

Income Trusts & REITs

Cross-Border Income Trusts Gain Momentum

Argent Energy Trust closes its \$212 million initial public offering. As Argent's counsel, Bennett Jones continues its dominance of cross-border income trust (CBIT) financings, sometimes known as foreign asset income trusts.

A CBIT is a Canadian yield investment product that derives its distributable cash from non-Canadian business assets – usually American. Investors anywhere may participate. CBITs are a response to the Canadian government's rules, announced in 2006, that ended the tax benefits from income trusts with Canadian assets. Investors started looking for a new vehicle that could provide healthy returns as well as the tax shelter they had lost. Richard Clark responded by launching the first CBIT – Eagle Energy Trust – in late 2010 with a \$169 million IPO. Eagle was quickly followed by Parallel Energy Trust with its \$393 million IPO in April of 2011. Eagle and Parallel have oil and gas assets in Texas and each recently returned to market with follow-on public offerings to finance additional acquisitions. What did these offerings have in common? Bennett Jones lawyers.

Bob McCue and David Phillips, now Bennett Jones partners, worked with Richard Clark from Eagle's beginning. This experience, combined with Bennett Jones' unique expertise and bench strength, has earned the firm a market leading position regarding CBIT transactions. Bennett Jones has been involved with virtually every CBIT that has seriously attempted to launch so far. The firm's resulting expertise should prove to be particularly valuable to its current and future CBIT and investment banking clients.

Bennett Jones is actively involved in the development of early stage CBITs as well, working with a number of management teams and investment banking firms who are currently considering this structure.

"Bob McCue and David Phillips have been trusted advisors to Eagle from the very beginning. We rely heavily upon them and the Bennett Jones team for a wide range of energy sector legal services, including tax, securities, immigration, employment and governance advice, they are responsive and effective and we appreciate all their hard work on our behalf." - Richard Clark, President and CEO of Eagle Energy Trust

Argent Energy Trust recently closed its \$212 million IPO, making it the latest publicly traded CBIT. The allure of healthy, tax efficient distributions is the primary reason for this relatively new vehicle's success to date.

Bennett Jones' CBIT success is an outgrowth of its robust tax, securities and M&A practices. The firm has been involved in four out of the five largest non-structured product Canadian IPO deals since January of 2010, including MEG Energy Corporation (\$700 million) (acted for issuer), SMART Technologies (US\$660 million) (acted for issuer), Gibson Energy (\$568 million) (acted for issuer) and Parallel Energy Trust (\$393 million) (acted for issuer).