

# RSM Richter

## Memorandum

RSM Richter Inc.

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To: Holders of Participation Units

From: RSM Richter Inc., in its capacity as Liquidator of Distributionco (the "Liquidator")

Date: July 24, 2006

Subject: **Income Tax Treatment of Initial Distribution**

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Pursuant to the Order issued by the Ontario Superior Court of Justice on June 6, 2006 (the "Order"), the Liquidator distributed the amount of \$20,000,000 (the "Initial distribution") to the registered holders of the Participation Units appearing in the register kept by the Liquidator as at June 28, 2006.

We have been advised by a number of Participation Unit holders that brokerage firms have recorded the Initial Distribution as a dividend. We are writing to provide clarification regarding the nature of the Initial Distribution.

On December 30, 1999, as part of the restructuring of The T. Eaton Company Limited ("Eaton's"), Sears Canada Inc. ("Sears") acquired 100% of the common shares of Eaton's. As consideration for the acquisition Sears agreed to pay up to \$20,000,000 into escrow under the terms of the "Sears Variable Note". As part of the transaction, the former Eaton's shareholders exchanged their common shares in Eaton's for Participation Units which entitled them, on a contingent basis, to a *pro rata* share of the escrowed funds and income thereon (less costs and expenses). In accordance with the terms of the Sears Variable Note and related arrangements, the Liquidator made the Initial Distribution on June 28, 2006.

Based on the facts above, it is our view that no amount paid under the Initial Distribution constitutes a dividend for income tax purposes. Holders should consult their own tax advisors regarding the income tax consequences to them of receiving amounts under, and disposing of, their Participation Units and the reporting of such amounts on their tax returns.

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