executives. I believe that Bill C-470 can be a small first step to reforming the charities sector into a transparent and efficient funding vehicle for good causes. I know you will need to do more.

The salaries of fundraisers and the profits of fundraising companies need to be disclosed. Fundraising costs and CEO salaries need to be disclosed right on the tax receipt or other means, as Blaine Calkins suggested in the House of Commons. Tax receipts ought to be reduced by the amount that fundraising and admin costs exceed 25%. Donor reaction would bring fundraising costs down in a frantic hurry—to the benefit of every cause, cure, or vital need.

Finally, the minister should have the same powers as the securities regulator to ban executives who hide costs, funnel funds to related companies, or participate in scams like gifting tax shelters that robbed Canadian taxpayers of over \$2 billion by inflating receipts. With these measures in place, the donor dollar would no longer go through more pockets than a dry cleaner, and perhaps charities would deliver a lot more charity.

Thank you.

• (1545)

The Chair: Thank you for your opening presentation.

We will now hear from members.

Mr. Pacetti, you have seven minutes for the first round.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you. I'm not sure I'll use the round. Maybe I'll just come back afterwards.

Albina, I'm in agreement with what you were saying. This looked like a harmless bill, and then all of a sudden I started getting phone calls. When I get phone calls, I get worried.

On the transparency issue, could you repeat...? Now the bill seems to have disappeared. We're only talking about one section, right? You're striking the second, third, and fourth subsections of the bill. Is that what you're doing?

Hon. Albina Guarnieri: That's right.

I've furnished the committee with amendments, and you were gracious enough earlier to say that you would move them on my behalf. Certainly, as everybody knows, there was never really a cap in my bill. It was a notional cap that gave the minister discretion. But as we know, I've yet to come up with one single example where anybody was ever deregistered for excessive pay.

I saw from those who profit from charity that they were trying to rev up conductors, artists, against my bill, pretending that the minister would deregister an orchestra, or a hospital if a brain surgeon was paid an excessive salary. I wanted to take that phoney debate off the table. My bill was never about orchestras. It was never about brain surgeons. It was never about any hospitals. Basically, Imagine Canada went on CBC and claimed that the minister had this power to deregister for salary excess, though no one has ever been able to come up with one single example.

So I realize that the problem is that deregistering a major charity... First, why should the cause be penalized if people misbehave? What the minister really needs to do is to have full disclosure, and then at some later date I'm hoping he'll explore the possibility of giving himself the power to ban the individuals who are actually abusing public trust, without hurting the cause. When you see a multi-million-dollar payout to a pitch man, the minister should be able to

ban the board and not the hospital. That's what the OSC does to a company, and charity profiteers really shouldn't be able to hide behind the cause.

Mr. Massimo Pacetti: Before you leave there, one step backwards, on the transparency issue.... It's now listed on the CRA site, so the charity is going to continue filing its report and it's going to be up to the minister to disclose it. Is that what you're asking, or are you asking for the charity to disclose it?

Hon. Albina Guarnieri: No. The charity certainly should disclose it.

What my bill actually asks—

Mr. Massimo Pacetti: On the second page, subclause 1(5) says:

(b) the Minister may make available to the public in such manner as the Minister deems appropriate an annual listing

But it doesn't really say anywhere that the charities have to disclose their top five. I think you even say the five executives in the top ten.

Hon. Albina Guarnieri: That's right.

Mr. Massimo Pacetti: It doesn't say that anywhere. It says the minister has to do that.

Hon. Albina Guarnieri: Are you looking at my amendments?

Mr. Massimo Pacetti: I'm looking at both. I'm trying to amalgamate them.

The only thing left in your bill will be what's on page 2, subclause 1(5), and it says what the minister is going to be doing. It doesn't oblige the charities to do anything.

• (1550)

Hon. Albina Guarnieri: Well, my bill was predicated on what was already in existence in the Income Tax Act, so basically my bill is an adjunct to the Income Tax Act.

Mind you, if you look at the Oshawa case, it is an interesting case, where the individual claims that.... If you look at the CRA, it indicates that the individual CEO of Oshawa Hospital made no money, yet the *Toronto Star*, in the case that I highlighted, exposed them as having benefited by \$350,000.

What's interesting about the current reporting mechanism is that the CRA seems to have a disclaimer on its website. I know the officials are sitting behind me, and I'm very curious to hear their explanation about that.

Mr. Massimo Pacetti: That's why I asked the question, because I want to be able to ask the officials if they're going to be able to do that, or if it's already prescribed in the law that the charities disclose—

Hon. Albina Guarnieri: Right now, as I understand it, the law is that they only disclose ranges.

Mr. Massimo Pacetti: The CRA does?

Hon. Albina Guarnieri: That's right, or the charities report to the CRA and only disclose the ranges. But my bill would ask them to disclose the top five salaried executives, and anyone making under \$100,000 would not have to report that.

Mr. Massimo Pacetti: So it would be anybody over \$100,000.

Hon. Albina Guarnieri: They would not have to report their names and salaries and positions.

Mr. Massimo Pacetti: Okay. But if anybody were making over \$100,000, whether it was 10 employees or 10,000 employees, they would disclose them all.

Hon. Albina Guarnieri: If they were making over \$100,000, it would be the top five salaried positions.

Mr. Massimo Pacetti: My next question will lead to....

Hon. Albina Guarnieri: It is much like what a publicly traded company does and much like what the United States requires.

Mr. Massimo Pacetti: Okay. That's how I'm reading it. I just wanted to make sure that's coming across, for the record.

I have another quick question. We could maybe get into it later. Who's going to determine whether the amounts paid are reasonable or not reasonable?

Hon. Albina Guarnieri: I'm sorry. You mean reasonable in terms of what?

Mr. Massimo Pacetti: You seem to have a preconceived notion of how much somebody should be making in the non-profit sector. Am I reading this right or wrong?

Hon. Albina Guarnieri: It would have been my preference to have had some kind of range by which people could not take excessive profits out of the charities.

Mr. Massimo Pacetti: But who is going to determine what excessive is?

Hon. Albina Guarnieri: I've eliminated all of that. It's not an issue now with my bill. My bill asks only one question of this committee: whose salary needs to be hidden?

Basically, my bill is about transparency.

The Chair: Okay.

Hon. Albina Guarnieri: My bill asks nothing more than what is required in the United States and what a publicly traded company asks.

The Chair: Thank you.

Hon. Albina Guarnieri: Shareholders have a right to that information, and the argument I would make is that donors have that right too.

The Chair: Thank you.

Thank you, Mr. Pacetti.

Monsieur Carrier, *s'il vous plaît, pour sept minutes.*

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): How much time do I have? Is it seven minutes?

The Chair: Yes.

Mr. Robert Carrier: Fine, thank you.

Good afternoon, Ms. Guarnieri.

Hon. Albina Guarnieri: Good afternoon.

Mr. Robert Carrier: You are telling us that the bill was amended, and that the amendments have been summarized in a report. Has this report been officially distributed, or are we getting it today? I have just learned about the amendments to your bill.

Hon. Albina Guarnieri: This is the first time I have had the opportunity to speak to the amendments before the committee. In my statement, I underscored the reasons why I am presenting these amendments.

I would like the committee to study the issue of transparency as it applies to charities.

• (1555)

Mr. Robert Carrier: Yes, I understand. I am not a legal expert. Are your amendments legally acceptable? It seems to me that you are proposing a major change to your initial bill. Does your bill still stand as amended?

Hon. Albina Guarnieri: That's a good question.

[English]

The amendments were drafted by the legislative committee that drafts private members' bills. I am assured that they are in order.

[Translation]

Mr. Robert Carrier: If I take for granted that these amendments have been accepted, I support them, on principle, because they address many issues we had previously. We understood the bill's good intentions, but the bill may have penalized smaller organizations, since it might be a delicate matter to reveal the salaries of their employees, as well as extremely high salaries which might be paid out. I think that the \$100,000 cap solves that problem.

Indeed, the smaller organizations which I felt would have been affected by the bill are not structured the same way, that is, they do not have enough time to analyze a bill and present their arguments before the committee. That is why I thought they were being significantly penalized.

I also noted that you removed the obligation to reveal the names of the salary earners. You are asking that only the five highest salaries be revealed. What is the main reason for not wanting to match names with salaries? Registered charities include the Montreal Symphony Orchestra, and it is well known that the conductor earns more than \$1 million within that organization.

If we only reveal a few salaries, it would be important to link each salary with the attendant position, so that everyone has a good grasp of the situation before making a judgment. Did you take this into account when you were thinking the matter through?

Hon. Albina Guarnieri: That is very important. Transparency is a fundamental value, we have to reveal the salaries paid. It is important to know whether a surgeon earns a big salary, or whether a fundraiser earns just as much. It's very different. It is also important for donors to know how their money is being spent.

I want to point out that the crisis I referred to earlier, which happened at the Oshawa Hospital, would never have occurred if there had been transparency. Reporters should not have to conduct a major investigation. I think that everyone wins when there is transparency. Donors should have the same rights as American donors, or the same rights as shareholders of a publicly-listed company.

Mr. Robert Carrier: However, if we do not match names with salaries, that will diminish transparency, since the five highest earners in an organization are not necessarily known. You cannot make a judgment and know whether it is founded or not. You referred to a surgeon or an orchestra conductor, but if you only indicate who the top five earners are who make over \$100,000, people might ask questions. You might identify three people, that would be logical, but what about the fourth and fifth? There would remain many unanswered questions.

Hon. Albina Guarnieri: That's possible, but what I am saying is that a donor has the right to know how his or her money is being spent, that's all. That's the donor's right.

I am just wondering why an American donor has more rights than a Canadian one.

•(1600)

The Chair: You have one minute left.

Mr. Robert Carrier: Thank you.

Hon. Albina Guarnieri: Did I understand your question?

Mr. Robert Carrier: No, you did not understand. In the amendments you have introduced, you are asking that only the highest salaries be published, those over \$100,000, without revealing who is making those salaries. You are only asking for the salaries to be divulged.

Hon. Albina Guarnieri: No, I also want the names of the people making those high salaries to be revealed.

Mr. Robert Carrier: Oh, yes?

Hon. Albina Guarnieri: As you said, it makes sense for the names of the top earners to be revealed.

Mr. Robert Carrier: I don't see that in the—

Hon. Albina Guarnieri: I will check to make sure.

Mr. Robert Carrier: I am reading the following words: "Those with the highest compensation, provided that it exceeds \$100,000 annually."—\$100,000 and higher.

Hon. Albina Guarnieri: I will check with the drafter to make sure that the wording reflects what I want.

Mr. Robert Carrier: So you do want to name the people who make over \$100,000.

Hon. Albina Guarnieri: Yes, absolutely. Thank you for the clarification. I will also clarify this with the drafter.

Mr. Robert Carrier: That's fine, thank you.

[English]

The Chair: We'll now go to Mr. Wallace.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chair.

I want to thank our guest and the mover of the motion this afternoon.

I'm going to share some of my time with Mr. Chong.

I really only have one question and I need to be upfront about things. The parliamentary secretary was pushing to be here today, but he's not in this province actually. I know you've been working with him, and we appreciate your willingness to look at some changes, and you have provided some changes here today in terms of amendments you are recommending to this committee, which we really appreciate, as you're focusing in on the accountability aspects.

I was a fundraiser myself for the Easter Seals Society way back when. Now they call them development officers, and my wife is one for Easter Seals. I wish she could make \$100,000 and put her name there. She works hard at it. She's only part-time, but she works very hard for Easter Seals, as do many individuals across the country working for charities.

On some of your reports here, I think if you asked folks on the street, is a hospital a charity, is a university a charity, that may not come to mind. We think of Easter Seals groups, Heart and Stroke, and those types of organizations as charities. It's a bit of a different perspective on what you would consider a charity.

Based on your discussion with the parliamentary secretary, what are you hoping this government does with your bill and with the issue in general going forward?

Hon. Albina Guarnieri: You know, the charities sector has launched a nationwide campaign against my bill. That is why I took pains to highlight good charities in my opening comments. There are a lot of people like you who actually are involved in charities for the right cause.

My bill is really a baby step toward a restructuring of the charities sector. Right now donations are shifting from frugal charities to those that spend wildly on fundraising. By shining a light on those costs, I'm hoping that donors might make an informed decision to back frugal and responsible charities.

If we look at some hard facts, if disclosure doesn't limit the fundraising profits that are taken away from real charity, then I think the government should explore the possibility of looking at reducing tax receipts. I mean, we give tax receipts for \$100 to a donor where nowhere near \$100 makes it to the cause.

I guess you can debate what a reasonable fundraising cost is per dollar. I would suggest that 25% should be the maximum and after that the receipt should be reduced, maybe dollar for dollar. That way taxpayers are getting value for their share. I suspect donors would shift their money to where it's doing the most good, not where their money is being siphoned off by fundraising companies or overpaid executives.

• (1605)

Mr. Mike Wallace: I'll share my time with Mr. Chong.

The Chair: You have three minutes.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Mr. Chair. Thank you, Madam Guarnieri.

I just have a comment and then a proposal that I would put to the committee when it goes to clause-by-clause.

First of all, I support the intent of this bill. I support your proposed amendments. I think it would shed much-needed transparency and light on the compensation issue regarding many charities in Canada.

My concern is with related corporations. In recent years, these for-profit share capital corporations have emerged that are very tightly and closely related to federally registered charities. These are for-profit enterprises that are not subject to any public reporting requirements, as they're often CCPCs, Canadian-controlled private corporations.

What they are doing is using the goodwill, the good name, of federally registered charities in order to promote their for-profit enterprises. Their give-back to the charity is that they somehow apportion a portion of their profits—give a portion, a percentage of their profits—back to this charity. It's not clear how much of those profits they're giving back in terms of their overall revenue base and what the compensation is of the senior executives who work for these for-profit corporations.

So I would propose to you that Bill C-470, in clause 1, be amended, by adding after line 18, the following: the name, job title, and annual compensation of the five executives or employees with the highest compensation, provided it exceeds \$100,000 annually, of any corporations related to the registered or previously registered charity. What that would do is shed transparency on very closely related share capital corporations whose executives might be profiting from the goodwill of a close association with a federally registered charity.

The Chair: Madam Guarnieri, you have one minute.

Hon. Albina Guarnieri: I would certainly view that as a friendly amendment. I think we need to follow the money through the charities sector to make sure that no one is making suckers of generous donors. I hope the government certainly pursues transparency as far as my bill is concerned, and I'm certainly in the hands of this capable committee.

The Chair: Monsieur Mulcair.

[Translation]

Mr. Thomas Mulcair (Outremont, NDP): Thank you, Mr. Chairman.

Since we are talking about the importance of our institutions, I would like to thank my colleague, who belongs to another political party. She had the insight to see that there was a problem in an area she knows, obviously, extremely well, and she put forth a series of proposals.

I completely support the draft amendments presented today by Ms. Guarnieri. I think this is going to address some serious concerns.

I would like to summarize the situation. A university is engaged in a fundraiser of \$700 million. The university could very well be paying someone over \$250,000, which is the limit proposed here. However, a donor to this university will receive the only information that matters. If someone wants to make a donation to a certain university and sees that the five top earners make over \$700,000, \$800,000 or \$900,000 per year, this person may find those amounts to be completely outrageous. Therefore, the donor would have access to the information he or she needs to make an informed decision. As for everyone else, it is not up to us to decide what is a reasonable salary.

I find this is an extremely good thing.

As Mr. Chong did previously, I will ask whether we could amend or improve this bill. I will ask our caucus to support your bill with the amendment you have just proposed.

My question is on the amendment to the very last part, which adds a few words on the compensation of the five managers or employees. Does the definition of employee include people who might have been hired as contract workers?

[English]

Hon. Albina Guarnieri: You pose a very good question. The last thing any of us would want when we pursue transparency is a shell game, and I think that's where your question is leading.

[Translation]

Mr. Thomas Mulcair: Would it be possible to change the wording to "executives, employees or contract workers"? If so, that is my suggestion to you.

In my view, if something were to occur that would be of interest to potential donors... Ultimately, this bill is intended to provide people who are about to make a cash donation with the most information possible.

If a charitable organization with at most \$3 million in donations a year paid its employees a reasonable salary but compensated a lawyer, whose services could not be evaluated, to the tune of \$600,000 a year, then it would appear that such information should be of interest to people who want to make a donation. That should be just as material as the fact that the fundraising director could be earning \$100,000 a year, for example.

That information will be made available to the public, but people will never know, for reasons that are sometimes unclear, if the organization's lawyer is receiving \$600,000 or if a direct mail advertiser has been awarded an \$800,000 contract. There might be a way to...

I am wondering whether such information would be made public through other sources? At this in time, can people find out whether 25% of a charitable organization's revenues are used to pay for legal or direct mail services?

• (1610)

Hon. Albina Guarnieri: I see that the members of this committee want to increase transparency. I will always be in favour of raising the level of transparency.

[English]

The fact of the matter is that information on charities is much like wandering through a maze. We shouldn't have to go to the United States to get information about Canadian charities.

For instance, I have here the SickKids Foundation tax information from 2008. What is interesting about this return is that at the time that SickKids Foundation had an issue with an exorbitant salary of \$2.7 million for their CEO, if you look at third-party fundraisers here, in three out of the four cases more was given to the fundraiser than to the hospital. In one case, one of these fundraisers gave themselves 75% of what they took in.

So when you look at this, the case you make is very compelling. There could be another amendment forthcoming that would strengthen my bill even further.

In all fairness, when this individual left the company in 2009, their performance improved, and only one fundraising company at SickKids Foundation made more than what was given to the hospital. So kudos to the SickKids Foundation for trying to fix their problem.

[Translation]

Mr. Thomas Mulcair: That is all I would have to say, Mr. Chair.

I again would like to congratulate our colleague on her remarkable work.

Hon. Albina Guarnieri: Thank you, sir.

Mr. Thomas Mulcair: This is truly a fine example of non-partisan work, done in the public interest.

It simply does not make sense that there is such a lack of information in Canada's charitable sector. The issue surrounding foundations really warrants further investigation.

Once again, thank you.

Hon. Albina Guarnieri: Thank you for your kind words.

[English]

The Chair: Thank you, Mr. Mulcair.

We'll go to Mr. Pacetti again, please.

Mr. Massimo Pacetti: Thank you, Mr. Chairman.

Quickly, Albina, I think I sent you a list of all the organization that want to appear. What's your opinion regarding the ones that don't want to appear, the ones that are not asking to appear?

Hon. Albina Guarnieri: Well—

Mr. Massimo Pacetti: You've had contact with some of them. What's going on out there?

Hon. Albina Guarnieri: Why they choose not to appear is not a question I can answer. I've certainly had quite a parade of people come to visit me during the summer, and I've also met with a lot of donors over the summer.

I think the ferocity with which they launched a nationwide campaign against my bill is perhaps more revealing.

Mr. Massimo Pacetti: Okay. On your amendment...well, it's not even on your amendment. You're asking—I think Mr. Chong spoke to it—that the compensation include salaries, wages, commissions, bonuses, fees, and honoraria. There isn't the third-party aspect in there.

Can we include the third-party aspect? I don't see how we can.

Hon. Albina Guarnieri: I'm in favour of anything that gives us even more transparency. I actually kept—

• (1615)

Mr. Massimo Pacetti: But in discussions with the legislative people, I don't see how you can include consulting fees for third parties.

Hon. Albina Guarnieri: If an amendment were in order and it would actually increase transparency, I'd be all in favour of it.

Mr. Massimo Pacetti: Okay. Thank you.

[Translation]

That is all.

The Chair: Very well, thank you.

Mr. Généreux, you have the floor.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you, Mr. Chair.

Welcome, Ms. Guarnieri. I am quite impressed by your proposal.

When I was a mayor, I consulted professional fundraising firms as part of a major project that I wanted to undertake in my municipality. At the time, those firms were offering their services in exchange for 15% of all donations collected.

I will follow up with what Mr. Mulcair just said. If we can ensure full transparency with regard to donations and donors, as well as on the amounts that are paid out from the donations... You just gave an example of an organization that paid out 75% of its donations to people who—

[English]

raising money than the people who received it.

[Translation]

That is quite shocking. I myself would never have agreed to that. I do not know if they signed that contract in good faith. That said, there are always two sides to every story.

I think that what Mr. Mulcair had to say was rather interesting. If we had accepted the firm's offer, we would have had to pay it nearly \$200,000. In the end, we did not accept its offer and decided to do things on a voluntary basis, and things still turned out quite well.

Should such firms also be included in the list? If that had been the case, no one would have been compensated as a result.

[English]

Hon. Albina Guarnieri: I think it would be a step forward if we knew how much profit the fundraising companies were actually making.

I have a chart that I've distributed to all of the members.

Mr. Bernard Généreux: Yes, I saw that.

Hon. Albina Guarnieri: It's a very revealing chart.

Mr. Bernard Généreux: It's quite amazing.

Hon. Albina Guarnieri: When I look at this chart, it's almost as if 10 years ago the lights went on and people in the charitable sector decided they were leaving money on the table. I mean, the government says you can keep 35%, maybe even 50%, and costs have been shooting up ever since. The conventional wisdom in the charitable sector is that it's only at 70% that the red flag goes up and you can be sanctioned.

I know the officials are sitting behind me, and I'm certainly interested in hearing what they have to say about this.

If you look at the chart, donations are not even matching GDP; they're up by 15%. Fundraising and administration costs defy gravity. They're actually dwarfing donation growth. And donors are flat. Some of these high-priced fundraising types are certainly taking a lot of money, but they're not earning their money. That's what happens when you don't have reasonable limits anywhere. This is graphic evidence that charities aren't leaving money on the table; they're taking it home, more and more.

I think the responsibility lies with salary secrecy. If we can get around secrecy, and rules that let charities keep between 35% and 70%, we'd be a lot further ahead.

[Translation]

Mr. Bernard Généreux: You mentioned the United States several times during your remarks. What exactly are the rules that apply in the U.S. charitable sector? Have you studied other countries that are comparable to Canada?

[English]

Hon. Albina Guarnieri: Well, I focused primarily on *les États-Unis*. The reason I thought more about the United States is that you often hear the argument made by marketers that they can make more money in the United States. Well, in the case of SickKids Foundation, the individual is an American who actually came here to Canada to make his money from one of our charities.

There is far more transparency in the United States than what I'm proposing in my bill—

[Translation]

The Chair: You have 30 seconds remaining.

• (1620)

[English]

Hon. Albina Guarnieri: —but my bill is just a baby step towards what I'm hoping is a more significant reform.

[Translation]

Mr. Bernard Généreux: Do you have specific examples of U.S. requirements with regard to transparency?

[English]

Hon. Albina Guarnieri: Well, you can actually get fundraising information.

From the companies that take money and run lotteries for you, you can actually obtain that information in the United States. This is a Canadian charity, but you have to go to the United States website to get the information.

Mr. Bernard Généreux: Thank you.

Hon. Albina Guarnieri: You can't get this information in Canada.

[Translation]

The Chair: Very well, thank you.

[English]

Hon. Albina Guarnieri: Actually, if I might add a footnote—

The Chair: Very briefly.

Hon. Albina Guarnieri: —the reporter in question who first broke the story told me that's how he got the information, because they weren't forthcoming.

The Chair: Thank you.

[Translation]

You have the floor, Mr. Carrier.

Mr. Robert Carrier: The more we discuss your bill, the more we learn about the shortcomings that it needs to address, given the lack of information on charitable organizations.

You said earlier that accessing information from the Canada Revenue Agency was not an easy task. I agree with you. I did not even take the time needed to find out how to obtain such information.

Your bill would no doubt lead to a number of improvements, but it does not address the issue of how information is made available. Will improvements be made on that front? Will people still have to navigate through a complex website in order to obtain the information they would like to have?

[English]

Hon. Albina Guarnieri: If the CRA website would, at the very least, disclose the top five salaries, the highest-paid salaries and the associated names, along with whatever other information is on their website, I think that would be a step forward. It would be a baby step towards transparency, but at least...

The highest salaries are really a symptom of high fundraising costs, and the charities that pay the most have costs that run anywhere from 30% to 50% on every dollar. I would argue that the donors deserve better value than that, that costs have to come down and that we have to start at the top with full disclosure.

As I said earlier, donors can then make a rational decision about where to place their money.

Merci.

[Translation]

Mr. Robert Carrier: We will still depend on the Canada Revenue Agency to improve access. I think that we will be meeting with agency officials following your appearance. We might then discuss the impact of your bill, if it is adopted, on improving accessibility.

Earlier, my colleague Mr. Mulcair suggested we add contract workers to the list of people receiving compensation, as a way to avoid a potential loophole in the bill. Technically speaking, does such an amendment have to be put forward by the mover of the bill, and would that be in addition to the amendments you have already presented?

[English]

Hon. Albina Guarnieri: As I said earlier, I would view it as a friendly amendment. Anything that moves us towards the goal of more transparency, if the amendments are in order, I'd certainly welcome.

[Translation]

Mr. Robert Carrier: Mr. Chair, will the committee be able to amend the bill? Technically speaking, would it be possible to move an amendment?

[English]

The Chair: Absolutely.

In fact we will have clause-by-clause on Wednesday, December 8. Ms. Guarnieri has brought forward two amendments, which are in order. I believe Mr. Chong will be submitting an amendment. Monsieur Mulcair may submit an amendment.

So that's entirely appropriate either prior to or on that day.

[Translation]

Mr. Robert Carrier: Very well. Thank you.

[English]

The Chair: I know that members want to get to the CRA and Finance officials.

Ms. Guarnieri, I just wanted to follow up first. I certainly have heard from a lot of organizations on this bill. Their primary concern to me seemed to be about the amounts, so you've certainly addressed that with your two amendments.

I just wanted to follow up on Mr. Pacetti's question, because I'm not quite sure I understand. You talk about the information on the CRA website. You talk about only 12% of Canadians going there. Then Mr. Pacetti's question was about the minister making this information available. So with that amendment, if Parliament adopts this bill, how exactly will it change what information Canadians see and who in fact puts it up? Is it by changing the form that CRA would have people fill out? Is this the specific change your bill would accomplish?

• (1625)

Hon. Albina Guarnieri: I'm sure the CRA officials could speak to how that would change their form, but essentially it would simply designate, much like publicly traded companies, the top five salaried individuals and their names. I'm sure the officials can tell you the details of how that would be enacted, should this amendment be accepted.

The Chair: And would people still find this information by going to the CRA website, or are you prescribing that the charities themselves be compelled to post it on their own websites?

Hon. Albina Guarnieri: My amendments don't compel the charities to post it on the websites, but I'm hoping the CRA would make this information readily available, much like it is in the United States.

The Chair: Okay. I appreciate that. We'll certainly get them to comment on that as well.

Hon. Albina Guarnieri: Thank you.

The Chair: I want to thank you for being with us here as a witness, as the mover of this bill. Obviously you're welcome to stay as a colleague and listen to the Finance and CRA officials.

We'll suspend for about two minutes, colleagues, and I will bring in the other guests. Thank you.

• (1625)

_____ (Pause) _____

• (1630)

The Chair: Colleagues, if I can ask you to find your seats, please, we will begin our second hour of discussion here today on Bill C-470, An Act to amend the Income Tax Act, which deals with charities.

We have two departments before us today. We have the Department of Finance and we have the Canada Revenue Agency.

Thank you very much for coming this afternoon.

We have Mr. Baxter Williams, acting general director of analysis, tax policy branch. We have Ms. Sharmila Khare, chief, personal income tax division.

From the Canada Revenue Agency we have Ms. Cathy Hawara, acting director general, charities directorate, legislative policy and regulatory affairs branch; and Mr. Bryan McLean, director of policy, planning and legislation division, charities directorate, legislative policy and regulatory affairs branch.

We'll hear from the Department of Finance first and then from CRA.

We'll start with Mr. Williams, please.

Mr. Baxter Williams (Acting General Director (Analysis), Tax Policy Branch, Department of Finance): Hello.

I understand that amendments to the bill have been tabled. I haven't had a chance to incorporate those into my speaking notes, so I hope you take that into account.

Thank you for the introduction, and thank you for this opportunity to provide you with comments on private member's Bill C-470, which deals with compensation in registered charities.

My objective today is to provide some context about the current legislative and regulatory framework for compliance in the charitable sector, as provided in the Income Tax Act.

There are currently 85,000 registered charities in Canada, ranging from small entities run by volunteers to large charities such as hospitals and universities. To give you an idea of the diversity of charities, in terms of the size of these 85,000, about half report total annual receipts or revenues of under \$100,000. Over half the registered charities in Canada report having no paid employees.

[Translation]

The Income Tax Act contains substantial incentives encouraging people to donate to registered charities.

Individual donors receive a 15% tax credit for annual donations of up to \$200, and a 29% credit for donations over and above \$200.

If you also take into account provincial and federal support measures, Canadians receive approximately 46% in tax credits, on average, for donations in excess of \$200.

Organizations benefit from a tax deduction on donations received.

[English]

Over the past decade, the Government of Canada has significantly increased incentives for donating to charities. The capital gains tax associated with donations of publicly listed securities to public charities was first reduced in 1997 and was eliminated altogether in 2006. This exemption was extended to donations of listed securities to private foundations in 2007. The incentives for making donations of ecologically sensitive land to conservation charities were also significantly improved. Finally, larger gifts to charities were also made more effective by increasing the annual donation limits, as a percentage of income, from 20% of net income to 75% of net income.

In addition to their ability to issue tax receipts for donations, registered charities are also exempt from tax on their income.

In light of the generous tax support provided to encourage Canadians to donate to charities, the Income Tax Act contains a number of restrictions on how charities can operate. These provisions build on the common law and provincial statutes in place to regulate charities.

The Income Tax Act requires that registered charities be established for charitable purposes and that they devote their resources to charitable activities. While the meaning of charitable activities and charitable purposes is largely determined by jurisprudence, the Income Tax Act includes specific requirements for registration as a charity and grounds for revocation.

On compensation, the current framework for charities includes compliance tools that can be used in cases of excess compensation.

From a policy perspective, it is important to recognize that the charitable sector is in competition with the private sector for highly skilled executives. In this regard, it's appropriate for charities to pay their executives salaries that are comparable to their private sector counterparts—that is, fair market value.

•(1635)

[Translation]

The CRA's assessment of what constitutes reasonable compensation must be based on a comprehensive review of the specific circumstances under which compensation is paid.

For example, it might be reasonable to provide an executive with enhanced compensation in order to manage millions of dollars in resource expenditures as well as hundreds of employees. However, it might be ill-advised to pay the same salary to the president and sole employee of a small charity.

[English]

In cases of excessive compensation, the Income Tax Act provides the Canada Revenue Agency with the authority to impose an intermediate sanction; that is, a penalty for undue benefits, if a charity pays an unreasonable amount to any person.

If the CRA determines there is an undue benefit provided to a person, a penalty equal to 105% of the amount of undue benefit can be imposed on a charity. A 110% penalty and the suspension of tax receipting privileges can be applied in the case of repeat infractions. Penalties are normally transferred to an eligible charity, thereby keeping the funds within the charitable sector.

Excessive compensation could be grounds for revocation in some cases because the funds spent on excessive compensation are funds that are not devoted to a charitable purpose, as required by law.

I would also like to mention that the rules in the Income Tax Act for undue benefit apply to many sorts of transactions, not just to excessive salaries. This helps ensure that charities do not pay more than what would be considered reasonable remuneration for goods and services.

[Translation]

The Income Tax Act requires that registered charities file annual information returns that are made publicly available. That requirement allows Canadians to access a broad range of financial information on charitable organizations, including information on compensation. The requirement to produce such returns contributes to greater transparency in the sector.

Charities are required to report the total compensation for their 10 highest paid positions by salary range. That information is available to the public on the CRA's website and helps foster transparency with regard to how resources are used by charitable organizations. Those reports help the CRA to detect potential abuse and set audit priorities.

[English]

The Department of Finance will continue its ongoing efforts to ensure that appropriate legislative and regulatory frameworks are in place to promote accountability in the charitable sector.

I would be happy to respond to any of your questions.

Thank you.

The Chair: Thank you very much, Mr. Williams.

We'll now hear from CRA.

Ms. Cathy Hawara (Acting Director General, Charities Directorate, Legislative Policy and Regulatory Affairs Branch, Canada Revenue Agency): Thank you, Mr. Chairperson.

Good afternoon. Thank you for the invitation to appear this afternoon on Bill C-470.

I am Cathy Hawara, the director general of the charities directorate within CRA. With me is Bryan McLean, the director of policy, planning and legislation division.

[Translation]

I would like to explain the existing legal and regulatory framework administered by the CRA in our role as the federal regulator of registered charities in Canada.

The CRA administers the Income Tax Act, which confers significant tax advantages on registered charities, and prescribes the requirements for obtaining and maintaining charitable registration.

[English]

CRA has the authority to revoke a charity's registration if it fails to comply with the registration requirements of the Income Tax Act. An example would be if the charity uses its resources for non-charitable purposes, including providing undue personal benefits to any member. An undue benefit would include a situation where a charity pays or otherwise compensates a person beyond reasonable remuneration for services rendered, irrespective of the level of compensation.

• (1640)

[Translation]

For example, paying an individual \$50,000 for services rendered would constitute an undue benefit if, in reality, there were no services provided or if compensation did not correspond with fair market value.

[English]

Every year charities must provide information to the CRA by filing what is called an information return. The return includes information about compensation. It is made public on the CRA website and is taken into account as part of our audit program. The CRA's current audit practices include reviewing situations where staff compensation exceeds fair market value for the services rendered. In that regard, we would consider the degree of benefit conferred and whether an advantage was conveyed inadvertently or whether the situation was structured specifically to yield excessive benefits.

The current legislative framework allows the CRA to take a measured approach to resolving non-compliance based on the severity of the offence. For example, if the infraction is not found to be intentional, serious, or egregious, the CRA may choose corrective measures that provide the charity an opportunity to remedy its non-compliance. If, however, our review reveals serious or repeated offences, we may impose intermediate sanctions in the form of monetary penalties and/or a suspension of receipting privileges, or proceed directly to revocation.

[Translation]

With respect to disclosure requirements, the Income Tax Act provides a framework for public accountability in the charitable sector. To this end, the CRA posts on its website the registered charity information returns completed annually by each registered charity. This provides Canadians with access to detailed information about charities' annual operations, including expenditures and programming.

[English]

To enhance the clarity and relevance of public information on charities, in 2009 we updated the salary range categories in the annual information return. The upper end of the range was increased to accommodate larger charities, such as hospitals and universities, and provide the public with more meaningful information. Charities are now required to identify the salary range for their 10 highest-paid positions, and the salary categories have been expanded, with the last threshold being \$350,000 and above.

In 2008, which is the last complete year that we have data on, 86% of charities reported compensating all of their employees combined less than \$250,000. While our 2009 data is not yet complete, early indicators suggest that individual compensation above \$250,000 principally occurs in health care charities and, to a lesser extent, in universities and educational charities. To date, fewer than 1% of the charities have reported compensating individuals in excess of \$250,000.

[Translation]

In closing, the current legislative and regulatory frameworks allow the CRA to monitor salaries based on the information that is currently reported and made public, so that we may investigate further where warranted. The legislative framework also provides a range of compliance options to allow us to take a measured approach to remedying situations involving undue benefit, based on the specific facts in each situation, up to and including revocation of registration.

Mr. Chair, we would be pleased to answer any questions the members of the committee may have.

The Chair: Thank you for your opening remarks.

We will begin with Mr. Pacetti, who has seven minutes.

[English]

Mr. Massimo Pacetti: Thank you, Mr. Chair.

Thank you to the witnesses for appearing.

There were two presentations, but they didn't really speak about the bill itself; they just spoke about your roles and the intent of the bill. I think from what we heard from the presenter of the bill, she wants to increase transparency. We heard from her that there's a problem with the CRA.

Maybe the Finance officials can help me out here, but I'll start with the easiest question. Do we have a problem with the \$100,000 cap? Are you telling me, Ms. Hawara, that we should be increasing it to \$250,000? Is that what your opinion would be?

Ms. Cathy Hawara: The cap that has been presented in the amendment by Ms. Guarnieri...or not the cap, but the threshold, in terms of—

• (1645)

Mr. Massimo Pacetti: The threshold, yes. That's probably a good word.

Ms. Cathy Hawara: I'm certainly not saying it should be increased to \$250,000, no. Again, as Mr. Williams said, my remarks unfortunately didn't take into account the fact that amendments were being worked on and presented to the committee today. When I talked about the \$250,000 in my opening remarks, I was referring to the initial proposal in the bill that would see the salaries capped at \$250,000, or at least give the Minister of National Revenue the discretion to revoke a charity if they paid a salary above that range.

Mr. Massimo Pacetti: We're not saying they shouldn't pay the salary above that range.

I'm addressing the comment to you also, Mr. Williams, because you're saying the charitable sector has to compete with the private sector.

Nobody here today said that charities cannot pay these salaries. We just want them to be disclosed and we want them to be disclosed transparently.

The bill is saying we want the name, job title, and the annual compensation of the five executives or employees with the highest compensation. My understanding, from what Albina was saying, is that's not exactly what is being listed on the website.

Ms. Cathy Hawara: I could speak to that, Mr. Chair.

The information currently available on the website is, first of all, if a charity is remunerating individuals. If they have full-time employees, they are to identify how many employees they are remunerating on a full-time basis.

Mr. Massimo Pacetti: So it's not by name and job title.

Would CRA be able to do that?

Ms. Cathy Hawara: If I could just continue, in terms of what is required to be disclosed currently, for the top 10 salary earners, each charity must disclose the salary range in which those organizations fall. So, for example, a charity that remunerates two individuals between \$200,000 and \$250,000 would have to indicate that there are two people in that salary range.

Mr. Massimo Pacetti: Could I just ask the question?

Right now, the name and the job title are not disclosed. Correct?

Ms. Cathy Hawara: No, they are not.

Mr. Massimo Pacetti: Okay. We're talking about the bill. So the information the charities provide you with—would you be able to post the name, job title, and annual compensation of the five executives?

Ms. Cathy Hawara: If that was required by the legislation, that information could be collected by the CRA.

Mr. Massimo Pacetti: But is it being collected right now?

Ms. Cathy Hawara: That information is not being collected right now.

Mr. Massimo Pacetti: Thank you.

I'm going to ask the Finance officials.... If we just go with the bill—I know you didn't see the amendments, but it's already in the bill—Mr. Williams, would you be comfortable if the Minister of Finance could direct CRA to have charities provide them with names, job titles, and the annual compensation of five executives?

Mr. Baxter Williams: I could speak to you more about the implications and the technical aspects of the bill. I'd have to defer to my minister to pass judgment on his comfort level with the bill.

I will say we were concerned with the impact of the cap on the ability of charities to attract and retain highly qualified employees, particularly in the larger charities such as universities and hospitals. There was also a concern that imposing full disclosure would affect a number of charities, given that 60% of all charities don't have paid employees, and the charitable sector is generally characterized by those earning fairly modest incomes. So that would be seen as onerous on them and might bring up privacy concerns.

In terms of the way the bill stands now, I understand you have a list of charitable organizations that have agreed to appear in front of the committee and I think that would be a good question to pose to them, whether they have particular privacy concerns associated with the \$100,000 disclosure.

Mr. Massimo Pacetti: If the bill were passed as is, would the department have any problem with it? We are going to ask the charitable organizations. I'm asking you now.

Mr. Baxter Williams: In terms of the cap, which is our principal concern, that's been addressed.

Mr. Massimo Pacetti: So you're okay with it. Thanks.

Just quickly, in terms of the penalties, Ms. Hawara, I think you address it, but how do you calculate penalties when somebody is offside? I thought it was revoking or not revoking. Penalties are not assessed on amounts told or things like that, as you would normally do for individuals or corporations. How would you get to amounts that are being assessed?

• (1650)

Ms. Cathy Hawara: There are specific provisions in the legislation around sanctions for providing undue personal benefit to any individual, whether within or outside the charity. For a first infraction, the penalty would amount to 105% of the undue benefit. If there were a second infraction within a five-year period from the time the first infraction occurred, the penalty would then be 110% of the undue benefit and could be accompanied by a suspension.

Mr. Massimo Pacetti: How do you calculate the undue benefit? The only way you can do it is through an audit, correct? You can't do it through a desk audit.

Ms. Cathy Hawara: It depends on the nature of the undue benefit. Our best way of going in and finding out what is happening in a charity is to conduct an audit.

Mr. Massimo Pacetti: Thank you.

The Chair: Thank you.

Mr. Carrier.

[Translation]

Mr. Robert Carrier: Thank you, Mr. Chair.

Ladies and gentlemen, good afternoon.

The Department of Finance and the Canada Revenue Agency have both described a situation that appears to be well under control with regard to the compensation paid by charities. The Department of Finance has confirmed that the Income Tax Act allows the Canada Revenue Agency to impose intermediate sanctions.

In your remarks, Ms. Hawara, you gave the example of compensation that would be above fair market value for services rendered. You mentioned paying an individual \$50,000 for services rendered. In your words, that “would constitute an undue benefit if, in reality, there were no services provided or if compensation did not correspond with fair market value.” I am reassured to hear you say that.

Now, I wonder how you can actually apply that. Do you conduct audits in many cases? Do you conduct ad hoc audits by type of organization? Have you imposed sanctions on organizations following an assessment of the fair market value of services rendered?

Ms. Cathy Hawara: The agency has an audit program. To give you an idea of the scope, we conduct approximately 800 audits a year. We have audits that target what we consider to be potential risks in specific areas of the charitable sector. We also carry out random audits.

Some of the 800 audits can also be initiated following public complaints, media reports, etc. We address the issue of benefits to find out whether they are reasonable or undue.

Our audits do allow us to find cases of undue benefit. However, there has not been a single case where we had to revoke an organization's registration solely because a high or unreasonable salary had been paid out.

Nevertheless, we do identify cases of undue benefit involving personal or household expenditures, and travel. With regard to such cases, our audits last year allowed us to identify 27 instances of concern with regard to undue benefit. In six of those instances, the problems were serious enough to warrant a revocation of registration.

So we do have concerns in that regard, but we have yet to revoke registration because of unreasonable compensation.

Mr. Robert Carrier: However, there appears to be unanimous consent within the committee: we feel the need to reassure the public and provide it with more information on compensation. I think that the best solution is to increase transparency.

With regard to the classification of various charitable organizations, you indicated in your opening remarks that health care charities offered higher levels of compensation. In reviewing this bill, I was surprised to learn that hospitals were considered to be charitable organizations, even though we know that they are not charities per se, but rather public service institutions funded by governments to provide services to the public. All hospitals set up foundations to raise funds.

Why do you not distinguish between a hospital's foundation, which could be considered as a charity to which donations can be made, and the hospital itself, which must compensate executives at quite high salary levels? Why do you not make such a distinction?

• (1655)

Ms. Cathy Hawara: Indeed, as it currently stands, the act does not distinguish between the organization that renders the services and the foundation that collects donations. That is the state of the current legislative framework. The bill would therefore apply to both types of organizations.

Mr. Robert Carrier: Have you not considered targeting actual charities in order to properly assess and compare them?

Ms. Cathy Hawara: That question touches on the legislative framework. Unfortunately, that is somewhat beyond the scope of my duties.

Mr. Robert Carrier: We spoke earlier about access to information. It is all very well to want to improve the rules and the act, but Canadians are not better off if they cannot access that information.

Has your agency considered providing the general public with greater access to the information so that it can make more informed decisions about those organizations?

Ms. Cathy Hawara: In fact, public awareness is one of our key mandates. That is why I am happy to answer your question.

We spend a lot of time and money to inform the public on our role, as the regulatory agency, as well as on how Canadians can make informed donations, do the research into the organizations they would like to support financially, and avoid fraud. Unfortunately, some people want to take advantage of Canadians' generosity.

In recent years, we have placed great emphasis on our website and list of charitable organizations, which is not publicly available. The website contains all annual returns completed by charities as well as financial information, including fundraising results and expenditures incurred as part of fund raising activities. We therefore completely agree that transparency and access to information are key to allowing Canadians to make informed choices.

[English]

The Chair: Thank you, Mr. Carrier.

Mr. Wallace, please.

Mr. Mike Wallace: Thank you, Mr. Chairman. I will be splitting my time again with Mr. Chong.

I think there have been changes in the fairly recent past, 2008 or 2009—I'm not sure which year. Charities used to have to tell you who their top five or ten employees were. Is that not correct? And now we do something different. What are we doing differently, and why?

Ms. Cathy Hawara: They used to have to disclose their top five salary earners, not by name and precise salary, but by indicating within which salary range they fell. The salary ranges that were provided to them went up to \$120,000.

In 2009, we increased the ranges to reflect the fact that there were higher salary earners, greater than \$120,000, and now we require that charities identify the top 10.

Mr. Mike Wallace: So top 10, but it's in range, not by individual name and not by the actual amount.

Ms. Cathy Hawara: That's right.

Mr. Mike Wallace: But that's us making that decision; that's not your decision. Is that right? Is that not correct? If this bill goes through, it basically directs charities with the top five employees over \$100,000 to tell you who they are and what they're making. Would you be able to post that if that happens?

Ms. Cathy Hawara: The bill could require it, and if it did we would implement it. I only wanted to make the point that currently the salary ranges aren't prescribed in law; they are prescribed by the CRA in the annual information return.

• (1700)

Mr. Mike Wallace: Because you didn't see the amendments prior to today, I'm assuming you'll be back on clause-by-clause day. As an organization, if we have questions on the clause-by-clause study, would you be available to answer those questions? Do you know that?

Ms. Cathy Hawara: I don't know that for a fact, but if the chairperson of the committee felt it would be helpful, we would certainly attend if we were invited.

Mr. Mike Wallace: Okay. I appreciate that.

Mr. Chong.

Hon. Michael Chong: Thank you, Mr. Wallace and Mr. Chair.

I have a question for you, Ms. Hawara, about related corporations. CRA currently requires the disclosure of the salary ranges of the top compensated executives at each charity. If Madam Guarnieri's bill becomes law and the compensation of the top five executives is to be publicly enumerated, what do you think about also including in a public enumeration the compensation of the top five executives at related corporations, in other words, corporations related to the registered charity?

Ms. Cathy Hawara: I did take note of your question to Ms. Guarnieri earlier. I'm not aware of this being an issue in this sector right now. I think what would be important from our perspective is to determine to what extent the CRA could require that kind of information.

Hon. Michael Chong: You had mentioned in your opening remarks that CRA ensures that charities don't give an undue benefit to individuals related to those charities. What is your opinion of an increasing trend where people who control charities are setting up

for-profit share capital corporations that are cohabited with these charities? In other words, they share the same offices, the same phone numbers, the same addresses, the same office space, and resources, and they use similar branding, they use the charitable company's or organization's brand and goodwill in order to promote the for-profit share capital corporation's business.

Does CRA frown upon that kind of set-up?

Ms. Cathy Hawara: Again, I'm not aware of this as being a trend. The law is very clear: a charity must devote all of its resources to its own activities and to charitable purposes. So in what you've described, depending on what the details would be, a charity would not be able to share its resources in that sense. It would need to maintain direction and control over its own resources. But I'm not aware of this being a trend that we've uncovered through our audit program.

Hon. Michael Chong: I don't want to name names here, but I am aware of certain charities that have set up for-profit share capital corporations by the same people involved with the charity, and these for-profit share capital corporations operate either in next-door proximity to these registered charities or in fact in the same offices, using the same phone numbers and addresses.

It's a concern to me because I think they're using the goodwill of a charitable registration number in order to promote the activities of a for-profit share capital business. I don't think that's in the public interest or the intention of a charitable registration.

Ms. Cathy Hawara: Again, the rules are very clear: charities' resources have to be devoted to charitable purposes. We certainly do take any information from the public and, where warranted, follow up as appropriate.

Hon. Michael Chong: Thank you.

The Chair: Thank you, Mr. Chong.

There's about a minute left in this round, so I'm going to ask a very brief question.

Just following up on what I was asking Ms. Guarnieri and Mr. Pacetti, do you require an actual legislative change in terms of doing the name, job title, and annual compensation? Is this something that requires a legislative change, or could CRA sort of make a policy decision that they are going to start doing this in terms of perhaps providing more transparency on its website?

Is this something that requires a parliamentary action if Parliament wants a change like this?

Ms. Cathy Hawara: Mr. Chair, I think you may be on to something. We hadn't had a chance to see the amendment. But certainly the information return, as its currently drafted—the components of it—are not set out in legislation.

It is within the minister's discretion to determine what should be on the return. So I do see the possibility of this information now being included without an actual amendment, although I do stand to be corrected.

•(1705)

The Chair: So the minister could likely say this is how I want it, this is a better way of providing information to the public, therefore we will do it this way without having a legislative.... You're saying that's your impression at this point?

Ms. Cathy Hawara: The annual information return was revised last year, taking into account all of the information that we'd been hearing—in particular from small and rural charities—about how to reduce burden on charities, and this was done internally within the CRA.

The Chair: Okay. Thank you.

We'll go to Mr. Szabo for a five-minute round.

Mr. Paul Szabo (Mississauga South, Lib.): Ms. Hawara, can you tell me how many large investigations you have conducted in the last 12 months?

Ms. Cathy Hawara: We conduct approximately 800 audits every year.

Mr. Paul Szabo: That's not an investigation, though, is it?

Ms. Cathy Hawara: We don't actually use the term “investigation”. We conduct audits.

Mr. Paul Szabo: But if you conduct an audit and the findings are that there are some problems that you may want to drill into a little deeper.... How many drilling expeditions have you taken over the last 12 months?

Voices: Oh, oh!

Ms. Cathy Hawara: Our expectation is to audit approximately 1% of charities every year. These would be full audits in which we would look at whether the activities of the organization were still charitable, and also at the financial statements and financial aspect.

Mr. Paul Szabo: Okay, that's process. Let me move on, then.

As a result of these, did you have any findings that had serious consequences?

Ms. Cathy Hawara: Last year, of the almost 800 audits we conducted, we revoked 41 charities for cause, for a variety of reasons. The most common reason for revoking a charity last year was for their participation in abusive tax shelter gifting arrangements. There would also have been false receipting happening. There were—

Mr. Paul Szabo: How many were in the range of organizations in which compensation was over \$100,000?

Ms. Cathy Hawara: Unfortunately, Mr. Chair, I don't have that precise information, but I could go back to—

The Chair: You could certainly submit it.

Mr. Paul Szabo: Yes, I think it would be helpful. This bill before us is dealing with large operations of charities. I'm asking you basically whether you have ever had a problem with any one of them, and to give us an idea of the dimension.

Ms. Guarnieri, in her presentation, referred to an Oshawa charity in which the CEO, I think it was, earned some \$350,000, but there was no disclosure, other than that the salary or the compensation was nil.

Is it possible for that to happen?

Ms. Cathy Hawara: Unfortunately, the information that is provided in the return and posted on our website is the information provided by the charity. If the charity has made a mistake, since we are not able to review all of the returns, it is possible.

I've taken note of it, and we will review to see what happened in that instance.

Mr. Paul Szabo: Okay. You'll look into it.

Finally, the amendment concerning this report, as proposed by Ms. Guarnieri, is to basically require disclosure only when there is compensation in excess of \$100,000 to a person; small parties are going to be left out.

It concerns me, and I want to know whether or not Finance or CRA has a problem, that the bill also says that the minister “may” make disclosures. It would seem to unduly put the minister in a position in which he would have to pick and choose, rather than that he “shall”.

Either “shall” or let's forget the whole thing. Would you agree with that?

Ms. Cathy Hawara: The provision currently proposes to amend an existing provision, which we currently use and rely on to disclose information that's on the website now. I think I would leave it to the committee to determine whether that particular language should be changed, but we do value the principles of transparency.

•(1710)

Mr. Paul Szabo: The language proposed by Ms. Guarnieri is that we replace subclause 1(5), proposed paragraph 149.1(15)(b) of the act, saying that “the Minister may make available to the public”, etc., as opposed to “the Minister shall”. If we're going to require that the return must report it, it is left up to the discretion of the minister, and I don't think the minister wants the discretion to handle some people one way and hide information on others. Why would you do that?

Is that a fair assessment?

Mr. Baxter Williams: I think that as a matter of policy the minister could adopt an approach in which the information is required under a “may” clause, but it would still leave him or her the flexibility to deal with exceptional circumstances in which it may not be appropriate to disclose a salary.

Mr. Paul Szabo: Do you mean in the public interest or whatever?

Mr. Baxter Williams: Yes.

Mr. Paul Szabo: I understand. Thank you.

The Chair: Thank you.

Monsieur Carrier, vous aurez cinq minutes.

[Translation]

Mr. Robert Carrier: Thank you, Mr. Chair.

Since we have the opportunity to hear from officials from the Canada Revenue Agency, let us try to further our understanding of the oversight role played by the agency in the charitable sector.

In his presentation, Mr. Williams said that these organizations were exempt from paying income tax, but I suppose they still have to fill out a tax return. Could you explain how that works exactly? Do they have to fill out a return?

Ms. Cathy Hawara: Mr. Chair, they must submit information returns, rather than tax returns. Each year, they have to submit an information return within six months following the end of the fiscal year. Those returns are available for the public to access on our website. We can certainly provide committee members with a copy of those return forms, if that can be of any assistance.

With regard to a number of questions put to Ms. Guarnieri a little earlier, there is an entire section on fundraising activities and third parties that contributed related services. There is a lot of financial information available on charitable organizations.

Mr. Robert Carrier: Employee salaries are listed in those returns, is that not the case?

Ms. Cathy Hawara: Yes, that is correct.

Mr. Robert Carrier: Salaried employees have to file their own income tax returns. Are these returns audited? I would imagine that a comparison is made between the information contained in the tax return of the tax exempt organization and the information found in the income tax return of the salaried employees in order to ensure that the same amounts are being declared. That goes without saying.

Ms. Cathy Hawara: When an audit is being conducted, these types of questions may be asked by the audit team once they are on the premises and auditing the activities of an organization. However, this is not done in every case, for all income tax returns.

Mr. Robert Carrier: I previously asked a question about hospitals which, in my opinion, are not charitable organizations. I did not hear you clarify this matter. Is this a position that you uphold and do not wish to change?

It seems to me that the situation would be much clearer if we were to make a distinction between the two. For example, there are the hospitals and social service centres that are mandated to provide government services, and which are not strictly speaking charitable organizations.

Do you intend to clarify matters, to specify what constitutes a foundation? For example, I am the member of Parliament for Laval, and I give to a social services centre foundation. However, I am not giving to the social services centre per se, because it is funded by the government. Do you think it would be in your interest to change these things or make a distinction between them?

[English]

Mr. Baxter Williams: We put conditions around the registration of charities, but the definition of a charitable activity has been established in common law and has evolved over the last 400 years. It includes care for health, poverty, education, and religion. It's really up to the hospital to determine whether it considers itself a charity, and in terms of the broader definition of what a charity is, hospitals clearly fall into that category.

For us to begin specifying that hospitals couldn't be considered charities would require a substantial change in the philosophy of how we define charitable purpose in Canada. It would be very

difficult to do on a targeted basis just to deal with hospitals right now.

• (1715)

[Translation]

Mr. Robert Carrier: I cited the example of the hospitals. Why would a hospital create a foundation? I always thought that the purpose of the foundation was to collect money from the general public in order to carry out charitable works, unlike the hospital which does not seek money from the general public as it is funded by the government.

[English]

The Chair: Just give a brief response. This may be a question as well for witnesses we're going to have later on this bill.

Mr. Baxter Williams: I think it's more a question of what a hospital figures is the best administrative structure for the operation of the charity. It's not something that we would deal with in legislation.

[Translation]

The Chair: Thank you.

Mr. Génèreux, you have five minutes.

Mr. Bernard Génèreux: Thank you, Mr. Chair.

Before I begin, I would like to congratulate both Ms. Hawara and Mr. Williams on the quality of your French. Ms. Hawara, in particular, your bilingualism is quite remarkable.

I will continue on Mr. Carrier's line of questioning. We have come to the realization, as you indicated in your presentation, that fewer than 1% of charitable organizations pay salaries in excess of \$250,000.

I too make a distinction between a charitable organization or foundation and the institution for which it was established. Earlier, Mr. Carrier spoke about the example of the Montreal Symphony Orchestra, but he could have been talking about any symphony orchestra. As far as I am concerned, the conductor is an employee of the symphony orchestra, and not of the foundation.

I thought and still do think that this bill is targeting people who earn more than \$250,000 in charitable organizations, and not people in the organizations for which they were created.

Do you share the same feeling with respect to this bill, or am I mistaken?

Ms. Cathy Hawara: Everything hinges on the way that the bill has been drafted. The legislation applies to all charitable organizations. Currently, the 85,000 charitable organizations include orchestras, hospitals and universities.

What makes the sector special is that there is such a wide diversity. It includes tiny organizations with few employees right up to huge hospitals and big organizations, including their affiliated foundations.

So this would apply—

Mr. Bernard Généreux: Fine, but if we draw a comparison between, for instance, CARE Canada and the Montreal Symphony Orchestra, we are not talking about the same thing. Just imagine if the employees from CARE Canada—I am not saying that this is the case, but this is an example that springs to my mind—were receiving salaries in excess of \$250,000 and this information was disclosed publicly. We are not talking about the salary of a conductor who works for an organization for which a trust fund or foundation was created primarily for assisting it financially.

I am trying to understand. I am wondering how we could suggest an amendment to the bill. We will see.

I will give the rest of my time to Mr. Hiebert.

Thank you very much.

[English]

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you. I don't think my question will even take that long.

You've both indicated that salary information over \$250,000 is now indicated on the CRA website as of 2009. Is that correct?

A voice: Yes.

Mr. Russ Hiebert: Yes. I just pulled it up here to try to see for myself how easy it would be to access this information, and I did note that with over 80,000 charitable organizations listed, there's no easy way to identify salary information on a mass scale. Basically, to identify charities that pay that amount of money or more, somebody would have to look at them individually.

I was wondering if there was a policy decision behind the way the website was set up, to prevent people from doing a search just to find out how many people and how many charities would be paying that kind of a salary. In terms of the public's interest in this topic, if a Canadian wanted to find out that information, it would be beyond impossible to actually take the time to investigate every one of those 80,000 charities to find out at what level they pay their salaries.

• (1720)

Mr. Bryan McLean (Director, Policy, Planning and Legislation Division, Charities Directorate, Legislative Policy and Regula-

tory Affairs Branch, Canada Revenue Agency): No, it clearly was not a policy decision to structure it that way. We work within the confines of our system, for one thing.

We do make available the full database, if people want to do their own analysis. And some large organizations do that. We are looking at producing annual reports that will provide a bit more information on what's going on in the sector. But currently, yes, you pretty much have to go to the individual charity to find out who is at what salary threshold.

Mr. Russ Hiebert: So in terms of it being publicly available, it's technically publicly available but next to impossible to access. Would that be a fair assessment?

Mr. Bryan McLean: It's easy to access one on one. But if you wanted to know for all 85,000 what the situation was, it would be a fair bit of work. Or you could ask us to do the work. Quite often we try to pull it together for people.

The Chair: Thank you.

That's the first time I've heard the phrase "beyond impossible". I'd like to know what that is.

I want to thank you all for being here, for your presentations and for responding to our questions. I think it is fair to say the committee would appreciate your assistance on Wednesday, December 8, at clause-by-clause, if you're able to be here that day.

Mr. Pacetti.

Mr. Massimo Pacetti: If I may, if they have some comments, perhaps they could provide them within the next week to 10 days, so they could be useful, rather than waiting until—

The Chair: Yes. If you have any additional comments on the private member's bill, the issue, Ms. Guarnieri's amendments, Mr. Chong's—you have his policy idea. And you have the issue raised by Monsieur Mulcair. If there's anything further on those issues.... If there are any further amendments, we'll make sure you get those as well for your comment.

Thank you very much.

The meeting is adjourned.

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :*
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and
Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les
Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à
l'adresse suivante : <http://www.parl.gc.ca>