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L663

July 16, 2012

Ms. Guyanne Desforges
Standing Committee on Finance
131 Queen Street, 6th Floor
House of Commons
Ottawa, Ontario K1A 0A6

Dear Ms. Desforges:

RE: Bill C-377, An Act to amend the Income Tax Act (requirements for labour organizations)

We are writing to voice our concerns about Bill C-377 and recommend that the Standing Committee on Finance reject the Bill in its current form. Our general concerns include the:

- wide-ranging scope of the definition of "labour trust";
- significant time and costs of compliance; and
- inability to dispense with non-compliance penalties in the case of unintentional noncompliance.

Our concerns specific to pension and benefit plans include the:

- conflicts with federal and provincial privacy legislation that arise from the individual disclosure requirement for transactions in excess of $5,000; and
- redundancy of many of the disclosure requirements.

Concerns

Based on the objective of increasing transparency and accountability for labour organizations, the Bill's definition of "labour trust"[1] is too broad. In particular, it includes any plan with at least one union member and consequently public-sector plans with non-union and union members would be subject to the Bill's disclosure requirements. It seems very unfair that public-sector employers will be responsible for the costs involved in

[1] *"labour trust" means a trust or fund in which a labour organization has a legal, beneficial or financial interest or that is established or maintained in whole or in part for the benefit of a labour organization, its members or the persons it represents.*
Source: http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5303183&File=24

preparing these disclosures when the focus is on the union rather than the public-sector employer.

Although Mr. Ross Hiebert has stated that the cost of compliance will be minimal[2], we anticipate that the amount of time required to separately identify each transaction in excess of $5,000 will be substantial (with the required time increasing exponentially based on the size of the union). Given that many multi-employer pension plans have assets in excess of $100 million, they incur a colossal number of these transactions through benefit payments (e.g., monthly pensions, lump sum transfers due to termination or death) and investment transactions. There can also be a significant number of these transactions in health benefit plans as a result of life insurance death benefits and expensive prescription drugs. Consequently, this Bill will require unions to hire at least one individual to focus solely on the preparation of these transactions. Furthermore, these onerous disclosure requirements may result in exorbitant increases in investment management fees (since investment managers will need to provide some of this information to the union) and audit fees (since the accountants will require significantly more time to review the statements).

If a labour organization unintentionally failed to comply with the Bill due to extenuating circumstances (e.g., a fire at the Union Hall in which all records were destroyed), there are no means to eliminate the non-compliance penalties. Given the prohibitively expensive penalties, we believe that it is imperative that someone at the Canada Revenue Agency have discretion to eliminate these penalties.

Under the Bill, each transaction in excess of $5,000 is required to be separately disclosed. In particular, for each transaction, the following information must be provided: the name and address of payer and payee, the purpose of the transaction, the description of the transaction, and the amount of the transaction. With respect to benefit payments from pension and benefit plans, this requirement conflicts with the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and provincial privacy legislation (e.g., Ontario's *Personal Health Information Protections Act*). For example, if a member is taking an expensive prescription drug to treat a serious condition, all of this information will be available to the public in compliance with this Bill. In our opinion, this conflict with privacy legislation is unacceptable and unnecessary to achieve the objective of increased transparency for labour organizations.

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[2] Source: http://www.c377.ca/en/

Both pension and benefit plans are already subject to numerous similar disclosure requirements through the provincial and federal legislation. For example, the Ontario *Labour Relations Act* requires a plan administrator to file its financial details on an annual basis while the Ontario *Pension Benefits Act* requires pension plans to file audited financial statements on an annual basis if the assets exceed $3 million. The additional disclosure requirements under this Bill do not provide further transparency; instead, it will result in reduced benefits for plan members as the costs of producing these disclosures must be paid out of the plan's assets (i.e., there is no "employer" to cover these costs).

Conclusion

Based on our concerns outlined above, we recommend that Bill C-377 be rejected by the Standing Committee on Finance. In our opinion, the Bill would require major revisions to address our concerns before it could be accepted.

If you have any questions, or would like to discuss our concerns in further detail, please do not hesitate to contact us.

Sincerely,

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c. Ross Tius, U.A. Local 663 Plumbers and Pipefitters