



THE INVESTMENT FUNDS INSTITUTE OF CANADA
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Mr. Brian Ernewein
Director
Tax Legislation Division
Tax Policy Branch
Department of Finance
17th Floor E. L'Esplanade Laurier
140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Mr. Ernewein:

Re: Capital Gains Redemptions

We are writing to request a technical amendment to the Income Tax Act (Canada) (the "ITA") relating to mutual fund trusts which we believe should be considered independently of the project to harmonize the taxation of various investment fund vehicles. As you are aware, a number of mutual fund trusts have adopted a capital gains distribution policy that, on redemption of a unit for an amount equal to net asset value ("NAV"), a portion of the redemption price may constitute the payment of a portion of the capital gains realized by the trust for the year in which the redemption occurs. The efficacy of such allocations was recognized in an advance income tax ruling issued by the Canada Customs and Revenue Agency and by recent amendments to the ITA made by Bill C-22, particularly those to the definition of "capital gains redemptions" ("CGR") in subsection 132(4) of the ITA.

The amendments to the definition of CGR contemplate two effects as a result of the redemption of a unit of a mutual fund trust in a year where a portion of the redemption price is treated as a distribution of realized capital gains of the trust:

1. the value for "A" includes only that part of the amount paid on the redemption as is included in the unitholder's proceeds of disposition. Consequently, the portion of the NAV that is a distribution of capital gains will be excluded from "A" which reduces the trust's CGR; and

2. the CGR otherwise determined is further reduced by “E” which is twice the total of all amounts designated under subsection 104(21) of the ITA for the year in respect of a unit of the trust that is redeemed in the year.

It is the view of our Tax Steering Committee that the variable “E” alone is sufficient to exclude from CGR the portion of the NAV that is treated as a payment of capital gains by the trust to a redeeming unitholder. Accordingly, we respectfully request that the description of “A” be amended so that it is simply the amount paid to the unitholder on redemption (i.e., NAV), which is the same as it was before Bill C-22’s amendments.

We also respectfully submit that a further amendment is required to the description of “E” since it literally includes all capital gains distributed on a unit that is redeemed in the year and not just the capital gains distributed on redemption as part of NAV.

Members of our Tax Steering Committee would be pleased to discuss the foregoing recommended amendments with you at your convenience.

Yours very truly,

“ORIGINAL SIGNED BY JOHN MOUNTAIN”

John Mountain
Vice-President
Regulation