

A message from our President

Regulators focus on us

Eliot Spitzer changed the insurance industry forever a year ago when he went after such insurance giants as Marsh & McLennan and AIG.

Unfortunately, the broker in this case was not acting in the best interest of their clients and was fraudulently rigging quotes in concert with certain insurance carriers. The Life and Health business was immediately put on notice as well and there was much speculation about increased regulatory pressure on our business.

In June of this year, the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations released a policy paper entitled **Relationships between Insurers and Sales Intermediaries**. If proceeded with the recommendations in this paper would have an immediate and profound impact on our business. Performance linked compensation would be eliminated. Compensation would need to be disclosed and there would be legal requirements in regards to the protection of the clients interests.

Advocis has done an excellent job in responding to this policy paper. We do not have the crisis of confidence which became obvious in the property & casualty business in the United States. There is no evidence of illegal practices or a weakness in consumer confidence in the Life & Health industry in Canada. In fact our industry by its very nature is very competitive and consumer driven. Unlike the auto or home insurance business the purchase of our products are not mandatory. Our industry has a history of decreasing costs and improved benefits to consumers.

Restricting performance linked benefits such as compensation and incentives would lead to a restructuring of our business which would in fact reduce consumer choice. The point is that our multi-channel options for consumers work. We need to attract more independent advisors to our industry, not create barriers to enter.

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Paul Brown

Risk management

By Amin Jamal, A.C.I.I., CLU, TEP,
ZLC Financial Group

Establishing a Risk Management Account as a cornerstone of overall financial planning is one approach that has produced results for me both for new and existing clients.

This discussion is preceded by an analysis of risks that could prematurely and unexpectedly interrupt income thereby severely impacting the following:

Building an Estate: The goals we envision are predicated on an ongoing, ever increasing foundation of income.

Personal Business and Family Objectives: We all have visions, goals and dreams starting from meeting basic needs to maintaining our lifestyle to building financial security over time leading, in the long term, to financial independence in retirement.

These objectives can be individual, family as well as business and career targets. Most of us would like to accomplish these goals and objectives whether or not we are here to see them through to completion.

Death, disability, a critical illness or the end of dependence-free living and the need for long term care are the most obvious risks to be considered.

Death: Is the most sobering of all triggering events. Once the pay cheques stop, income ceases almost immediately.

Disability: In the event of illness or accident income stream could be disrupted dramatically.

Critical Illness: The possibility of suffering a critical illness such as cancer, heart attack or stroke can cause lost life savings.

Long Term Care: Home and facility care could substantially reduce or even bankrupt an investment or retirement portfolio.

(cont. on page 4)



Amin Jamal

Beyond insurance: Strategies for protection

By Bill Finlay, B.A., C.A., ZLC Financial Group, and Gregory Geblen, LLB, Geblen Dabbs

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Bill Finlay

Architects face unique kinds of financial exposure in their professional practices. In addition to the usual financial risks, architects are also exposed to the additional risk of claims against them for professional negligence, claims that cannot be avoided by incorporation of the practice.

When, for example, construction deficiencies arise a number of years after the completion of a project, claimants will look for compensation from all parties who participated in the project. Often, developers and contractors no longer exist or have no assets available to satisfy creditor claims.

Architects are often seen by such claimants as “deep pockets,” who can provide a good prospect of payment either through professional liability insurance or personal assets.

In recent years, architects have seen their professional liability insurance both increase in cost and decrease in benefit. While professional liability coverage remains a cornerstone of financial protection, it is important to ensure personal assets are protected.

While the risk of a creditor claim cannot be avoided completely, the consequences of those claims can be reduced through careful planning. A number of techniques exist to shelter assets from the claims of creditors, four of which are reviewed here.

Incorporation

While incorporation of the practice will not protect an architect from personal liability due to professional negligence, it will provide protection from general business obligations, such as trade payables and leases of office space, vehicles or equipment.

In the event of a business failure, claims from this group would be limited to the assets of the corporation.

As part of this strategy, investment assets should not be held in the operating company, and profits should be removed (usually

by dividends or bonuses) on a regular basis. Non-business assets such as the family home should not be owned in the name of the architect personally, but instead should be owned by some other party such as the architect’s spouse or a family trust. By divesting assets in this way, the architect can make it less likely that non-business assets will become subject to business claims.

Ownership through trusts can also provide additional benefits such as estate planning. Strategies to protect investment assets are also commonly used.

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Segregated funds

Insurance-based investments, often referred to as segregated funds, are exempt from attack by creditors by virtue of specific provisions in the provincial Insurance Act, provided a number of requirements are met.

The Act provides this protection where a spouse, child, grandchild or parent of the account holder is named as a beneficiary to the account.

These segregated funds bear only a glancing connection with life insurance. They are first

and foremost investments, and their returns should be competitive with other comparable investment products. Segregated funds can be held as RRSPs and as non-registered accounts.

Individual pension plans

Individual pension plans also provide creditor protection to the account holder, again by virtue of specific provisions in the applicable provincial legislation. To qualify for such a plan, architects must carry on practice as an employee of their professional corporation.

Aside from the benefit of creditor protection, these plans also allow for substantially higher current contributions than are available for RRSPs, and can also permit substantial contributions for past service to the corporation in the right circumstances.

It is important to note that the techniques reviewed here are not without the risk of themselves being attacked by creditors. For example, transferring your home out of your name into the name of your spouse in the face of a significant creditor claim would very likely be open to attack. The potential for successfully protecting assets increases when asset protection strategies have been put in place long before any financial difficulties arise.

As intention is an important element in attacking asset protection techniques, it is also preferable to implement such strategies where they have a personal or business purpose, such as tax minimizing or estate planning.

Any asset-protection strategies must be reviewed carefully on a case-by case basis for each particular individual. If properly implemented, such strategies can provide a measure of protection against an under-insured claim or other financial disaster. **B**

TAG Team technical ruling update

Keeping you up-to-date on CRA's latest rulings

There have been several recent technical interpretations issued by Canada Revenue Agency ("CRA") that may be of interest in providing services to your clients.

Contribution to IPP by a Personal Services Business is Tax Deductible

A "personal services business" (PSB) carried on by a corporation means a business where services are provided by an incorporated employee.

In other words the employee of the corporation would be viewed as an officer or employee of the entity to whom the services are being provided, if it were not for the corporation.

The expenses that may be deducted by a PSB for tax purposes are extremely limited under subsection 18(1)(p), however, CRA has confirmed that a PSB would be considered a "participating employer" for the purposes of a registered pension plan or IPP.

This provides an opportunity to enhance the tax deductions available to the PSB through the use of an IPP arrangement. (Refer to technical interpretation 2005-012273117).

No Attribution on Transfer of Funds from Spousal RRSP to IPP for Benefit of Annuitant

In order for a company to fund past service benefits in an IPP for a plan member, the plan member must also transfer a portion of funds from his/her RRSP to the IPP. The amount required to be transferred from the RRSP represents the RRSP contributions that the plan member was eligible to make for the past service years in question.

Normally if a person ("the contributor") contributes an amount to a spousal RRSP and the spouse ("the annuitant") withdraws an amount from the spousal RRSP, all or part of the amount withdrawn is included in the income of the contributor (rather than the annuitant) if a contribution was made in the year funds were withdrawn or in the two previous years.

This rule is meant to discourage the short-term use of spousal RRSPs for income splitting.

However, CRA has recently indicated that where an amount is transferred from a spousal RRSP to an IPP set up for the benefit of the annuitant, no amount will be included in the income of the contributor.

In addition, if the amount transferred from the spousal RRSP has been used to fund a purchase of past service benefits in the IPP, there will be no amount attributed to the income of the contributor to the spousal RRSP when the pension income begins to be paid. (Refer to technical interpretation 2005-0135951E5)

Tax Receipts may be Issued for Donations to Indian Band Councils

A proposed change to the rules for charitable donations will include gifts made after May 8th, 2000 to a "municipal or public body performing a function of government in Canada".

A Department of Finance letter dated September 10, 2002 indicated that this new proposal would cover donations to Indian Band councils and similar organizations.

Although these tax changes are not yet in force, these public bodies are permitted to issue official tax receipts to donors (see technical interpretation 2005-0114761E5).

This may create yet another opportunity for charitable giving strategies including the Corporate Insured Annuity with Leverage.

For more information, contact one of the TAG Team members.

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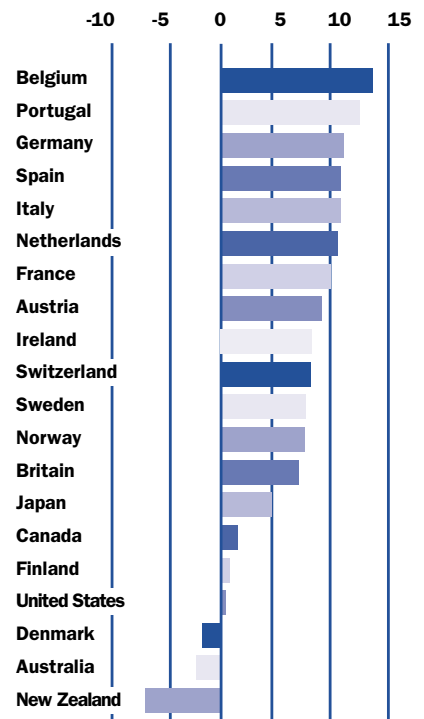
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Household savings rates

We all know that most Canadians don't save as much as they should. Now the British news-magazine *The Economist* has proven it.

The magazine researched savings rates for the average household in a variety of first-world countries, expressed as a percentage of disposable income. As you can see, the average Canadian household ranks far down the list. Time to convince our clients to do better!



Words of wisdom

"Wealth is not acquired, as many persons suppose, by fortunate speculation and splendid enterprises, but the daily practice of industry, frugality, and economy."

- Francis Wayland

President's message (from page 1)

Compensation disclosure is a tough one, but again the belief is that the competitive market provides the consumer with the protection and choice that they require without getting into the complicated topic of compensation disclosure. It would certainly be confusing and distort the decision making process.

There is no question that our world is changing from a regulatory perspective. We believe our industry is doing an excellent job to protect the client's interests. Increasing requirements and red tape will only serve to increase costs and in the long term reduce consumer choice. **B**

A reminder to everyone of the Barrington Annual meeting taking place in Montreal December 2nd - 4th. I look forward to seeing you there.

Risk management (from page 1)

Risk Analysis software available from PPI Financial helps to focus on all the risks enumerated above and enables you to present a comprehensive risk management account consisting of life insurance, disability insurance, critical illness insurance and long term care insurance.

The client may choose to address all of these at one time or set a timetable for dealing with some or all of these depending on their priority over a period of time.

For your part you will have presented a range of products and given yourself the opportunity to revisit the risks not previously dealt with at the time of annual review. **B**

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