

NAVIGATOR



Guidance at every turn

October 2007

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Past Navigator issues can be found on our website.

BEWARE OF DO IT YOURSELF PLANNING!

By: Rob Shier

This is a true story involving a Father, his two children and a Trustee in Bankruptcy. The Father's good intentions to leave his property to his children resulted in an outcome that was to the family's detriment. This unfortunate situation will no doubt be repeated by others; but it can be prevented. This is the Father's story.



The Father did not wish to leave a will so he had his unencumbered house put in to the names of himself, his son and his daughter as Joint Tenants. The rationale was that, with a Joint Tenant interest, the property would pass to the children when the Father dies, and no land transfer tax or probate fees would be incurred.



The son, in dealing with his personal financial situation, files an Assignment in Bankruptcy. The bankrupt advised the Trustee that he did not pay for the upkeep or live in the house, and was, effectively, holding a 1/3 interest, in trust, for his father. His real interest would only materialize when his Father dies. The problem was there was no written trust agreement.

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TALENT SEARCH

We're always on the lookout for talented people. If you know of someone who would like an interesting and rewarding career in public accounting, have them contact Graham Williams, Human Resources Partner.

This notice is designed to alert clients to recent developments and to existing planning opportunities, which are often discussed in general terms, and therefore should not be acted upon without professional advice.

HOW DO SUCCESSFUL LEADERS ACHIEVE RESULTS?

By: Marie Day

Rarely does a successful leader achieve results through speeches, vision statements or inspirational group meetings or even retreats! In an organizational setting, effective group leaders pay attention to the individual. For a group to achieve notable and sustainable results, effective leaders create the environment where individuals in the group must strive continuously to fulfill their potential. There is no other way.

As a successful leader, here are fifteen things individuals in your group could say about you:

My group leader...

1. creates an environment where I can perform my role fully and successfully; By sharing information freely and going beyond what I need to know to give me as complete a picture as possible, my group leader helps me see how my efforts complement other people's efforts.
2. spends time with me to help me understand how I fit into the organization and how I can personally contribute to achieving the organizational objectives.
3. is consultative before making major decisions so when things change, I feel that I am part of the change and this gives me a sense of ownership and responsibility.
4. knows our business inside out and is a source of suggestions and creative ideas. My group leader is a great sounding board.
5. encourages individual expression without fear of ridicule, be it one on one or in a group setting. I often volunteer suggestions for improvement or initiate projects I think are important to the organization, without fear of repercussion for taking a risk or even failing.
6. is accessible. Communicates openly and effectively with everyone in the organization, not just a select few. Does not exclude anyone or any group, is fair and consistent when dealing with people no matter their rank, type of contribution, experience, seniority or age.
7. makes me feel that I am an important member of a well-functioning team. My group leader is positive about who we are, not only as an organization but as a team of diverse people, each contributing in their own way.
8. does not allow speculation to take place by being open and communicative about upcoming changes.
9. provides me with constructive feedback to help improve my performance, and helps me grow by constantly stretching my performance goals.
10. is supportive, open and proactive, when something needs to be done. My group leader does not play games or test anyone by waiting to see what they are capable of or what their next move will be.

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TECHNOLOGY ON A STICK

By: Issie Rabinovitch

The number of useful technology products on a stick continues to grow. The basic USB memory key keeps getting bigger and cheaper. It has become a commodity and it is priced accordingly. A 4GB model can be had for under \$50, even one that is U3-compatible. U3-compatible memory sticks let you take your e-mail, wallpaper, files, and applications (as long as they are U3-compatible) with you to use on any modern computer with a free USB port.

SanDisk has released a new model of USB drive called the Cruzer Professional which is designed to keep confidential data confidential, even if the drive itself is lost or stolen. It lets the owner of the drive establish a secure, password-protected "Privacy Zone" that can occupy anywhere from one to 100 percent of the drive's total capacity. Files stored in this zone are protected by powerful 256-bit AES encryption while files outside the Privacy Zone are unprotected and open to any user. This Cruzer model is also much faster than most USB keys. If speed and security are important, the somewhat higher price won't be a deterrent. The 1 GB model costs \$59.

Yoggie, a fairly new company specializing in security products, has introduced the Pico, a USB device that looks like an overweight memory key but is actually the world's smallest computer on a stick. It provides potent protection when connected to a desktop or portable computer. All network traffic, whether from the internal network or the Internet, is inspected for every possible kind of threat.

There's even more good news. The Pico has an Intel CPU comparable in power to a Pentium 3 and 128MB of memory to run the bundled dozen security applications. These applications include anti-spam, anti-phishing, antispyware, antivirus, transparent e-mail and web proxies, intrusion detection and prevention system and a stateful inspection firewall. All of the applications update themselves automatically, sometimes several times a day, and do their work without bothering the user or impacting the performance of the computer in any way. The computer has more power for actual work because it no longer needs to run security software.



The Pico costs \$199 while the Pico Pro costs \$219. The difference between the two is explained on www.yoggie.com. The license for the suite of security applications on the Pico needs to be renewed after the first year, for about \$45 annually.

Issie Rabinovitch is a computer consultant based in Toronto. He can be reached at issier@gmail.com.

Just a reminder

, that, it is a good idea to review your will and powers of attorney on a periodic basis, at least every five years, or whenever there's been a significant change in your situation.

Your Stern Cohen advisor would be pleased to assist you in reviewing your current will.

BEWARE OF DO IT YOURSELF PLANNING!

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Accordingly, the Trustee had to attempt to realize on the bankrupt's 1/3 equity in the house. (It's important to note here that the Trustee's obligations are to the bankrupt's creditors NOT the bankrupt).

But matters got worse, in the course of negotiating to have the Father and daughter "buy out" the bankrupt's interest, the Father died. Now it was only the daughter and the Trustee who were entitled to share in the value of the house!

The daughter's lawyer argued that, as at the date of the bankruptcy, the son's 1/3 interest was, effectively, severed from the interests held by the other two individuals. Therefore, when the Father died, the daughter became entitled to her 1/3 plus the father's 1/3 interest, for a total of 2/3 interest in the house.

Given that there is no clear law on all of this, it may come as no surprise to you that the Trustee's lawyer took the position that the Trustee should receive 1/2 of the deceased's estate, or 1/2 of the house.

The difference of opinions resulted in protracted negotiations and a settlement that may be considered a compromise to both sides, but far different than what the father intended when he put his home into joint tenancy.

Beware of do it yourself planning, get proper professional advice!

HOW DO SUCCESSFUL LEADERS ACHIEVE RESULTS?

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11. does not speak negatively to or about anyone in the group. Is more often encouraging than critical and is publicly generous with praise and credit.
12. acts more like a coach or mentor than a boss.
13. is more concerned about long-term results and building for the future than just getting by for the short-term with some quick hits.
14. adopts a positive attitude when faced with underperformance but prompt when dealing with persistent underperformers.
15. my group leader is the reason I am here and at this stage of my career, I wouldn't want to work anywhere else!

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NEW PROTOCOL FOR THE CANADA-US TAX CONVENTION

By: Keith Rosen

On September 21, 2007, the Canadian Minister of Finance and the US Secretary of the Treasury signed a fifth protocol to amend the convention on taxes between Canada and the United States of America (“the treaty”).

The protocol covers a wide range of issues including the – in many cases gradual - elimination of taxes on cross border interest, extension of treaty benefits to US participants in US limited liability companies, capital gains of migrants, cross border retirement plan arrangements, employee stock option benefits, new mandatory arbitration procedures between the two countries for such double tax problems as different transfer pricing, and the use by both countries, rather than only the US, of the limitation of benefits to particular classes of taxpayers.

Most of the changes will not be retroactive and will only begin to take force once the two countries have ratified the protocol. In the unlikely event that ratification is before the end of this year, the protocol still won't apply before 2008. A notable exception is the ability of emigrants from Canada to elect for US income tax purposes a step up of the tax cost of those assets which the Canadian system has deemed them to have disposed of, and reacquired, at fair market value immediately before terminating Canadian residence. Once the protocol takes force, such elections will be permitted retroactively for emigrations after September 17, 2000.

The change of broadest application will likely be the new rules on cross border interest. The changes for dividends are less far reaching with no new generally applicable rates. However, rules have been added to treat as dividends what would otherwise be interest on indebtedness with some of the characteristics of share equity, especially debt with interest contingent on cash flows, profits, etc. For interest which is not so tainted and which also does not fail the existing, and retained, excessiveness test, the protocol will eliminate any withholding tax.

For indebtedness between unrelated entities which is subject to the currently applicable 10% rate of withholding tax, withholding will be eliminated for amounts paid or credited on or after the first day of the second month after the day on which the protocol takes force. For such indebtedness between related parties, the withholding tax rate will be reduced to 7% during the first calendar year that ends after that day and to 4% during the next calendar year before complete elimination of withholding tax in the following year.

In the March 19, 2007 federal budget, there was a proposal to eliminate Canadian withholding tax on interest paid or credited to non-residents for all arm's length indebtedness – generally debt between unrelated parties – irrespective of the creditor's country of residence. This change is expected to take effect on the same day as the day applicable for debt between unrelated parties in the new protocol.

Further details are available the Department of Finance website

<http://www.fin.gc.ca/news07/07-070e.html>