

Relief from the ATSC for Charitable Flights

2018 Federal Budget: Submission seeking an exemption from the Air Travellers Security Charge for flights provided by registered Canadian charities

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Executive Summary

An important part of the primary objective of Canadian health care policy is “to facility reasonable access to health services without financial or other barriers”. At the most basic level, the promise made of access is not being fulfilled when considering where a person lives in Canada and the distance they need to travel to get vital medical care provided by our system. The physical access to healthcare (i.e. getting to the front door of the hospital) is a cost borne by the patient, not the system.

The Air Travellers Security Charge (the “ATSC”) is a levy paid by Hope Air on behalf of the patients it arranges travel for: fellow Canadians who, on average, live at or below the national “poverty line” and find that where they live in Canada has become a barrier for them accessing Canada’s universal healthcare system.

To support families and help vulnerable Canadians to equally access vital healthcare, Hope Air recommends that the Government of Canada amend the Air Travellers Security Charge Act to exempt Canadian registered charities from the ATSC when such charity is providing free flights to lower-income Canadians who are travelling to required medical appointments.

By taking the requested action the Government of Canada will help fulfill the promise made in the Canada Health Act and ensure that residents of rural and remote communities throughout Canada have equal access to vital healthcare. Healthy Canadians make health communities!

The Societal Need across Canada

Canada is a country of vast distances and our universal healthcare system starts at the front door of the hospital, treatment centre or specialist’s office. Fellow Canadians who live in communities far from larger urban centres face enormous challenges in accessing the specialist healthcare they need. They frequently face long-distance travel to get to their medical appointments, at their own expense, and in winter risk dangerous long drives. Long-distance travel to vital healthcare puts lower-income Canadians at risk as they often decide to cancel or delay treatment due to the travel costs. It also takes people away from work, school, family and community much longer than necessary.

Canadians who need to fly for specialist medical care not available in their home community/province, but cannot afford the price of the flight, rely upon the scarce charitable resources of Hope Air to provide for free air transportation to enable them safe and efficient access to their vital medical care. Although the actual delivery of healthcare services is the responsibility of the provincial/territorial government, the federal government does have the ability in this instance to assist in the fulfillment of the accessibility promise our system makes. Full relief from the ATSC should be provided to registered charities that provide Canadians with any such flights.

Previous ATSC exemption was helpful, but did not provide for all concerned

Under the Air Travellers Security Charge Act¹, every person who acquires air transportation services from a designated air carrier is required to pay an air travellers security charge (“ATSC”). There are various provisions under the Act whereby the ATSC is not chargeable, such as:

- a) if the air service is in the course of an air ambulance service; or
- b) where a registered charity acquires transportation services from a carrier for no consideration and, in turn, donates the services to an individual for no consideration in pursuit of its charitable purposes.

Hope Air is not an air ambulance so cannot qualify for exemption in a) above. Hope Air has partially benefited from the current ATSC exemption as described in b) above; however, such does not address the full societal concern nor cover fully the ways this charity sources its flights. The exemption in b) above is solely focused on flights donated by an air carrier. In light of the changing economic times and the impact felt by Canada’s airlines during the past several years, Hope Air modified its operating model so that it does not rely solely upon flights donated by the commercial airlines. Through innovative collaborative funding arrangements and increased private sector donor participation, Hope Air is now purchasing flights with donated funds to meet the increased demand. Under the current relief legislation, these purchased flights are not exempted from the ATSC. The key point is that “how” Hope Air provides these vulnerable Canadians with a free flight should not be a criterion as to whether the ATSC levy is exempt (i.e. whether the flights were donated by an airline or purchased by Hope Air). For example, in 2016 Hope Air provided 11,488 free flights to lower-income Canadians: 30 per cent were donated by airlines (and were thus exempted from the ATSC fee) and 70 per cent were purchased by Hope Air using donations from our generous donors.

It is our submission that **every** flight provided: (a) by a registered charity in pursuit of its stated charitable purpose; (b) to assist a fellow Canadian to get to an approved medical appointment; and (c) provided at no cost to the patient, should be exempt from the ATSC – regardless of how that flight has been obtained by the charity (through donation by an airline, purchase by the charity through funds it has raised for its mission, by the redemption of loyalty points by the charity or otherwise). The flight is being provided, for no consideration, to a fellow Canadian who has found it necessary to seek charity support due to cost and distance barriers when needing to access vital medical care. The goal of the Government should be to ensure that financially disadvantaged Canadians have equal access to healthcare regardless of where they live in Canada.

An example of one way Hope Air provides free flights to vulnerable Canadians is through the donation of loyalty points. In 2010/2011 the Ministry of Revenue enforced its strict reading of the exemption b) above and denied the ATSC exemption for flights sourced by Hope Air through donated loyalty points. In the ruling by the Federal Tax Court, the concept of what is

¹ Under subsections 11(1) and 11(2) of the Air Travellers Security Charge Act¹, 2002, c.9, s.5 as amended (the “Act”)

“just” and “in the public interest” was referenced by The Honourable Chief Justice Rip² in the final paragraph of his judgement:

“Hope Air provides a valuable and essential service to people who need it... For whatever reason, Parliament did not exempt from the [ATSC] charge the use of points as consideration for the flights ... As a result, the money available for Hope Air to carry on its charitable activities is reduced to the extent it is forced to pay charges on the flights it acquires for its charitable works. The Crown may wish to consider whether, in such circumstances, it is just to return the charges or whether it is in the public interest to remit the amount of the charges to Hope Air pursuant to ... the Financial Administration Act.” [Emphasis added].

Recommendation for legislative change

To address the specific concern raised in this submission, and to support families and help vulnerable Canadians to equally access healthcare, Hope Air recommends that the Government of Canada amend Section 11 (2) of the Air Travellers Security Charge Act, 2002, c.9, s.5 as amended, to read:

11 (1.1) No charge is payable in respect of an air transportation service that is acquired:
(b) by a person from a registered charity, for no consideration, if the service is arranged by the charity in pursuit of its charitable purposes and to assist that person to travel to a medical appointment authorized by that person’s provincially funded health coverage.

To conform to previous amendments, and to provide for equitable treatment, it is proposed herein that the amendment be made effective retroactively to April 1, 2002 when the ATSC legislation was first implemented.

Impact on vulnerable Canadians

By taking action in the 2018 Budget to exempt the ATSC levy on charitable flights as requested in this submission, the Government will:

1. be recognizing and acting upon the promise that access to healthcare is a vital matter and should not be dependant on where you live in Canada or how much money you have;
2. be proactively addressing the comments made by The Honourable Chief Justice Rip when he referred to what is “just” and what “is in the public interest”;
3. be acknowledging to all provincial governments which support Hope Air that the federal government will take proactive legislative action to participate in enabling better access to Canada’s universal healthcare system;
4. be proactively helping low-income Canadians generally (including the unemployed, those with a disability and seniors) regain their health so that they can maximize, in the manner of their choosing, their contributions to the country’s economic growth;

² 2011 TCC 248

5. be ensuring that residents of rural and remote communities throughout Canada have equal access to specialized medical care so that they can regain their health and make their desired contribution to the country's economic growth;
6. be recognizing how the public sector and the not-for-profit sector can work effectively and efficiently together to provide meaningful social programs and assistance; and
7. be indirectly providing additional funding through such legislative relief so that Hope Air can continue to ensure, and increase, its charity work across Canada which directly benefits those who are struggling financially and also facing difficult healthcare challenges.

Impact on federal tax revenue

The annual number of charity flights provided by Hope Air each year will vary; assuming that the number of charity flights provided by Hope Air in 2018 is 12,000 flights to needy Canadians, and assuming the ATSC rate remains at \$7.12 per one-way flight, the requested legislative relief would amount to a decline in federal tax revenue of approximately eighty-five thousand dollars (\$85,440 (plus HST)) for 2018.

It should be noted that Hope Air is the unique registered charity in Canada which provides charitable flights on a national basis. Hope Air is not aware that there are other charities which currently seek legislative relief for the ATSC levy, or that there would be other charities which would seek a refund of ATSC if the requested legislative amendment were made.

About Hope Air

Hope Air is the only registered nation-wide charity that provides free flights to individuals who cannot afford the cost of a plane ticket to fly to required healthcare treatment far from home. Since its founding in 1986, Hope Air has arranged over 120,000 free flights, and has grown to become a national resource for individuals of all ages suffering from a wide range of illnesses. Over the years Hope Air has forged strong partnerships with national and regional airlines which enable it to keep costs low and offer more flights. Hope Air estimates that for every one client it directly supports with a flight, it positively impacts at least fifty people in their community who have a vested interest in that client's need to access healthcare. This includes parents, siblings, other family members and friends, teachers, social workers, and healthcare providers. Almost half of the flights Hope Air provides are for children and their parent or guardian; many of whom live in a household where the average income is close to their community's low-income line. This means that many of the families Hope Air helps devote a larger share of their income to the necessities of food, shelter and clothing than the average Canadian family.

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