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Financial Freedom? Not Without Risk!

The Experts Have Their Say...

Richard Czerlau
Geof Wheelwright
John Eitel
Joanne Thomas Yaccato

Retirement Residency

Bank Secrecy

Day Trading

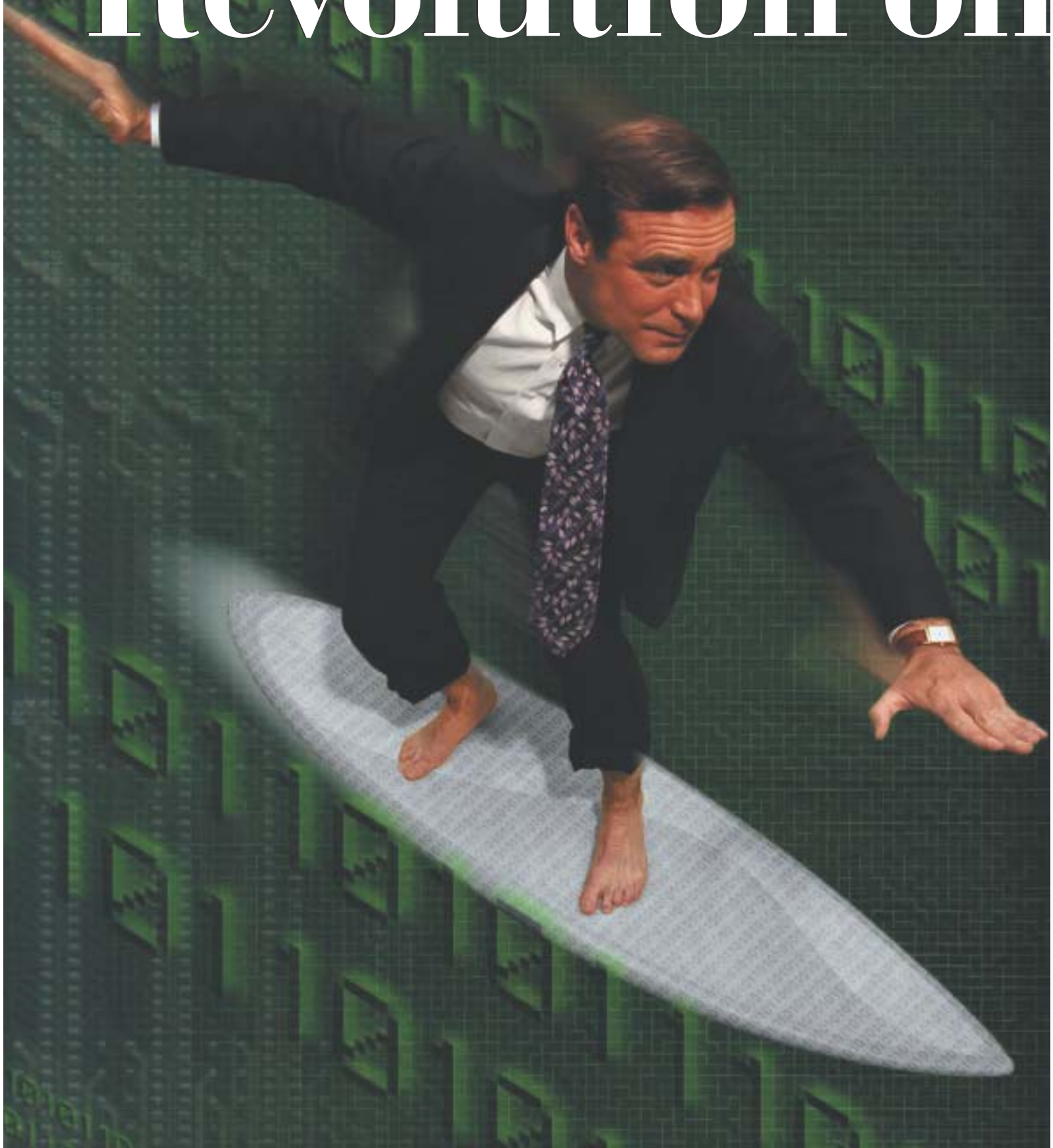
The Boomer Scramble

Women Investing Online



Plus Portfolio: Investment Opportunity Showcase

Revolution on



ly takes place WHEN EVOLUTION IS THWARTED

BY JOHN EITEL

First of all, let us all agree that it is a changing world. For the first time in their existence, the powerful “Boomers” are scrambling; scrambling to keep up with their teenagers, computers, taxation and the world of E-Commerce. Who would have believed it? Potentially lost in “Boomer” world.

It takes an open and brave (over 50) mind to recognize and admit some “awe” about this truly powerful, unstoppable, evolutionary wave of change – and to see it must be embraced and employed. It is a frustrating and frightening event for those businesses and private individuals looking for a secure footing in an ever changing landscape, one that, at times, appears to be threatening their quality of life, and their children’s inheritance.

Over the course of this series of articles, we will be looking at the options available to Canadian businesses and individuals in light of the emerging global community. In this instalment, we will look at the big picture, the players, some of the myths, and some of the facts.

THE GOVERNMENT

The Canadian Government is what it is: a democratically-elected, parliamentary body acting in absolute power, answerable to no one when it has a Majority in the House. That is pretty much the end of it. Canada's government is going through the same metamorphosis we all are. Rules once put into place to serve a particular purpose now either do not work or so badly defy human reason that they must be changed. But how? As a G7 country, we pontificate to third world nations the importance of free trade and a borderless world. Caveats are demanded of these country's Central Banks to allow for the free movement of capital if they are to receive their IMF loan; yet Canadians are threatened with fines and jail if they do not report the movement of their after tax capital – and when you say “after tax” in this country you have said a mouthful.

You must find a way to make the money reside legally elsewhere. Never believe it is wrong or illegal to do it properly.

WORLDWIDE INCOME

In Canada, you are taxed on your residency. Canadian residents must pay tax on their worldwide income. Between FAPI (Foreign Accrual Property Income) rules and the Beneficially Interested rules, one must truly operate at arms length to avoid running afoul of the law. Rules are real, and until they change the rules, you play inside. Real money wants to sleep at night and it cannot do so when there is concern every time the telephone rings. You must find a way to make the money reside legally elsewhere. If you are not going to do it right, do not do it at all. However, never believe it is wrong or illegal to do it properly. That is what rules are for – to show you how.

Do your international estate planning properly and this is the environment in which the money will dwell:

- (i) the protection of assets from laws forcing heirship notwithstanding the terms of a valid will;**
- (ii) effective and flexible estate planning;**
- (iii) the protection of assets from any creditor claims;**
- (iv) protection from any wealth, income, estate and/or inheritance tax; and**
- (v) privacy.**

WIIFM (pronounced Wiif-mm)

What's In It For Me? Before the “individual” engages in this element of international estate planning you must be sure you are doing it for the right reason. There are lots of good reasons to plan your affairs globally but they must be thought-out with an understanding of, and some common sense answers to, security, flexibility and ultimate outcome. Do it properly and this is the environment in which the money will dwell: (i) the protection of assets from laws forcing heirship notwithstanding the terms of a valid will; (ii) effective and flexible estate planning; (iii) the protection of assets from any creditor claims; (iv) protection from any wealth, income, estate and/or inheritance tax; and (v) privacy.

For the “Corporation” there are a growing number of reasons to plan globally. Tax Treaties are in place, not grants, repayable loans or government involvement of any kind, but hardcore double taxation treaties that enable and encourage us to compete where the big boys play. You do not, however, have to

be a mega-corporation; quite the contrary. All you require is the will to access the global market. It is not that big of a deal. There are rules (remember rules teach us how) about mind and management, active business, transfer pricing, etc. Do it properly and this is the environment in which your company will dwell: (i) corporate offshore tax from 2.5% -10%; repatriation of all, any or no profits back to the Canadian parent tax-free; (ii) no restrictions on the capital repatriated to the Canadian parent; (iii) import/export tax privileges; (iv) new international customers/partners; and (v) confidentiality.

Treaty or Non-Treaty Jurisdictions

Non Treaty

Let us define the difference. Non-Treaty nations such as Nassau, Turks & Caicos, and Grand Cayman Islands, have no treaty arrangements with Canada and therefore are considered secret or private jurisdictions. In a recent case involving former Canadian Prime Minister Brian Mulroney and the jurisdiction of Liechtenstein, the RCMP entered into the investigation to uncover what they believed to be an abuse of power and a kick back to Mr. Mulroney. Ultimately, they did not have sufficient evidence nor information to open the books, and were told no more information was forthcoming. Mulroney won the case.

This will give you some idea of how effectively a reputable jurisdiction can defend the integrity of its law. In most cases, there are laws against the dissemination of information that can result in jail terms for employees. The inquiring country or agency must apply for and receive permission before the local government can do any investigation. Finding the proper facilitators on the other side of the water is paramount, especially when dealing in Non-Treaty nations. These jurisdictions are used primarily for estate planning and asset protection. Obviously, some are better than others. Solid and capable infrastructure backed by legislation and a sound rule of law are critical in the selection process.

Treaty

Treaty Nations such as Barbados, Malta and Ireland, are used for estate planning and business. It must be an active business in accordance to the Tax Act and there are issues like mind and

management and transfer pricing. Any existing or emerging company in Canada that can provide, or is contemplating providing, goods or services to the global market must absolutely know all they can about these international Treaties, if only out of self defense.

These are wonderful environments. Here is how it works. A Canadian company has its products manufactured in Taiwan for its target customer in Venezuela. A subsidiary of the Canadian company (Foreign Affiliate) is then set-up in a foreign Treaty nation (Barbados) and operates the international sales. In this manner, all of the profits from the foreign affiliate are taxed at the local (treaty adjusted) tax rate of 2.5%. Not bad, is it?

And that is not all. The Foreign Affiliate has the privilege (but not the obligation) to return the profits back to the Canadian parent TAX-FREE. These retained earnings can be spent like all bottom line capital back in Canada, opening up some very exciting possibilities. Canadian companies with an attractive product for the global markets will experience some exciting earnings potential. Take that one step further and have the Canadian parent go public. Wow! Imagine trapping your foreign income offshore for two or three years, repatriating tax free income to the Canadian parent, loading-up the coffers, going public and issuing a small dividend your first year on the market. Do you think investors are ready for a junior company to come to the market with actual earnings and fundamentals? What a concept! This is more than possible with some proper education and strategic planning.

To be fair, these Treaties have been set up by the Federal Government. Canadian business needs this kind of access to offset some of the non-competitive wages earned in other parts of the world.

Professional Facilitators

For the individual in particular, the exit strategy is everything. Do this part wrong and your well-intentioned estate planning could become a nightmare. There are law-specific rules required to exit legally. The same law-specific rules are there for reporting. The proper structure must be in place representing the arms length activity. For this you need a lawyer and/or an accountant, but not just any lawyer or accountant. You need



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someone who specializes in these areas. The international requirements for Canadian residents is completely different from the run-of-the-mill problems one encounters in domestic tax concerns. You need someone who understands the international aspects, the laws specific. You need an expert.

The same is true for the corporate client looking to take advantage of the international climate that exists for Canadians. The rules surrounding mind

and management, active business, transfer pricing, etc., are critical to success. When these items have been properly addressed, the decision whether or not to go offshore will be crystal clear. The strategy and existing treaties are perfect for small and medium-sized companies. This is a huge opportunity missed by many Canadian businesses. These are companies presently in a position to take advantage of this government-sanctioned privilege to benefit their shareholders, either private or public.

Common Sense

Each one of us possesses a special gift which makes us unique in this world: common sense. Imagine if we would all just employ it. It should insult your intelligence if someone tried to make you believe a cookie cutter, offshore arrangement could serve all the needs of all the clients. Remember, you get that for which you pay. Fast-talking guys who meet only in coffee shops, telephone booths, airports, and have a cell phone for an office should quickly kick in your common sense factor.

Look for men and women of substance and presence. Remember your estate must be operated at arms length. If your facilitators do not offer to take you to meet the managers offshore, who will be directing the financial well being of your estate when there is something wrong? If they tell you the mechanism or your exit strategy is so secret they cannot even tell you about it, there is something wrong. If you buy into some multi-level program and get a free structure to house your commission, there is something wrong.

And then there are “bank-to-bank debentures” – the Grand Daddy of them all. They are a supposed clandestine banking scheme, romantically portrayed as part IMF and part Illuminati, in which the returns are so astronomical they even had the real banks looking for them. Run, do not walk, from this one.

Going offshore is all about relationships, not transactions. There are competent, trustworthy, qualified advisors that handle this sort of delicate planning; professionals with the legal and tax expertise to issue professional opinions. Would you really trust your family's estate and international financial planning to anyone less? You should not.