

TAX LAW BULLETIN

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NEW TAX REPORTING REQUIREMENTS PROPOSED FOR PUBLICLY LISTED MUTUAL FUND TRUSTS AND PARTNERSHIPS

In its March 2007 Budget, the federal government identified concerns relating to the timely issuance of T3 information slips by publicly traded trusts. The regulations to the *Income Tax Act* (Canada) (the “**Tax Act**”) currently provide that T3 reporting slips must be issued within 90 days from the end of the taxation year of the relevant trust. In the 2007 Budget, the government pledged to work with the investment fund industry “to develop a process that appropriately balances the desire of taxpayers for sufficient time to prepare their tax returns and the desire of commercial trusts (including income trusts) for sufficient time to compute their income and prepare their T3 information slips”.

On July 4, 2007, the Department of Finance released proposed amendments to the Tax Act and the regulations thereunder to address the concerns that have been raised with respect to the issuance of information slips by both publicly traded mutual fund trusts and partnerships. The proposed amendments, when enacted, will require publicly traded trusts and partnerships to disclose information concerning distributions and allocations of income and capital made in respect of each of their units as early as 60 days after the end of the taxation year or fiscal period for which the information is relevant. A slightly longer disclosure deadline will be available in the case of a publicly traded trust or partnership all or substantially all of whose property is attributable to the fair market value of certain equity interests in other publicly traded trusts, partnerships or corporations (such entities defined as “public investment trusts” and “public investment partnerships”, respectively) – the prescribed information disclosure deadline in such cases is 67 days after the end of the calendar year to which the information relates. As a consequence of the proposed amendments, “public investment trusts” and “public investment partnerships” may have as little as 7 days to integrate the necessary content from the information released in respect of their public trust, partnership and corporate holdings into their own required postings.

For the purposes of the proposed amendments, a “public trust” will be a “mutual fund trust”, the units of which are listed on a prescribed stock exchange in Canada. Similarly, a “public partnership” will be a partnership, the partnership interests in which are listed on a prescribed stock exchange in Canada, if, at that time, the partnership carries on a business in Canada or is a partnership, all of the members of which are resident in Canada.

The prescribed disclosure will be required to be made through a posting on the website of CDS Innovations Inc. (“CDS”) and will be aimed at enabling investment managers to more efficiently prepare the T3 and T5013 information slips that they are required to issue to investors. The prescribed information will be required to be posted in a prescribed form that has yet to be released. However, it is expected that the type of information that will be required to be disclosed pursuant to the proposed regulations will be comparable to the information that is currently disclosed by public trusts and public partnerships on the CDS website.

The proposed amendments will apply to information required to be disclosed in respect of taxation years or fiscal periods that end after July 4, 2007.

ABOUT McMILLAN BINCH MENDELSON LLP

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The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted.

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