Tax Recovery from Income Trusts in Canada

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The final income trust chapter has played out following 2006 Tax Fairness legislation that levied an entity tax on newly defined specified investment flow-through (SIFT) organizations. Immediately, market valuation dropped, followed by private purchases, and most remaining trusts converted to corporations by 2011. The number dropped from 264 to 60 in five years and sector market value dropped by $41.5 billion. The net tax revenue to government was estimated at $475 million annually, however, with only $23.5 million in additional taxes collected from foreign investors. The tax legislation seemed 'fair', though it was extremely costly from a domestic market perspective.

INTRODUCTION

As of January, 2011, the changes in tax laws eliminated any advantage of the publicly-traded organizational structure commonly known as the Income Trust in Canada. Income trust securities, denominated as units, were popular for more than a dozen years on the Toronto Stock Exchange (TSX). Unit issues were the largest initial public offerings (IPO) in capitalized volume and size from 2004 to 2006. These securities comprised approximately 10% of the Canadian public exchange at their peak appearance (Anderson, 2006). Their own sub-index on the TSX has remained strong since March 30, 2005, while converted firms now make sizable contributions towards other sub-indexes. This analysis describes the outcomes of the 2006 Tax Fairness legislation, which became effective as of January, 2011 (December 31, 2010).

The income trust capital structure, divided between debt, subordinated debt and equity, differs from other corporations as investors hold both subordinated debt and equity combined in the trust unit. The equity-like subordinated debt complicated their tax situation. Moreover, the income trust designated the payout allotment each year, which set the tax treatment of the funds distributed, but also set the tax payable by the organization within the bounds of generally accepted accounting principles. Accordingly, there is no separation between the investor and the trust. Declaration of a higher subordinated interest payment reduced the taxable income of the organization without changing the payout to the unit-holder. In fact, allocation towards capital gains and return of capital offered the trust additional flexibility in adjusting its tax status. To level the playing field, the government proposed a corporate type of tax

immediately assessed on certain funds flowing through the organization. Trusts in all sectors other than real estate were defined as specified investment flow-throw (SIFT) entities for tax purposes.

The 'tax fairness' legislation was twice delayed by consecutive minority governments before its announcement by the Minister of Finance after markets closed on October 31, 2006. There was an immediate precipitous drop in composite index corresponding to the pre-tax loss, which was documented by an event study (Amoako-Adu and Smith, 2008). The magnitude of market loss was appropriate based on the discounted pre-tax future cash flows (Glew and Johnson, 2011). The tax eliminated any benefit in designating payouts as capital gains or interest payments, eliminating the advantage previously held by the income trust. The change would become public on the first reading of Bill C-52 on March 29, 2007, it was substantively enacted on third reading of the bill on June 12 of the same year. The legislation was included in the Canadian Income Tax Act (Act) on May 17, 2008. There were no significant market reactions on any of these subsequent dates.

The legislation created an average pre-tax loss of approximately 20% for all income trust investors and an after-tax loss of 5% between trusts and the newly defined SIFT entities for tax-paying unit-holders, due to incomplete integration within the Canadian tax system. The two-tiered organizational structure could no longer be justified. Most income trusts merged with others, were privately purchased, or converted to conventional corporations by the deadline date of January 1, 2011. Income trust market presence dropped 75% (89%, if real estate investment trusts (REITs) are excluded), the TSX composite index lost $27 billion in 2006, and $16 billion in market value subsequently retreated to private equity. Despite the demise of the income trusts, arguments that favour tax integration and fairness only gained traction due to their surprising rise in the domestic equity market. The costs of achieving equity in the public market will never be recovered through increased tax revenues.

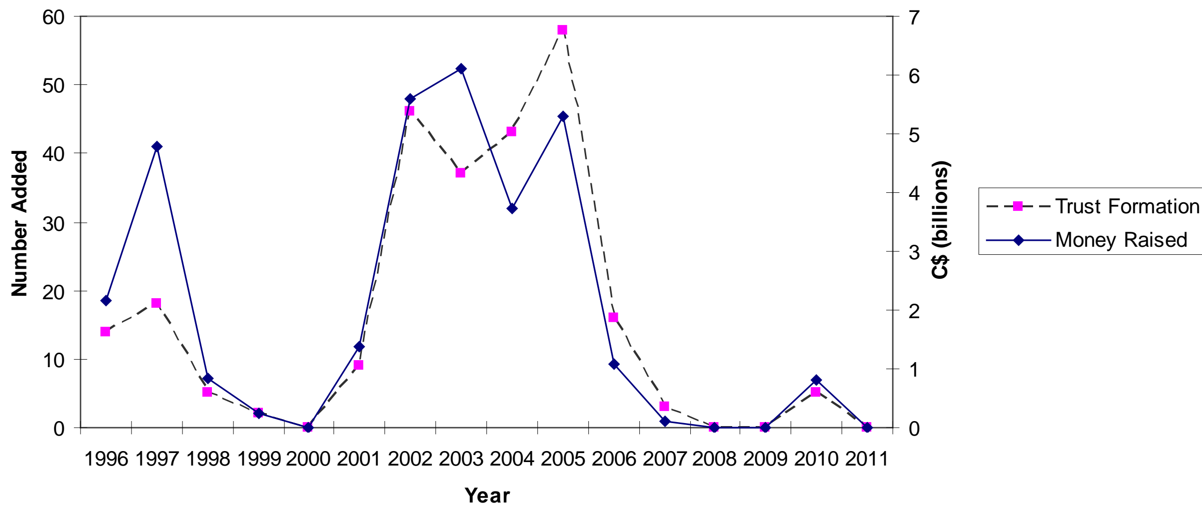
The rest of the paper is organized as follows: Section 2 summarizes past findings and describes the expected magnitude of the tax leakage problem prior to the legislative decision. The methodology and an estimate of the actual taxes recovered are provided in section 3. Section 4 describes the demise of the market sector, its survivors, and other outcomes in the Canadian securities markets. Section 5 concludes the study.

NEED FOR CHANGE

Income trusts were operating as of the early 1980's, but 1996 marked a year of significant conversions to this organizational form ending with 14 trusts actively trading and over $2 billion dollars raised in initial public offerings (IPO). Figure 1 indicates the number of income trusts formed in each of the last 15 years and the amount of capital raised each time. Although trust formation slowed at the turn of the century, activity picked up again in 2002 after the 'dotcom' bubble had burst and several serious scandals had played out in the U.S. markets. By 2004, income trusts were popular enough to warrant attention in the securities market, academic literature, and tax policy discussions.

The first comprehensive description of income trusts appeared in a Bank of Canada working paper that described the positive and negative attributes of this organizational form (King, 2003). The income trust structure had been designed to mesh with the Act's definition of a mutual fund trust to more efficiently distribute funds to investors, avoiding corporate taxation for the most part. Canada's capital stock had increased by $9 billion through trust formations and investors received tax benefits greater than $400 million, a significant revenue loss to government (Aggarwal and Mintz, 2004). The Canadian tax system had moved towards integration in 1972, but the 20% gross-up of the dividend and tax credit lagged behind increases in corporate tax rates. Thus fully taxed interest income provided greater value after tax than the after-tax dividend. Improvements in the capital gains rate in 2000 placed the preference for capital gains ahead of dividends, even before tax deferral was considered. The arguments to support tax integration and fairness for dividend paying corporations had been largely ignored by regulators until the surprising rise of income trusts in the domestic equity market.

FIGURE 1
INCOME TRUST ACTIVITY



On May 2, 2006, the dividend gross-up amount was increased to 45%, corresponding better with the tax rate charged to larger corporations in Canada. Further, the government committed to reduce the corporate tax over the next five years and provinces agreed to lower their taxes and increase dividend credits as well. Dividends became preferred to capital gains in the year of recognition and tax integration between interest and dividends would have been extremely close. Only two provinces actually followed through, however, while several retrenched in following years.[1] Although tax treatment of dividends became comparable to interest payments for investors subject to full taxation, the popularity of trusts continued to rise.

By 2006, trust market capitalization had reached $83 billion and losses in tax revenue were updated to $700 million annually before considering the trust conversions of two large telecommunication firms (Mintz, 2006).[2] By the author's admission, these calculations require data that is difficult to obtain and assumptions are necessary to reach the estimates provided. The breakdown of the investors provided that 39% were fully taxable and 39% were tax-exempt. Further, 22% were non-resident investors assumed subject to a 15% tax treaty withholding tax. This description seems to match anecdotal evidence well and the exact proportions for separation into more precise brackets would be extremely difficult. Data compiled from T3, R16 tax disclosures released in early 2007 indicated that roughly 20% of all income trusts distributed solely income, but nearly 80% of all distributions were paid out in this form. It is not clear whether the estimates above accounted for less than full payouts of otherwise taxable funds.

The income trust legal structure provided an effective tax planning innovation to shift the debt-equity boundary, disturbing equity in tax treatment (Edgar, 2004). The author suggested a direct attack on the high-yield subordinated debt, which was quite similar to the final legislative model, while "conveniently ignoring the transitional issues associated with losses that could occur for investors" (Edgar, 2004, p. 821). The securities market and investors would otherwise not react. Income trust IPO's were very profitable, receiving no discount from investment banks, lawyers, and accountants (Huson and Pazzaglia, 2006). Investors were well rewarded, as several trusts provided annual pre-tax returns reaching 12% (Glew and Johnson, 2011). The 2004 budget aimed to limit pension fund investment in the business income trust sector, but this restriction appeared unpopular and was later rescinded. There was high demand for income generating securities.

The income trust designates the nature of the funds that are paid out annually and reports the composition of the distribution on T3, R-16 tax forms. The six normal declarations are: interest/income, eligible dividends, ineligible dividends, capital gains, return of capital, and foreign income.[3] For the 2006 tax year, the average composition of the payout was 78% interest, 5% eligible dividends, 1% ineligible

dividends, 15% return of capital, 0.2% capital gains, and 0.5% foreign income. Several trusts paid out only return of capital, 47 trusts paid out only interest, and one each paid only eligible or ineligible dividends. The flexible allocation of funds allows the trust to make steady cash payouts throughout the year from the most efficient source from a tax perspective. This makes the subordinated high-yield debt interest payment suspect as it is received by the unit-holder at the organization's discretion. Separation between the trust and the investor is not possible. The moving debt-equity boundary set the need for a further legislative response (Edgar, 2004).

Tax-protected investors further fueled demand for high pre-tax payouts giving rise to a tax clientele effect (McKenzie, 2006; Mintz, 2006; Elayan et al., 2009; Edwards and Shevlin, 2011). The Canadian tax system allows pension funds to avoid taxation and encourages retail investors with self-directed registered retirement savings plans (RRSP) to defer taxes. Thus, the full amount of the untaxed interest payment is preferred to an after-tax dividend for both of these investor-types who comprise a large proportion of the investing population in Canada. Further, foreign investors in tax treaty jurisdictions (primarily U.S. citizens) pay only a 15% withholding tax on funds received, resulting in a similar situation. If the tax losses arise from either of these sources, then the problem had less to do with the trust organization than other shortcomings of our tax system (McKenzie, 2006). The tax change in May was simply a first step towards 'leveling the playing field'.

The final step to equalize treatment between corporations and income trusts attacked the tax benefit gained from equity-like debt payments (Edgar, 2004). On October 31, 2006, after the markets closed, the Minister of Finance announced a corporate tax on funds flowing through the SIFT. The tax was levied on 'non-portfolio earnings' of the SIFT, defined as income and net capital gains from a business carried on by it in Canada, other than recognized taxable dividends. Interest income was taxed at the SIFT entity level as expected, but capital gains would be doubly taxed, assuming these funds were taxed prior to release into the trust's account. Existing income trusts were exempt until January 2011, when the tax rate was expected to be 31.5%. Valuations in the sector dropped almost 20% immediately, bringing the TSX composite index down 300 points overnight. The Minister of Finance nicely supplied an event study (Amoako-Adu and Smith, 2008). The 20% loss was justified using a discounted cash flow model of pre-tax distributions (Glew and Johnson, 2011). Due to incomplete integration of the tax system and the method of the final legislation, there was also an average after-tax loss of approximately 5% for tax-paying investors, based on the 2006 designations of the payout proportions. It was no longer advantageous from a tax perspective to carry the cumbersome structure of a trust organization.

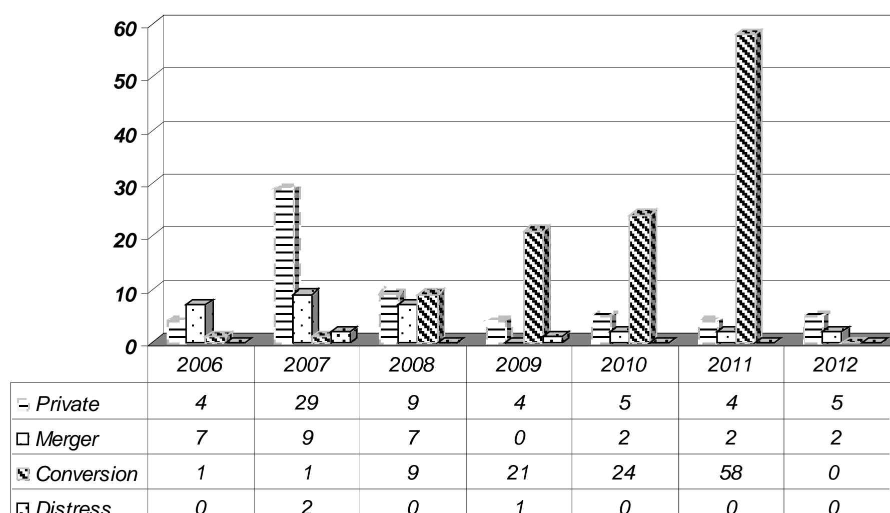
RESULTS OF TAX LEGISLATION

Media reports indicated that the Halloween announcement immediately erased between $25 and $27 billion in market value on November 1, 2006, which was approximately13% of the income trust sector. Using daily price data available from the Thompson Datastream database, we verified this result, finding that 196 income trusts dropped in price and the product of the units outstanding and the price drop totaled $26.79 billion (CAD). This immediate capitalization of the intended tax would be expected due to reduction in future cash flows. The loss was suffered by pension funds and tax-exempt retail investors directly, through losses to retirement savings. The price drop has been attributed to a prior artificially low cost of capital, not including a risk premium to reflect the likely tax change. Detractors reasoned that investors had been earning untaxed funds on borrowed time. Such a market loss was a substantial drain on Canadian domestic savings, however, occurring as it did just prior to the 2008 recession.

Soon after the bill's first reading, 20 income trusts were purchased in private equity transactions and ceased trading. Nine transactions involved pension funds that would certainly re-leverage the companies and once again reduce taxes. Eleven purchases involved foreign takeovers, though some of these trusts were known U.S. operations trading as trusts in Canada. Figure 2 indicates the number of income trusts that ceased trading in the last six years with the method of departure noted. Two trends are apparent. The initial mass exodus to private equity in 2007 started quickly and tailed off in later years. Conversions took place slowly, with 52 out of the 58 conversions in 2011 occurring on January 1st. REITs, which were not

affected by the tax change, comprise 34 of the 60 income trusts that now remain active. Less than one quarter of those trusts trading in 2006 are active today. Only 26 business or royalty trusts remain, which is roughly 11% of the number at the peak in 2006.

FIGURE 2
DEMISE OF INCOME TRUSTS



	2006	2007	2008	2009	2010	2011	2012
Private	4	29	9	4	5	4	5
Merger	7	9	7	0	2	2	2
Conversion	1	1	9	21	24	58	0
Distress	0	2	0	1	0	0	0

Income trusts lost access to capital funding and the destruction in value resulted in a number of private equity purchases as indicated in Figure 2. Fifty-five income trusts left the public market, but five of these transactions were progressing prior to the tax announcement and three involved REITs, which were not affected by the tax change. These were purchased by known private equity players and pension funds, reducing the number of income producing securities available to retail investors. In an open or global economy, such an exodus would be the expected response to a tax on capital, particularly under the current conditions where large pools of private equity capital are available and the U.S. high yield debt market dominates that in Canada. Supply of capital into the TSX can be considered perfectly elastic, where ownership can be arranged through an alternate structure and reorganization was necessary in any event. The 47 trusts were purchased at a combined market value of $16 billion. Annual report information indicates that 22 of these entities paid $186 million in taxes in their final two years, seven reduced taxes to zero, and the final 18 recorded losses that would be claimed against profits in future years. In the less transparent and highly leveraged private market, it is unlikely that additional corporate taxes will be recovered as leverage and tax savings may be used to facilitate the purchase (Kaplan, 1989). In public statements, the Minister of Finance denied that foreign private investment had anything to do with the tax policy decision but timing of the buyouts illustrates that this was certainly the case.[4] As January 2011 approached, income trust values declined further to reflect the eventual loss estimated at 31.5% of former pre-tax cash flows, but the spike in private purchases was largely complete by the end of 2008.

Conversions to corporations occurred more slowly as amendments to the Income Tax Act were required to facilitate the reorganizations and the draft amendments were only available on July 14, 2008. Prior to that date, substantial costs were incurred or combinations with less successful firms were carried out to amalgamate tax pools. With the final exodus from the sector to the broader market at the end of 2010 and early in 2011, we can now measure whether corporate tax revenues were actually recouped and the extent of recovery.

Our method of evaluation is limited by the short timeframe available for comparison, based on audited annual financial statements. We manually collected the reported taxes for each income trust in the two years prior to conversion and compared these results to taxes reported after conversion. In many

cases, the first full year after conversion is 2011 and these data were only recently available. Table 1 includes summary statistics of our findings. Current taxes to be paid roughly doubled as a percentage of total assets in the year following conversion, while the debt ratio of liabilities over assets remained fairly constant, at just over 50%. Thus the legislation forced an initial increase in corporate taxes and the converted corporations were unable to substitute additional debt in the Canadian market to increase interest tax shields in response. This result indicates that the government attack on equity-like debt was justified. By including the 2011 data for all publicly traded converted trusts, however, movement towards a slightly higher liability ratio becomes apparent and though the annual tax collected is slightly greater, it is reduced as a percentage of total assets. The firms seem to be adapting to reduce the tax expense without the income trust structure.

TABLE 1
SUMMARY STATISTICS FOR CONVERTED INCOME TRUSTS

Time Relative to Conversion	Number of Companies	Taxes Reported ($ 000)			Liability/Asset Ratio
		Current	Deferred	Current as % Assets	
2 years prior	121	234,792	-2,016,730	0.361%	50.68%
1 year prior	121	274,108	-1,249,323	0.336%	53.40%
1 year after	121	729,176	801,796	0.702%	54.98%
2 years after	48	407,398	157,615	0.662%	50.39%
2011	120	770,773	973,523	0.416%	56.25%

Of the 121 income trusts that converted to corporations, 120 remained publicly traded after the first year and 83 reported income tax expenses; the government received $729 million in the first year after conversion. In the two years before conversion only 48 of these firms paid tax at the entity level averaging $254 million each year. Thus the income tax regulation has recovered $475 million, as net corporate tax revenues post conversion. This amount is split between three types of investors, however, so the net increase in government funds collected is a fraction of this amount.

Based on 2006 figures, a portion of this amount (39%) would have flowed through to taxpaying investors, netting a 4.12% government gain due to the lack of tax integration (Mintz, 2006).[5] This burden is notably greater for those in lower tax brackets. The remainder of the entity tax is simply shifted from the tax-payers onto the newly formed corporations. Monies that flowed to tax exempt investors, who are assumed to represent 39% of income trust investors, were recovered by the government at the expense of Canadians saving for retirement. The combined shift of funds from tax-paying and tax-exempt Canadians to the federal coffers is $193 million recovered today, where most of this tax would normally be deferred until later years. For foreign investors, who are estimated to make up 22% of trust investors, $104 million is collected, but only 22.5% or $23.5 million is additionally collected as an entity tax that would not normally be captured. Thus $216.5 million in additional taxes has been collected from the converted trusts, much less than predicted in 2006, even before an inflation adjustment.

Return of capital would normally be avoided by a corporation but accounted for 15% of payouts by income trusts. An estimated $91 million that was deferred until the sale of the trust unit continues to be deferred for tax purposes until the amount is eventually taxed at the capital gains rate. This creates a slight increase in taxes collected from fully taxed domestic investors if the funds are paid out, but it is more likely that this money will now be retained in the corporation, negating any revenue effect.

The government has now leveled the playing field for Canadian corporations relative to the former income trusts from a tax perspective. The additional taxes collected do not compensate for the massive loss in market value on November 1, 2006, however, when $27 billion was lost to recover $216.5 million annually from 2011 onwards. Disregarding inflation and discounting cash flows at 1%, only 80% of the money will ever be recovered and much of this is simply shifted from the Canadian people to the

government account. The additional $16 billion that exited the public market to be acquired by private equity players is unlikely to return. Additional tax recovery is even less likely in this sector, where tax savings often enable the private equity purchase (Kaplan, 1989).

WHAT REMAINS

Sixty firms remain active as income trusts, with 34 of these firms described as REIT's, prior to the tax change. Several of the remaining firms have divested of subsidiary business operations in order to qualify as REIT's going forward. Other players have reorganized their operations to ensure that all funds flowing into newly defined SIFT are dividends, which can be distributed to unit holders without incurring the entity tax. Finally, a small number consider their operations as portfolio interests at arm's-length from the subsidiary or operator that carries on the Canadian business. At the time of writing there has been a slight resurgence in the market, as a growing number income trusts are now investing in U.S. energy, utility, or infrastructure assets. Canada's Revenue Agency (CRA) may need to expend additional effort to identify and flush such enterprises from the trust nest. In this regard, the legal interpretation of the legislation is troubling, as the wording provides that the SIFT is "liable to a tax", which does not imply that a charge to tax is certain (Bloom and Wiener, 2011). The amendments seem to be drafted in a punitive style and it is possible that some arbitration will be necessary to make the conditions clear. Without any further action, however, 89% of the 2006 income funds affected by the legislation have abandoned the organizational form.

The market value loss of $25.5 billion and loss of equity into foreign and private hands at $16 billion comprises a $41.5 billion reduction in the domestic stock market.[6] Forty-seven income trusts, or 21% of those affected by the tax change, were removed from the public market and are not available to Canadian retail investors for diversification and retirement investment purposes. Pension funds were previously restricted in their investment in the sector, but several have been involved in private takeovers, including the Canada Pension Plan Investment Board (CPPIB) and provincial funds. Other forms of tax sheltering are available for higher income earners, while this legislation cut into the middle-class tax brackets at a time when pension shortfalls were ubiquitous. The true net benefit to Canadians is the much smaller recovery of $23.5 million recouped from foreign investors, which would not otherwise affect domestic savings.

On conversion, a number of trusts were forced either to raise additional funds in bought deals diluting share ownership or to greatly reduce the payout for several months after reorganization.[7] Several firms that converted to corporations earlier are now seeking additional financing and seven of these have been involved in mergers or private acquisitions. The tax-advantaged borrowing of the income trust sector did extend the life of several mature players in highly competitive industries, but when that advantage was removed the businesses were left without support. The frequent payout required in the income trust sector may have distorted decisions away from solid investment opportunities (Mintz and Richardson, 2006). Extreme leverage to restore the tax advantage has not resulted through the conversion process, as the liability to asset ratio rose only 3.9% on average. This suggests that the equity-like debt that was targeted in the recent legislative change could not be replicated in the domestic public debt market. Income trust unit holders are not akin to high-yield subordinated debt investors.[8]

Twenty-one income trusts merged with other corporations and their assets still contribute to the public market. Just over half of the number trading in 2006 converted to corporations (121). For these firms, the corporate income tax rate has dropped to 28.5% from 34% and tax treatment of dividend payments has increased the value to investors. Both these results were due to the income trust impact on the Canadian market in 2006, prompting swift action from the government to level the tax system, also increasing the value of dividend-paying corporations. The tax advantage to debt financing has existed for many years, noted in the Report of the Technical Committee on Business Taxation (1997), issued by then Department of Finance. An adjustment was not considered until the income trust organization provided for equity-like debt, and tax losses were quantified (Mintz, 2006). Provinces have continued to collect additional tax revenue by restricting their own dividend tax credits. The current situation is near

integration, but this has reduced the attractiveness of capital gains. Income producing stocks may now be preferred to growth stocks by investors approaching retirement.

The cost of capital in the income trust sector between 2004 and 2006 trended below the accepted rate in Canadian market, despite the smaller size of the average income trust (Glew, 2011; Witmer and Zorn, 2007). The domestic cost of capital in Canada was found to be greater than that of the U.S. in the time that income trusts were included in the TSX composite index, so the tax legislation would increase this gap further. As investment costs increase, it might be expected that productivity would be negatively impacted, which is an often cited domestic concern. The counter-argument hinges on the type of businesses that migrated to the sector in the first place (Aggarwal and Mintz, 2004; Halpern and Norli, 2006). If these are mature firms with little potential for future growth, then investment in the area will result in limited real growth opportunities and promoting the investment through an unjustified tax advantage can only be considered a short term strategy for corporate survival (Edgar, 2004). Though large income payments typical of trusts may extend the life of such firms, the takeover of the organizations, which occurred after the tax change, provides an efficient result (Lambrecht and Myers, 2007).

CONCLUSION

The legislation that levied a tax on ‘non-portfolio earnings’ of the SIFT organization reigned in the popularity of the two-tiered structure designed mainly as a tax planning innovation. The taxation change was announced on October 31, 2006, to apply to any future conversions to the income trust structure, but the implementation was delayed for existing income trusts until January 1, 2011. Thus the overall effect of the legislation has played out over the last five years. The immediate impact was a drop in market valuation, followed by a number of private purchases of income trust assets, and eventually, conversion of the remaining sector participants. The number of income trusts dropped from 264 in 2006 to 60 in 2011, of which 34 are REITs.

The converted trusts reported an increased corporate tax burden of $475 million in 2011, an amount not adjusted for inflation. This is much less than previously estimated $700 million (Mintz, 2006). It is derived from the 76% of affected trusts that remain trading in the public market. The tax burden for taxable investors has been shifted to the SIFT entity ($193 million), while these participants receive a 4% loss on the after-tax payout, due to incomplete integration of the tax system. Pension funds and tax-exempt retail investors lost $193 million that would otherwise be directed towards retirement savings. Foreign investors received $114 million less from the SIFT, prior to a further reduction corresponding to the 15% withholding tax charged to treaty partners. From this amount, the net benefit to Canada is $23.5 million surrendered by the foreign investors, which pales when compared to the tax capitalization loss estimated at $27 billion on the date of the announcement in 2006. Private acquisitions have removed $16 billion from the domestic public equity market, since capital is highly mobile in an open economy.

Tax legislation changes created higher valuations for other income generating stocks in the Canadian market in response to the vast number of trust conversions in the middle of the last decade. The lower cost of capital for former income trusts may persist and the high-yield debt market in Canada could increase, as investors are now more familiar with these income flush firms. The scenario has yet to play out, however, as the liability to asset ratios of converted trusts have increased marginally from 52% to 56%, an extremely small amount compared to the portion of subordinated debt that income trust units were purported to hold. This indicates that the equity-like debt payments were directed more towards tax reduction than an alternate financing option. Subject to the limitations of the study based on the timing of most conversions, the tax legislation seemed to be a ‘fair’ proposition, though it was costly at the time of announcement and led to numerous private takeovers.

ENDNOTES

1. For example, Ontario required a tax credit rise to 7.4% that was announced in August, 2006. By year-end, the rate remained at 6.5%, it was raised only to 7% in 2008, and the credit was reduced to 6.4% by 2010.

2. In fact, neither Telus nor BCE was a good candidate for income trust conversion as the high payout level restricts growth prospects from reinvestment, but this was noted as a concern at the time of the analysis. Mintz (2006) raised the loss estimate to $1.1 billion and market value to $131 billion, if these conversions were to take place. Other authors have estimated the peak market capitalization as high as $210 billion.
3. Foreign income is often accompanied by an amount of foreign tax paid, lessening the amount owed to the domestic authority.
4. KCP Income Fund was the 12th foreign buyout on May 14, 2007, and the founder and CEO indicated the tax legislation was to blame.
5. Calculations are based on an assumption that recovered funds derived from 100% interest payouts, an accepted average corporate tax rate of 28.5% in 2011, and 2011 personal tax rates for investors in Ontario, Canada's most populous province.
6. Private equity purchases for 18 former trusts were at or above the October 31st market price, so the initial loss of $27 billion must be reduced to $25.5 billion, when these two changes are considered together as a net effect.
7. Canadian Oil Sands Ltd. claimed outstanding maintenance expenses were left unpaid to smooth distributions and Second Cup, an upscale coffee retailer, indicated that their expansion plans had faltered while organized as an income trust.
8. A further complication is currently playing out, where Yellow Media Inc. offered additional debt through convertible bonds and these investors were initially grouped with equity investors in the restructuring proposal. A renegotiation of terms is now deemed probable.

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