

## **Fact Sheet: Income Funds Seek Withdrawal of Proposed Foreign Ownership Limits**

### **Issue**

The federal government has introduced Budget measures and will soon introduce implementing legislation to change Federal tax law that would restrict income trusts' access to foreign capital by enforcing a cap of 50 percent on foreign ownership of all mutual fund trusts.

### **Background**

The Finance department is proposing this cap as part of the 2004 Budget itself and the Budget implementation legislation because it believes the country is experiencing significant tax leakage as a result of foreign ownership of income trusts. The draft legislation was released on September 16, 2004 with the comment period ending on October 15, 2004. It then becomes part of the Budget implementation legislation likely to be introduced soon in the House of Commons.

The budget also implemented a 15% withholding tax on all income trust distributions paid to non-residents. These withholding taxes address the issue of tax leakage and should increase government revenues by \$83 million or more. This eliminates the need for foreign ownership restrictions.

### **Facts**

- The Income trust sector is a significant and growing contributor to Canada's capital markets.
- Income Trusts have been leaders in buying back and redeveloping Canadian resources from foreign ownership.
- Income trusts reinvest large amounts of capital in Canada.
- Retail investors represent about 80% of Unitholders in many energy trusts and approximately 50% across the entire sector.
- These major Federal ownership policy changes were made with minimal prior consultation with the income trust industry, particularly the unexpected introduction of 'Fair Market Value' as the new test of foreign ownership levels.
- Implementing foreign ownership restrictions would have significant effects including:
  - Requiring the repatriation of some \$2.4 billion in market capitalization. This would cause significant and undue market unrest and denigrate the unit value of the trusts.
  - Severely limiting the ability of Trusts to participate in the development of large Canadian commercial projects and their overall future growth and development.

### **Recommendation**

The proposals in the Budget 2004 implementation legislation imposing a cap on foreign ownership of trusts should be withdrawn pending full consultations with all stakeholders.