



THE INVESTMENT FUNDS INSTITUTE OF CANADA  
L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA

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**By fax (613 992-4450)**

August 29, 2008

Mr. Brian Ernewein  
Director  
Tax Policy Branch  
Department of Finance Canada  
140 O'Connor Street  
Ottawa, Ontario  
K1A 0G5

Dear Brian:

**Re: Requested Change to Taxation Year-End for Unit Trusts**

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This submission is to request that unit trusts, which do not qualify as mutual fund trusts for tax purposes (referred to as “unit trusts” in this submission) be allowed to elect to have a December 15 taxation year.

Commencing with the 1998 taxation year, subsection 132.11(1) of the *Income Tax Act* allows a mutual fund trust, other than a prescribed trust, to elect to have its taxation year-end on December 15. The flexibility has been welcomed by the industry as it has allowed the calculation of the income and distributions for mutual fund trusts to be manageable, allowing for more accurate and timely reporting and thereby minimizing the risk of errors. At the same time, introduction of the rule has not led to any abuse.

The growth over the last ten years of unit trusts, which are targeted at high-net-worth and institutional investors such as pension funds, has resulted in a problem similar to that which existed for mutual fund trusts prior to 1998.

We have inserted below proposed sample wording adjustments to current subsection 132.11(1) that would allow unit trusts to elect a December 15 taxation year-end.

Taxation year  
of ~~mutual fund~~  
~~unit~~ trusts

**132.11** (1) Notwithstanding any other provision of this Act, where a trust (other than a prescribed trust) that was a ~~mutual fund~~ **unit** trust, on the 74th day after the end of a particular calendar year, so elects in writing filed with the Minister with the trust's return of income for the trust's taxation year that includes December 15 of the particular year,

(a) the trust's taxation year that began before December 16 of the particular year and, but for this paragraph, would end at the end of the particular year (or, where the first taxation year of the trust

began after December 15 of the preceding calendar year and no return of income was filed for a taxation year of the trust that ended at the end of the preceding calendar year, at the end of the preceding calendar year) is deemed to end at the end of December 15 of the particular year;

- (b) where the trust's taxation year ends on December 15 because of paragraph (a), subject to subsection (1.1), each subsequent taxation year of the trust is deemed to be the period that begins at the beginning of December 16 of a calendar year and ends at the end of December 15 of the following calendar year or at such earlier time as is determined under paragraph 132.2(1)(b) or subsection 142.6(1); and
- (c) each fiscal period of the trust that begins in a taxation year of the trust that ends on December 15 because of paragraph (a) or that ends in a subsequent taxation year of the trust shall end no later than the end of the year or the subsequent year, as the case may be.

In addition, we believe that allowing a unit trust the ability to elect to distribute additional income in subsection 132.11(6) of the *Income Tax Act* would be beneficial in cases where an over-distribution occurred due to a calculation error and it was administratively easier to elect additional income to the unitholders, without them being materially impacted. We have therefore attached suggested wording changes to subsection 132.11(6) below.

Additional  
income of  
electing trust

- (6) Where a particular amount is designated under this subsection by a trust in its return of income for a particular taxation year that ends on December 15 because of subsection (1) or throughout which the trust was a ~~mutual fund~~ **unit** trust and the trust does not designate an amount under subsection 104(13.1) or (13.2) for the particular year,
- (a) the particular amount shall be added in computing its income for the particular year; and
  - (b) for the purposes of subsections 104(6) and (13), each portion of the particular amount that is allocated under this paragraph to a beneficiary under the trust in the trust's return of income for the particular year in respect of an amount paid or payable to the beneficiary in the particular year shall be considered to be additional income of the trust for the particular year (determined without reference to subsection 104(6)) that was paid or payable, as the case may be, to the beneficiary at the end of the particular year.

We propose that the above requested changes be effective for the 2008 taxation year and that they be incorporated in the draft document, dated July 2008, and entitled “Legislative Proposals and Explanatory Notes relating to the Income Tax Act, the Excise Act, 2001 and the Excise Tax Act”.

We would welcome a meeting to discuss this matter further at your convenience. Please contact Barbara Amsden, Director, Research & Strategy at (416) 309-2323 or bamsden@ific.ca.

Yours truly,

**THE INVESTMENT FUNDS INSTITUTE OF CANADA**

By: Joanne De Laurentiis  
President & Chief Executive Officer