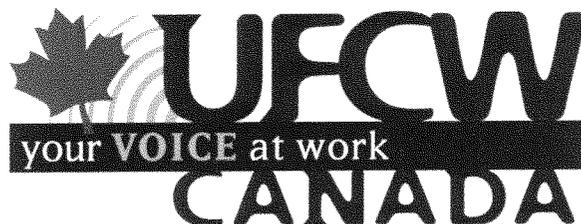


# Submission By UFCW Canada

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*To House of Commons  
Standing Committee on Finance  
regarding  
Bill C-377  
An Act to Amend the Income Tax Act  
(Labour Relations) - 2012*

11/1/2012



*Submission by UFCW Canada to the House of Commons Standing Committee on Finance regarding Bill C-377 - An Act to Amend the Income Tax Act (Labour Organizations)*

On behalf of the membership of UFCW Canada, Canada's leading private sector union, I am pleased to present our submission on Bill C-377, *An Act to Amend the Income Tax Act (Labour Organizations)*, to the House of Commons Standing Committee on Finance.

UFCW Canada represents more than 250,000 members across the country and is a leading force for workers in the retail, food processing, and hospitality sectors. Our members live and work in communities from coast to coast, in every province. They are your neighbours - the stock clerks and cashiers that you have come to know at your local grocery store. They work in meat packing plants, hotels, nursing homes, car rental agencies, drug stores, and many other sectors of the economy.

This past summer our union embarked on a program to inform the membership of Bill C-377 and to educate them on how the Bill will impact them as union members and taxpayers.

The following are concerns that our membership raised in discussions with our staff and MPs across the country.

**Cost to the Canadian Taxpayer**

The most important concern pertains to the costs associated with the implementation, monitoring, and enforcement of this proposed legislation.

The sponsor of the Bill has stated that "the government's document

production cost will be minimal once the electronic production system, the database, and the website are in place.”

We believe this statement is misleading. It is hard to imagine that the cost to develop the necessary regulations, forms, training and information manuals, a comprehensive database with cross-referencing capacity, and a campaign to educate and inform labour organizations and the public of the new legislation will be insignificant. These costs will be in addition to ongoing costs to monitor, audit, and enforce the legislation, which we believe will be far in excess of the now-defunct Long Gun Registry.

In a November 2010 article in *The Globe and Mail*, a spokesperson for Public Safety Minister Vic Towe stated that the total cost of the Long Gun Registry was \$2 billion and that the government would save taxpayers \$3.36 million annually by scrapping the program.

In most instances registration with the Long Gun Registry was a one-time event that did not require annual filing with the Canadian Firearms Centre (CFC). But Bill C-377 will mandate annual filing with the Canadian Revenue Agency (CRA).

In Canada, there are 55 national and international labour organizations, 25,000 local unions, branches, and lodges, 12 provincial and territorial federations of labour, and 130 district labour councils. The Canadian Labour Congress (CLC) estimates that these organizations generate more than 250,000 transactions annually, most of which will have to be reported under Bill C-377. Labour organizations will also have to track and report all pension plans, trusts, and education and training funds over \$5,000. Evidently,

reporting these transactions to the CRA will unnecessarily burden pension and health and welfare plans with a significant expense.

In its brief to the finance committee, the Multi-Employer Benefit Plan Council of Canada (MEBCO) estimates that there will be additional costs of approximately 2 percent to pension plans and trust funds, which will have to be covered by reducing benefits or increasing premiums and contributions.

Contrary to the statement made by the sponsor of the bill, Bill C-377 will result in substantial costs to Canadian taxpayers, some of whom will be penalized twice. Canadians will have to pay for the implementation, monitoring, auditing, and enforcement of the bill and some will run the risk of seeing their benefits cut as a result of the increased costs to pension and trust funds.

Another reason why this bill is unnecessary is that most provincial jurisdictions already require unions to prepare financial statements and make them available to members. For example, in BC and Nova Scotia, unions must provide members with audited financial statements every year. With the exception of Alberta and Saskatchewan, all other provinces require unions to provide their members with audited financial statements upon request, and federally unions must file audited financial statements with the Canada Industrial Relations Board (CIRB) so that they are accessible to the public. With this being the case, why does the federal government want to unnecessarily increase expenses by duplicating reporting systems? There is no justification for this as it does not make sense.

## **Confidentiality and Privacy Concerns**

In discussions with our membership, it became evident that confidentiality and privacy are two other issues of serious concern with Bill C-377. The bill defines a 'labour trust' as a trust 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. As a result, all pension plans that provide pensions to workers who belong to a union, all health benefit trusts and long-term disability plan carriers that make benefit payments to workers, and all education and training trusts will be required to file with the CRA in the same detail as labour organizations.

Moreover, Section 3(b) of the bill requires labour organizations to file all transactions over \$5,000 by showing the name and address of the payee, the purpose and description of the transaction, and the specific amount paid. This clause will mean that a health plan beneficiary who is reimbursed for a costly prescription or counselling service will have their name, address, and the reason they received the payment made publicly available for everyone to see. This is an unacceptable invasion of Canadians' privacy.

In an era when internet providers and social media networks are taking measures to protect the confidentiality and privacy issues of individuals, it is incomprehensible that the Government wants to publish confidential information on a CRA website that could make them vulnerable to confidence artists or other illegal schemes.

Confidentiality and privacy concerns are not exclusive to pension plans and trust funds. This is an issue that relates to the legal matters of unions and

their members and raises the question of how and whether Bill C-377 will impact solicitor-client privilege. Like the aforementioned concerns relating to pension and trust funds, transactions over \$5,000 with legal counsel will require identifying the issue for which the payment was made and necessitate the publication of that information on the CRA website. Once again, this is a requirement that is unacceptable to our membership, our union, Canadian taxpayers, and the legal community.

In an article written by tax and estate law specialist Colin Green in the *Ottawa Businesses Journal*, Mr. Green points out that:

“Bill C-377, as currently drafted, could potentially force unions to abandon solicitor-client privilege by disclosing invoices from legal counsel, and as such, may be attacked as being unconstitutional...it should also be appreciated in the wider context: solicitor-client privilege is a critical underpinning of our judicial system and should be properly protected as such. Any law that could weaken this concept should be carefully weighed and reviewed.”

Given that questions have been raised about Bill C-377's constitutionality, it is our prediction that there will be legal challenges that will ultimately result in more costs to Canadian taxpayers, and we cannot understand why the federal government wants to venture down this path.

During the course of the summer, our union contacted our suppliers and contractors and informed them of the ways in which Bill C-377 will negatively impact them. Labour organizations will be required to provide the

amounts and details of payments made to commercial suppliers and contractors to the CRA for online publication. It is our understanding that many of our suppliers and contractors have already filed submissions with the Prime Minister, the Minister of Finance, other Members of Parliament, and the Committee objecting to the publication of confidential information regarding their commercial dealings with labour organizations. This causes us to wonder: what is the rationale for making contractual information between two parties publicly available on the CRA website?

### **Publishing of Salaries and Benefits**

Another troubling aspect of Bill C-377 is the requirement to publish the salaries and benefits of union employees. It is one thing to demand that the salaries, stipends, and benefits paid to officers, directors, and trustees be published, as in most cases this information is already publicly available. But it is an unnecessary intrusion into the private lives of employees to demand that this information be made public. How will it serve the public interest to publish the salary of a receptionist or janitor who works for a union?

### **Discrimination**

The final concern that I would like to address is the issue of discrimination. There is not a single organization in Canada – not one publicly-traded company, not the 85,917 charities registered with CRA, nor the estimated 100,000 non-profit organizations - that will be required to make detailed confidential information publicly available in the way that Bill C-377 demands of unions. For example, the labour relations association Merit Canada is one of the leading proponents of this bill, but it refuses to publish how it spends its own money, and it will not be subject to the same "transparency" law as

other labour organizations. Why has the government included unions in this bill, but not labour relations associations like Merit Canada?

Unions do not receive any public tax subsidy as a result of our members deducting union dues from their taxable income. It is workers and their families who receive this credit when they file their tax returns. The fees paid by employers to belong to a labour relations association, the employer equivalent of a union, are deductions that can be added to corporate profit. But unions do not enjoy any such benefit. This is an issue on which proponents of Bill C-377 are silent. It seems that labour relations associations are happy to have a different set of transparency rules for themselves, and do not take issue with the aforementioned tax subsidies for corporations.

Clearly, labour organizations and their members are being discriminated against while employers, employer organizations, professionals, and professional organizations are being held to a lower standard of so-called transparency. Does the government believe that this is a fair way to govern?

## **Conclusion**

There are many other reasons to oppose Bill C-377 but this is a brief representation of the issues that are most troubling to our members and local unions.

Unions have long been recognized as playing a vital role in our society. Labour and collective bargaining rights are enshrined in the Canadian Charter of Rights and Freedoms. Section 2(d) of the Charter explicitly recognizes the right of freedom of association as one of Canada's

fundamental freedoms. The Supreme Court has held that “the right to bargain collectively with an employer enhances the human dignity, liberty, and autonomy of workers by giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives, namely their work.”

Federal and provincial governments of all political stripes have recognized the unique and important role of Canada’s labour movement by implementing legislation that not only provides rights to workers and their unions, but also responsibilities.

So while the federal and provincial governments and the Supreme Court of Canada have reinforced the right of unions to function as legitimate organizations with the ability to participate in the political realm, Bill C-377 will undermine these freedoms.

Despite what the sponsor of Bill C-377 claims, the bill will tilt the labour relations balance between workers, their representatives, and employers even further toward the latter group. Workers throughout Canada are under attack and this bill will be another weapon for employer groups to use in their war against workers.

At a time of economic volatility, why does the government want to risk upsetting labour/management relationships that are already volatile?

This bill is clearly flawed and will do nothing to create a stable labour relations culture in our country. The discriminatory nature of the bill, the issue of confidentiality, solicitor-client privilege, and the question of whether the proposed legislation is Charter compliant will result in legal challenges

for years to come. The bill will also place an increased financial burden on Canadian taxpayers.

On behalf of the membership of UFCW Canada, I urge the committee to recommend in its report to Parliament that Bill C-377 be withdrawn or defeated in its entirety. Thank you.

Respectfully submitted by:

Wayne Hanley  
National President  
UFCW Canada