

July 25, 2006

Mr. Brian Ernewein
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Tax Policy Branch
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Dear Brian:

Re: Reporting of Canada Revenue Agency (CRA) Information Slips/Reporting to CDS

Further to our submissions, telephone conferences and meetings and as promised on June 5, this letter summarizes the recommendations of the Canadian Bankers Association (CBA), Canadian Association of Investment Funds (CAIF), Canadian Life and Health Insurance Association (CLHIA), Investment Funds Institute of Canada (IFIC), Investment Industry Association of Canada¹ (IIAC) and, now, the Real Property Association of Canada (REALpac) with respect to the reporting of income by public income funds² for tax purposes:

- (a) **Reporting of Splits** – We recommend that public income funds (which, for clarity, excludes deemed trusts) be required to report the amounts of distributions by categories ("Splits") on or before the end of February.³
- (b) **T3 Supplementaries** – We recommend that the reporting date for T3 Supplementaries continue to be the end of March.
- (c) **T3 Return** – We recommend that the reporting date for the T3 Return continue to be the end of March.

The above system will provide real benefits both for persons responsible for preparing the T3 Supplementaries and, importantly, for their investor clients, many of whom want to file their tax returns as early as possible. The industry will generally have the weeks needed after receiving the Splits during which to prepare and distribute the T3 Supplementaries, reaching investors earlier than has been possible in past years. The current situation where taxpayers

¹ On April 1, 2006, the Investment Dealers Association of Canada (IDA) legally divided into a self-regulatory organization (SRO) and IIAC. IIAC represents the position of the Canadian investment industry on regulatory and public policy issues. Its mandate is to promote efficient, fair and competitive capital markets for Canada while helping its member firms succeed in the industry.

² See the attached materials previously provided to the Department of Finance for a proposed definition of this and other terms.

³ The end of February is the recommended date for non-fund-of-funds public income funds. In the materials previously provided to the Department of Finance, we have recommended a date early in March for fund-of-funds public income funds. These materials discuss certain sequencing issues in detail.

frequently receive T3 Supplementaries well into April (and sometimes even later) should be significantly reduced or eliminated.

Filing deadlines

At various points, we have discussed with you alternative ways to address this issue, including: the possibility of changing the fiscal year of public income funds to November 30, not changing the fiscal year but requiring reporting as of November 30 or changing the T3 Return filing deadline to the end of February. We have recently held further discussions with representatives of the income trust industry, including CAIF and REALpac, regarding changes to income trust year-ends. They have advised us that they are opposed to such changes due to the cost and confusion this would cause. In addition, it would be necessary to make changes to all existing contractual obligations, which refer to a public income fund's fiscal year-end. There would also be implications for how public income funds carry on their businesses. In addition, we note that income trusts can elect a December 15 taxation year-end and with this we believe that end-of-February reporting should be attainable.

Finally, and most importantly, we and the income trust industry do not believe that there is ultimately any need for such changes. The possibility of a difference between the amount determined to be the income of a public income fund by virtue of the preparation of the Splits (and therefore reported on the T3 Supplementaries) and the amount reported as income on the T3 Return will be reduced for the following two reasons:

- a. Public income funds are required to implement disclosure controls (i.e., appropriate information systems, procedures and controls) to ensure that all information disclosed externally is complete, reliable and timely. Specifically, the Canadian Securities Administrators' Multilateral Instrument 52-109, *Certification of Disclosure in Issuers' Annual and Interim Filings*, now requires all reporting issuers (other than investment funds) in all Canadian jurisdictions to certify in their annual chief executive officer (CEO) and chief financial officer (CFO) certifications that they have evaluated the effectiveness of the issuers' disclosure controls. Effective for years ending on or after December 31, 2006, issuers are required to disclose, in their annual management discussion and analysis (MD&A), their conclusions about the design and operational effectiveness of disclosure controls over financial reporting as of the end of the financial year based on such evaluation. This will promote accuracy and consistency of relevant data in the Splits, T3 Supplementaries and T3 Return.
- b. In the current situation when a public income fund reports its Splits before the end of March, it is not currently doing so pursuant to any statutory obligation. The financial services industry worked with the income trust community to attempt to achieve voluntary compliance with the February 28 reporting date, with less than 100-per-cent success. We believe that the implementation of a statutory mandated date for the reporting of the Splits and the recently mandated disclosure controls referenced above can be expected to improve the standard of care.

Filing with the Canadian Depository for Securities Limited (CDS)

When we met, we briefly discussed that the public income funds that are not funds of funds should be required to file the CDS Form with the Canada Revenue Agency (CRA) and CDS within 60 days after December 31 and that public income funds that are funds of funds be required to file the CDS Form with the CRA and CDS within 67 days after December 31. We understand that the Department of Finance may require filing on the funds' websites and specify that this requirement could be met by sending the information to CDS. We appreciate the sensitivity of mandating filing with a non-government body but ask you to consider the following:

1. Considerable effort has been undertaken to get as many issuers as possible to file centrally, such that an estimated 99 per cent of these issuers are already filing information with CDS. We would not like to see additional work for reporting parties if public income funds now file on their websites.
2. Website URLs change, the location on websites will not always be clear, etc., making it potentially more difficult for reporting intermediaries. Information filed on the CDS website is filed in standard form after discussion with the CRA, which makes it easier for users of the data.
3. There seemed to be a question as to whether others would see CDS as a legitimate place to file. CDS, as the entity through which substantially all issuers' securities are distributed, is subject to the legislation and regulations of different jurisdictions. Federally, the Bank of Canada regulates designated systems, including CDS's CDSX®, for clearing and settling payment obligations under the *Payment Clearing and Settlement Act*. In Ontario, CDS is regulated by the Ontario Securities Commission under the *Ontario Securities Act*. The Autorité des marchés financiers regulates CDS under the *Quebec Securities Act*. CDS also works with the Alberta and British Columbia securities commissions, reports as required to the Canadian Securities Administrators (CSA) and co-operates with federal and provincial financial institution regulators, which oversee CDS participants. As well, there is no competing securities depository in Canada, meaning that there should be little complaint of unfair treatment from another part of the industry.

Issuer filing of the CDS Form on the CDS website is a convenience and an expense saving for many intermediaries and promotes the cost-efficient reporting of taxable income at no cost to the federal government. We believe that these benefits are consistent with current government priorities. For this reason, we ask that amendments solely require the filing on the CDS website or, if this is not possible, that the wording be the reverse of that discussed, namely, that the amendments specify filing on the CDS website with the less preferable option being filing on a public income fund's own website with the public income fund ideally still advising CDS of this to allow a link between CDS and the fund's website.

We urge you to implement this change for the 2006 taxation year to reduce the frustration that investors and taxpayers experience and eliminate the unnecessary additional work and cost to which tax reporting entities are subjected. The income trust and financial services communities will need confirmation of the desired change in the very near future so that all affected parties can plan accordingly and unitholders can benefit from the earlier receipt of the T3 supplementaries for effect the 2006 tax reporting period.

Please feel free to contact Barbara Amsden at (416) 687-5476 (bamsden@iiac.ca) or any of the association representatives below if you would like to discuss any aspect of the foregoing. We will follow up with you shortly to address any remaining concerns that you may have.

Yours sincerely,

Jamie
Golombek
IFIC

Barbara
Amsden
IIAC

Ron
Sanderson
CLHIA

Karen
Michell
CBA

George Kesteven
Margaret Lefebvre
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Michael
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Cc: Wally Conway (Conway.Wallace@fin.gc.ca)
Mark Weseluck, CDS (mweseluck@cds.ca)
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IFICInvestment Funds
Institute of Canada**IDA**Investment Dealers
Association of Canada**CLHIA**Canadian Life and Health
Insurance Association**CBA**Canadian Bankers
Association**CAIF**Canadian Association
of Income Funds

September 12, 2005

Mr. Brian Ernewein
Director, Tax Legislation Division
Tax Policy Branch
Department of Finance Canada
17th Floor, East Tower
140 O'Connor Street
Ottawa, Ontario
K1A 0G5

Re: Delayed Reporting of CRA Information Slips

Dear Brian;

Thank you for taking the time over the last several months to join our committee of representatives from the various industry associations to discuss issues pertaining to the delayed reporting of tax information of publicly traded income trusts and LPs. Our discussions hopefully were successful in conveying to you the severity of the situation and what lies at the root of the problem. Your personal attention to this problem has greatly assisted in the process of reaching consensus among the industry groups. Attached is a proposal the committee is putting forward which we believe addresses the issues and the many investor considerations raised. It may be that in the coming weeks individual associations may provide you with additional comments.

If you have questions or concerns, do not hesitate to contact any of the members named below.

Sincerely

Jamie
Golombek
IFIC

Jon
Cockerline
IDA

Ron
Sanderson
CLHIA

Kelly
Shaughnessy
CBA

George Kesteven
Margaret Lefebvre
CAIF



Memorandum

To Jon Cockerline
From Ronald S. Wilson
Date [September 12, 2005](#)
File No. 21498
Subject **CRA Information Slips Problem**

2. **CRA Information Slips** – There are two kinds of CRA information slips relevant to the analysis in this memorandum:

- (a) **T3 Supplementaries** – T3 Supplementaries are the slips which are required to be distributed to the individual unitholders of mutual fund trusts. They are currently required to be distributed within 90 days of the end of the relevant taxation year.
- (b) **T5013 Supplementaries** – T5013 Supplementaries are the slips which are required to be distributed to the individual unitholders of a Canadian partnerships. The practical effect of subparagraph 229(5)(c)(ii) of the Income Tax Regulations is to require such slips to be distributed on or before the last day of March.

3. **Public Income Funds** – In this memorandum, the term public income fund refers to mutual fund trusts and limited partnerships whose units trade on a prescribed stock exchange in Canada. There are two categories of public income fund:

- (a) The first category includes REITs, royalty trusts, business income trusts and business income limited partnerships. These are entities which, in effect, carry on business activities directly.
- (b) The second category are funds of funds. These are entities which invest principally in the securities of other public income funds and public companies.

The term public income fund in this memorandum does not include traditional mutual fund trusts⁴ which typically distribute T3 Supplementaries directly to unitholders (i.e., not by means of intermediaries). This is because the record of beneficial ownership of units of the mutual fund trust is maintained directly by the mutual fund trust sponsor (typically an IFIC member as opposed to a member of the REIT, royalty trust or business income trust associations).

4. **Problem** - The units of public income funds are typically held to a significant degree in brokerage accounts. Accordingly, CRA information slips are prepared by the brokerage firms. A brokerage firm will only be a position to prepare the CRA information slips after it has received the information specified in one of the two forms attached or referenced in Schedule A hereto (the "CDS Form"). The information in the CDS Form is similar to the information in the T3 summary (in the case of trusts) or the T5013 summary (in the case of partnerships). The principal difference is that the information in the CDS Form is specified on a per unit basis and per payment basis. After the brokerage firm receives the CDS Form, it will then typically need a minimum of two weeks (and not infrequently, three to four weeks) to carry out the computer runs necessary to produce the required CRA information slips. The required time is a result of the large volume of data factors requiring manual input for the computer runs. In addition, a significant amount of time is required to print and mail the CRA information slips to clients.⁵ The process also often results in errors resulting in a requirement to carry out reruns. However, under the current legislative framework, there is no requirement for a public income fund to complete the CDS Form. In addition, a public income fund is not required to complete the T3 summary or T5013 summary until the end of March. Thus, it may be significantly into the month of April before the brokerage firm has sufficient information to complete and mail the CRA information slips. Further delays can occur in the postal system. The net result is that taxpayers may receive the information necessary to complete their personal income tax returns only shortly before, or on occasion even after, the April 30 deadline.

5. **Proposed Solution** – We propose two requirements:

- (a) We propose that public income funds which are not fund of funds be required to file the CDS Form with the CRA and CDS within 60 days after December 31 (the "First CDS Deadline").
- (b) We propose that public income of funds which are fund of funds be required to file the CDS Form with the CRA and CDS within 67 days after December 31 (the "Second CDS Deadline").⁶

⁴ It also does not include segregated funds of life insurance companies.

⁵ The timeframe for the production of the T5 slips reporting dividend and interest income is similar. The information required to prepare the slips is typically available to the brokerage firms in early to mid January. However, it is difficult to complete all of the production runs until sometime in early February.

⁶ The task of producing CRA information slips is a mammoth task for the brokerage firms. In contrast, a fund of funds should be able to take information provided to it at the end of February and

Our understanding is that virtually all public income funds currently complete the CDS Form, although approximately half of the public income funds (including the funds of funds) do not complete the CDS Form until sometime in March. Thus, the effects of the proposed solution will simply be to accelerate the time of completion for those public income funds who are currently slow to complete the CDS Form and to put the small group of public income funds who do not currently complete the CDS Form onto the same basis as the majority of public income funds.⁷ It is also our understanding that virtually all of the information in the CDS Form is absolutely necessary in order to complete the T3 Supplementaries or T5013 Supplementaries, as the case may be.⁸

6. **Draft Amendments to the Income Tax Regulations** - In order to facilitate further review of the proposed solution, we have attached as Schedule B suggested draft amendments to the Income Tax Regulations.

7. **Cascading Effect of Changing CRA Information Slips Deadline** - The above proposal feeds into the current deadline for the filing of CRA information slips for public income funds.⁹ The sequencing will therefore be as follows:

- (a) A public income fund which is not a fund of funds will upload its CDS Form before the First CDS Deadline at the end of February.
- (b) A public income fund which is a fund of funds will be able to download the information referenced in the previous paragraph during the first couple of days of March. This should enable it to be in a position to upload its CDS Form on or before the Second CDS Deadline at the end of the first week of March.
- (c) The brokerage firms will face two situations:
 - (i) The brokerage firms will be able to download the information referenced in subparagraph (a) during the first couple of days of March. Thus, where clients hold units of public income

calculate the information required to be uploaded on the CDS Form within a fairly short time frame. Accordingly, we have suggested that the Second CDS Deadline will not need to be a long time after the First CDS Deadline.

⁷ We also note that the CDS Form reflects extensive discussions over a number of years between the brokerage industry, the community of public income funds and CDS. Our understanding is that all three interest groups are generally satisfied with the CDS Form. In addition, annual consultations occur in order to keep the CDS Form up to date. There is obviously considerable merit to working within a system which is mature.

⁸ Having regard to this fact, it would appear that the only other feasible solution to the problem under analysis would be to require a taxation year end for public income trusts of November 30. However, such a requirement would generally require all of the subsidiary entities to similarly change their taxation year ends. Thus, this second alternative solution would likely be quite complicated. It would also not address the situation of funds of funds.

⁹ The deadline for public income funds is typically in March 31. The deadline for traditional mutual fund trust is typically March 15 because of the practice of adopting a December 15 year end.

funds which are not funds of funds at a brokerage firm, the brokerage firm should be able to comfortably prepare and distribute the required CRA information slips before the end of March.

- (ii) The brokerage firms will be able to download the information referenced in subparagraph (b) shortly after the end of the first week of March. Thus, where clients hold units of public income funds which are funds of funds at a brokerage firm, the brokerage firm should, although without much margin for error, be able to prepare and distribute the required CRA information slips before the end of March.
- (d) We understand that the Department of Finance is also considering whether it would be appropriate to accelerate the time for distributing all T3 Supplementaries and T5013 Supplementaries to mid-March. If the Department wishes to proceed in this direction, there are a number of points that will need to be considered:
- (i) The system will not work unless the Second CDS Deadline is moved to an earlier date. This, in turn, will require the First CDS Deadline to also be moved to an earlier date. We have been informed that public income funds which are not funds of funds believe that they would have great difficulty meeting a First CDS Deadline that is earlier than the end of February.
 - (ii) As noted previously, most traditional mutual fund trusts have a year end of December 15 and thus are already required to distribute CRA information slips by March 15. Moreover, IFIC has made an informal survey of its members and determined that the vast majority of them already distribute the required T3 Supplementaries significantly before the mid-March deadline. This is because most traditional mutual fund trusts do not currently hold units of public income funds. Thus, these mutual fund trusts do not rely on the information in the CDS Form to prepare T3 Supplementaries. Rather, they generally prepare T3 Supplementaries based on estimates of dividend and interest income which as noted previously are typically available in January.
 - (iii) There is a third category of trust to be considered in this discussion. There are certain publicly available trusts which invest significantly in traditional mutual fund trusts. There are also many private trusts which invest significantly in traditional mutual fund trusts. The trusts in this third category typically have a March 31 deadline for distributing CRA information slips. They are generally able to comply with this deadline because they typically receive CRA information slips by mid-

March from the traditional mutual fund trusts in which they invest. Any change which potentially accelerates the time at which this third category of trust is required to distribute CRA information slips would require consideration be given to accelerating the time at which the other mutual fund trusts are required to distribute CRA information slips.

Schedule A

CDS Form (A form for limited partnerships similar to the form below for trusts may be downloaded from the CDS web site)

Statement of Trust Income Allocations and Designations 2004

Select: T3 R16 REPLACEMENT RECORD CALCULATION METHOD: PERCENT RATE

FORM VERSION 11
TAXATION YEAR 2004

Security Information:

TRUST NAME: _____

ADDRESS (1): _____

ADDRESS (2): _____

CITY: _____

PROVINCE: _____

COUNTRY CODE: _____

POSTAL CODE: _____

TIN#: _____

CUSIP#: _____

QUEBEC TAX ID: _____

Preparer information:

CONTACT NAME: _____

DATE PREPARED: 20041126

PHONE: _____

FAX: _____

E-MAIL: _____

This message will vanish when ALL SECURITY and PREPARER information is complete. Files

		Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8	Period 9	Period 10	Period 11	Period 12	Period 13	Period 14
T3 Box No.	R16 Box No.	Total Distribution (\$) Per Unit													
		Record Date													
		Payment Date													
21	A	Capital gain													
22	B	Lump-sum pension benefits													
23	C	Dividend Income Per Unit													
24	E	Foreign Business Income													
25	F	Foreign Non-Business Income													
26	G	Other Taxable Income Per Unit													
42	N/A	Return of Capital													
30	H	Capital gains eligible for deduction													
31	D	Qualifying Pension income													
33	K	Foreign business income tax paid													
34	L	Foreign non-business income tax paid													
35	N/A	Eligible death benefits													
36	N/A	Miscellaneous													
37	X	Insurance segregated fund capital losses													
38	X	Part XII.2 tax credit													
40	X	Investment tax credit - Inv. Cost or exp.													
41	X	Investment tax credit													
45	X	Other credits													
		Total Distribution (input as check figure)													

CHECK: Rows 22 - 30 plus 33 - 39 should sum to row 40; when correct, no error message will appear in this row for completed columns.

NOTES:

Schedule B

Suggested Draft Amendments to the Income Tax Regulations

1. Part II of the *Income Tax Regulations* is amended by adding thereto, immediately after section 205.1 thereof, the following:

"205.2 (1) Every public income trust which is required by section 204 to make an information return shall make a return in prescribed form specifying the character and timing of distributions in respect of the taxation year.

(2) The information return required to be made under this section shall be filed,

(a) where the public income trust is not a fund of funds, within 60 days from the end of the taxation year, and

(b) where the public income trust is a fund of funds, within 67 days from the end of the taxation year,

and in either case a copy shall be forwarded to the Canada Depositary for Securities.

(3) A trust is a public income trust for the purposes of this section if at the end of its taxation year,

(a) the trust is a mutual fund trust within the meaning of subsection 132(6) of the Act, and

(b) units of the trust are listed and posted for trading on a prescribed stock exchange in Canada.

(4) A public income trust is a fund of funds for the purposes of this section if at the end of its taxation year all or substantially all of its units may reasonably be considered to derive their value from investments in other public income trusts, public income partnerships (as defined in section 229.1) or shares of public companies.

2. Part II of the *Income Tax Regulations* is amended by adding thereto, immediately after section 229 thereof, the following:

"229.1 (1) Every public income partnership which is required by section 229 to make an information return shall make a return in prescribed form specifying the character and timing of distributions in respect of the taxation year.

(2) The information return required to be made under this section shall be filed,

(a) where the public income partnership is not a fund of funds, within 60 days from the end of the taxation year, and

- (b) where the public income partnership is a fund of funds, within 67 days from the end of the taxation year,

and in either case a copy shall be forwarded to the Canada Depositary for Securities.

(3) A partnership is a public income partnership for the purposes of this section if at the end of its taxation year, units of the partnership are listed and posted for trading on a prescribed stock exchange in Canada.

(4) A public income partnership is a fund of funds for the purposes of this section if at the end of its taxation year all or substantially all of its units may reasonably be considered to derive their value from investments in other public income partnerships, public income trusts (as defined in section 205.2) or shares of public companies.