MAY 2021

PERSPECTIVES ON BUSINESS & FINANCIAL MANAGEMENT

the Capital Partner

"Preserving, Protecting & Propagating Capital through Prudent Planning"

Nation Bleeds Red Ink as Federal & Provincial Governments Rack Up Record Deficits During Pandemic

"This budget is about finishing the fight against COVID-19. It's about healing the wounds left by the COVID-19 recession. And, it's about creating more jobs and prosperity for Canadians in the days and decades to come."

Deputy Prime Minister & Minister of Finance, **Chrystia Freeland**

ON APRIL 19, 2021, the Federal Government tabled the **2021/2 Budget** in the House of Commons. It was the first budget in two years and the first time the government has given full account of their 2020 pandemic spending.

Chrystia Freeland, Deputy Prime Minister & the Minister of Finance called the 2021 Federal Budget: *A Recovery Plan for Jobs, Growth, and Resilience*.

The budget documents revealed the government spent over $650 billion and ran a record deficit of $354 billion during the 2020/1 fiscal year.

Combined federal and provincial debt is now equal to 92% of Canada's annual GDP, up from 65.2% last year. The federal debt sits at $1.15 trillion.

Spending measures announced in the budget focused on transitioning government expenditures from "emergency response to recovery."

The Government announced it will invest more than **$101 billion** in net new spending over the next three years, including **$30 billion** over the next five years to create a national child-care program. Significant tax measures included in this Budget:

- The Budget 2021 proposes to extend the **Canada Emergency Wage Subsidy** (**CEWS**), the **Canada Emergency Rent Subsidy** (**CERS**) and the Lockdown Support until September 2021. Subsidy rates will decline over July to September.
- The Budget proposed providing the Government with legislative authority to extend qualifying periods until November 20, should it be warranted.
- Budget 2021 introduces the new **Canada Recovery Hiring Benefit** (**CRHB**). This program provides eligible employers a subsidy of up to 50% on the incremental remuneration paid to employees between June 6, 2021 and November 20, 2021.
- No new corporate income tax rate changes were announced other than for zero-emission technology manufacturers.
- No new personal income tax rate changes were announced.

"For producing a short-term, election focused document the Liberals get an A+. For laying the groundwork for growth, improving the government's fiscal posture and demonstrating that they pay attention to the responsible administration of government, I'd put them on the borderline between a D and an F," said **David Bond**, former Economist with HSBC.

CAPITAL COMMENT

"No Chrystia, there is NO Santa Claus"

(Just taxpayers needing to pay up)

YEARS AGO, when Sears was still delivering their Christmas catalogue, my son would look through it and make a list of all items he wanted.

"Dad, look! The prices are listed beside all these things, but if you get it from Santa, it doesn't cost anything!"

Like any parent, I would smile, and think "if he only knew." His mom and I would play along, knowing full well there would come that day of reckoning when each of us learns that Santa doesn't really exist. Goods and services cost money.

Fast forward to the 2021 federal budget delivered on April 19th by Finance Minister **Chrystia Freeland** - the first in 2 years.

Minister Freeland revealed:

- In 2020, the government spent $650.3 BILLION. They received $296 billion in revenues, creating a deficit of **$354.3 billion**.
- For 2021, projected expenditures are $509.8 billion. Projected revenues are $355.1 billion, a deficit of **$154.7 billion**.

You can gauge for yourself how effective their governance and pandemic response has been.

The budget unveiled a number of "bold initiatives" including:

- $101.4 billion to kickstart "the economic recovery" (details to be forthcoming).
- $30 billion over 5 years to create a National Childcare Program (& $8.3 billion per year after).
- $18 billion for "safer, healthier indigenous communities" (Metrics? Anyone's guess).
- $17.6 billion for a "green recovery (25% of lands and oceans by 2025).
- A one-time $500 O.A.S. bonus for those 75 years & older

Noticeably absent were two things…

First, most of the programs are not scheduled to begin until 2022... Mmh? Now, why might that be?"

Second, except for some luxury items like boats, planes, etc., no new taxes were introduced and there were no increases on existing personal, corporate or capital gains taxes. In other words, there's no plan on how to pay for the goods.

I guess you have to "feel" for the Trudeau Liberals. Learning the truth about Santa & tax payers while in office is a tough gig. ❍

***the* Capital Partner**

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Gordon Wiebe - EDITOR/PUBLISHER
email: gord@think-income.com
www.think-income.com
Twitter: cheapgordo

Wiebe is a licensed as a Life Underwriter in the provinces of BC, Alberta & Saskatchewan. He is a seasoned financial planning professional & an "Annuity" specialist.

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PRINTING

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THE CAPITAL PARTNER INTERVIEW...

He's Got Your Back - to Back

John Wordsworth is President & CEO of Lengvari & Associates - an organization he joined in 1996. He develops & implements advanced tax planning techniques using life insurance & annuities.

John is a recognized as a Canadian authority on the advanced use of life insurance within private corporations. He provides technical support to advisors on complex cases. His expertise supports clients in efficiently funding estate obligations upon death, Buy-Sell agreements, Key Person insurance and full cost recovery for Corporate Charitable Giving plans. John looks at problems from the client's perspective and is constantly improving the life insurance purchasing process - to not only be cost-effective, but to maximize the way the Income Tax Act treats life insurance. In his spare time, John enjoys playing an energetic game of squash, as well as painting and gardening at his North Vancouver home.

*TCP: I want to start by asking you about the name **Lengvari**. Your name is Wordsworth - like the English poet. From where does the name Lengvari originate?*

JW: The organization was founded by **George Lengvari Sr**. For 50 years, it's been at the forefront of providing creative solutions and the most effective use of life insurance products & services in Canada. George's career spanned over half a century. He lectured on life insurance at universities as well as the Estate Planning course of the **Canadian Institute of Chartered Accountants**.

He contributed to policy & legislative changes and the taxation of life insurance, including the "Exempt rules" in 1982.

TCP: You've been in working in the advising industry for awhile. What drew you to this business?

JW: I appreciated the type of analysis that's required and having that work serve clients, families and businesses.

TCP: What positive & negative trends have you seen? What's evolved? What has been the most striking trend(s) or change(s) you've witnessed over the years?

JW: There are a few trends that I've seen. All positive.

First, there is a greater degree of professionalism. Firmer rules and regulation, best practices, updated ethical codes, greater acceptance of fiduciary roles and professional education. There has also been a wider acceptance of financial and estate planning strategies by other professional advisory groups like lawyers and accountants.

The standards of reporting by underwriters has drastically improved and there are greater protections in place for the consumer.

There's also greater acceptance of whole life policies.

TCP: Since starting in the business, the government has initiated a few more financial planning & saving programs like RESPs, RDSPs, TFSAs, etc. Even traditional RRSPs have loosened up. Can't people simply invest for themselves? Is there still a need for life insurance?

JW: Well, yes, that's all true but life insurance is the only financial contract that produces an immediate injection of cash and liquidity when it is needed.

While it's being funded, risk is shifted to a financial institution at a relatively low cost.

I should say "risks" because it may have offset a loss of income, funded a buy/sell agreement, covered key company personnel, covered an estate tax obligation, provided retirement income, etc.

I have some affluent clients. They say, "we buy because the money is always there, when it's needed, whatever the financial obligation."

TCP: What do you say when people say they don't "believe" in life insurance?

JW: Well, it's not a religion. It's a financial tool and a highly efficient one for covering off risk. When stripped down, an insurance contract is just a transfer of a liability to a financial institution.

This is true of all insurance, of course. The difference is all other risks - fire, car accidents, disability MIGHT happen. But, Death WILL happen. It's a certainty. Why not plan for a certainty efficiently?

Does it make sense to sell or borrow against an asset to satisfy a debt when there are alternatives and better solutions to consider?

How that risk is paid for is a function of some basic, fundamental analysis.

(Continued on page 4)

THE CAPITAL PARTNER INTERVIEW...

John Wordsworth Interview Continued

(Continued from page 3)

TCP: Do you think enough seniors are aware of the retirement income options available to them? Can you explain what is meant by a back to back strategy and how it can be advantageous to seniors seeking guaranteed retirement income?

JW: A back-to-back (B2B)strategy involves buying an annuity and matching it with a life policy. Annuities provide a guaranteed, tax-favoured, competitive rate of income and a safeguard against a cognitive decline. *(see table opposite page)*

An annuity can guarantee for life and pays as long as it is needed. Then, the insurance policy pays out to loved ones - typically tax free and without delay.

Suppose you have a retired couple. They're each 75 years old. They recently sold their home and realized a tax free gain of $500,000.00. With those funds, they can purchase a joint annuity. It will pay $32,470/year or $3,437/month - or 6.5% annually. Ninety per cent of that pays out tax-free.

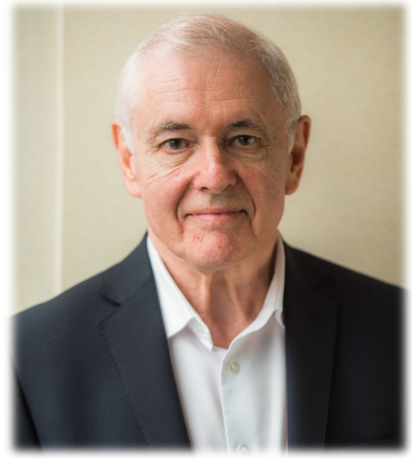
They can then purchase a policy that will pay out $500,000 upon the death of the surviving spouse to the beneficiaries they choose. That policy will cost $22,798 annually or about $1,938 monthly.

There's a difference of $1,496 / month. Roughly 55% of the annuity stream funds the life insurance policy. The remaining 45% is supplemental and pays 3.5% of the initial principal. Far better than a bank GIC.

TCP: According to industry data, a number of baby boomer business owners are looking at exiting their businesses in the next 5 years. How can your strategies assist those looking to exit their businesses?

JW: You're right. That's an issue that really needs to be addressed.

There are a couple of strategies



that can be used. The first is called an IFA or an **Immediate Finance Arrangement**. It's a tax efficient way to quickly build cash values, that is equity inside or outside of a business. It could be a part of a buy/sell agreement, a key person policy or a stand alone policy.

A number of years ago, the government wanted to discourage business owner's from accumulating capital inside personal corporations. New taxes on passive income were imposed. An IFA is one of the last methods available to business owners to shelter business growth from the tax man.

The second is an RIA or a **Retirement Income Strategy**. It's a way to draw retirement income from a corporation without triggering a tax event.

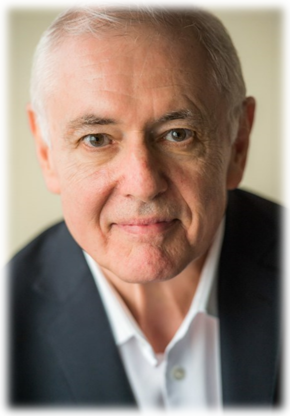
Bit difficult to explain verbally, but I have info, charts, and graphs available on my website. Happy to respond to reader's questions (**www.lengvari.ca**)

TCP: Why do you think more people don't address the problem of estate taxes?

JW: Well, nobody thinks they're going to die. People are inclined to procrastinate, put it off. But, the time to think of these things is now, while you have the luxury of time, your wits and while one is "insurable."

Get it done. Out of the way. The funds will always be there.

TCP: What is the toughest case you have worked on? Why was it difficult? How did you overcome the obstacles or challenges?



JW: Good question. Two cases come to mind…

The first one. I was approached by a couple who said they were trust beneficiaries and the trust was scheduled to mature in seven years. They'd wanted a purchase a policy, pay a minimum amount of premiums for seven years until the trust came due. Then, they wanted to do a massive "dump in" with the proceeds.

That policy required a lot of legwork. We needed to work closely with the actuaries, the re-insurers. But, that's what I do.

We were able to uniquely modify and structure a policy so the initial four-million dollar premium could be had for $500K on two lives. In the 7th year - as the trust matured, the clients could deposit $2,000,000.^{00} for a number of years - taking advantage of a "lifetime deposit option."

The underwriting process was fairly rigorous. The clients had to provide evidence up front, but not after. They were able to preserve the funds that had initially been set aside for their benefit in the trust.

The second case involved insuring an infant for $72 million dollars.

An affluent family wished to establish an inheritance for their child who hadn't celebrated his/her first birthday!

Believe it or not, Canada's infant mortality rate is higher than you might expect. Underwriters won't typically insure anyone less than one - especially for large amounts.

Again, working with a select carrier, we were able to structure a plan that had the clients pay premiums of $1.88 million over 10 years. The policy had a face value of $72 million. Good for the rest of that child's life.

Those are the two toughest cases that come to mind.

TCP: Those are some great outcomes for some tough cases. ***John****. Thanks for talking with the C.P. and sharing a bit of your insight & wisdom.* ❍

BACK to BACK STRATEGY - 75 Year Old Couple

Annuity premium	$ 500,000.00	
Effective tax rate	35%	
gross monthly income:	$ 3,437.00	
A. return of capital amount:	$ 3,093.30	
B. taxable portion:	$ 343.00	
C. tax payable:	$ 120.05	
D. net after tax:	$ 222.95	(b)-(c)
total net after tax:	$ 3,316.25	(a)+(d)
monthly life premium:	$ 1,938.00	
Net after tax and premium	$ 1,378.25	per month
Net after tax and premium	**$ 16,539.00**	per annum

After tax rate of return from $500K deposit: **3.31%**

GIC rate needed to match 3.31% after tax: **5.09%**

ASSUMPTIONS:

1. Figures based on quotes available on April 22, 2021.
2. Assumes the purchase of a $500,000 prescribed, joint annuity with a 10-year guaranteed income stream issued by RBC Insurance.
3. Life policy quoted is a jnt l-t-d T-100 issued by Manulife

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The RULE of LAW by Stanley Rule

Petrick (trustee) vs. Petrick:

Countless Canadians believe sharing a joint account or other assets with a parent is an effective way of managing their affairs. This case is another reason to re-examine that thinking...

I HAVE ALWAYS URGED caution in using joint tenancies as an estate-planning tool for the transfer of wealth from a parent to a child. On the death of a joint owner, the title to the asset passes by right-of-survivorship to the other joint co-owner (or owners). But, it is not really that simple.

In many cases, there is a question about whether the survivor is really entitled to keep the property or whether it is held in trust for the now deceased co-owner. There may also be unintended consequences of owning property in a joint tenancy. The nuances and risks are illustrated in this case.

Dena Chilton and her son **Rock Petrick** purchased a condo in New Westminster, B.C. Ms. Chilton made the down payment and lived there.

Mr. Petrick did not live with her, but they were both named on the mortgage.

There's conflicting evidence as to whether Mr. Petrick made any payments, but Ms. Chilton paid the bulk of the mortgage payments and other expenses associated with the condo.

Later, Mr. Petrick had financial problems and Ms. Chilton asked him to transfer his interest in the title to her. He did so in July 2014.

Mr. Petrick went bankrupt. Following his bankruptcy, the trustee applied to court to set aside the transfer of his half interest to his mother. The trustee in bankruptcy argued that the transfer was a **fraudulent conveyance** intended to defeat Mr. Petrick's creditors.

Both Ms. Chilton & Mr. Petrick argued that he never had a beneficial interest in the condominium. That is, although he had an interest in the title, he held it in trust for his mother.

NOTE: There is a presumption of law referred to as a **resulting trust**. If some one pays to purchase a property, but puts it in the name of a party who did not contribute, the party who is on title "gratuitously," holds it "in trust" for the party who made the purchase.

This presumption applies to the title interest of a joint tenant who received his/her interest gratuitously.

Ms. Chilton's argued she had her son's name as a joint tenant so upon her death, the condo would pass to him, without requiring him to obtain a grant of probate of her will.

If Mr. Petrick held his interest in the title "in trust" for his mother, then the transfer of title to his mother was not a fraudulent conveyance. His creditors would not have been entitled to the half -interest in the condo.

Madam Justice Francis, in **Petrick (Trustee) v. Petrick**, 2019 BCSC 1319, held that Mr. Petrick did have a beneficial interest in the condo and set aside the transfer to his mother as a "fraudulent conveyance."

In her reasons for judgement, Madam Justice Francis summarized three possible ownership interests joint tenants may have in property.

1. [40] **Not all jointly owned property is subject to a true joint tenancy**. Pursuant to the Supreme Court of Canada's decision in **Pecore v. Pecore**, property that is held in joint tenancy can give rise to three potential scenarios in terms of the beneficial interests of the title holders:

a) A true joint tenancy, in which the joint tenants are each owner of the whole. Each enjoys the full benefit of property ownership and the ultimate survivor will enjoy the whole title for him or herself.

b) A resulting trust, wherein only one joint tenant has any beneficial interest in the property and the other joint tenant, usually a gratuitous transferee, holds title in trust for the other and has no beneficial interest in the property.

c) A scenario which is sometimes referred to as a **"gift of the right of survivorship,"** wherein a joint tenant is gratuitously placed on title and has no beneficial entitlement to the property during the lifetime of the donor, but if the donee survives the donor, the donee will receive the entire property by right of survivorship. In **Bergen v. Bergen**, 2013 [37], **Newbury J.A**. described a gift of the right of survivorship in a joint account as "an immediate gift of a joint interest consisting of whatever balance exists in the account on the transferor's death, assuming he or she dies first."

Madam Justice Francis found that Ms. Chilton & Mr. Petrick were true joint tenants.

She found that he did not receive his interest gratuitously. Because he was a co-borrower under the mortgage, he took a financial risk if the mortgage went into default.

The presumption of "resulting trust" only applies when someone on title has acquired his interest gratuitously. The contributions of the co-owners for property do not have to be equal to avoid the presumption of resulting trust. **Pledging credit is a contribution, even if Ms. Chilton could have qualified for a mortgage without Mr. Petrick being a co-borrower.**

As set out in Madam Justice Francis' reasons:

[65] Ms. Chilton deposed that Mr.

Petrick was not required to pledge his credit in order for her to obtain mortgage financing on the Property and that **"he was added on the mortgage because he was going to be registered on title."**

[66] "I am not persuaded that simply because Ms. Chilton may have been able to purchase the property without Mr. Petrick pledging his credit, Mr. Petrick did not give up something of value when he became a co-borrower.

The pledging of credit exposed Mr. Petrick to risk. Irrespective of Ms. Chilton's means, Mr. Petrick remained jointly & severally liable on the debt.

Further, it appears that from 2006 to 2011, Mr. Petrick may have been in better financial circumstances than his mother. In his affidavit evidence, he deposed that during that period he made cash gifts in the range of $2,000 to $5,000 to his mother, not exceeding $10,000 a year. Therefore, while it may not have been necessary for Mr. Petrick to have been named on the mortgage, he certainly had the means to service the mortgage and indeed, I find it more likely than not that he did make some payments on the mortgage over the years."

[67] "...I find that Mr. Petrick gave value for his interest in the Property & Ms. Chilton did not gratuitously make Mr. Petrick a joint tenant. As this was not a gratuitous transfer, the presumption of resulting trust does not apply."

Madam Justice Francis also found that Ms. Chilton did intend for her son to have a "**beneficial interest**."

Ms. Chilton's argument that she intended for Mr. Petrick to hold his interest in trust for her, and following her death, for her estate, was inconsistent with her evidence that she did not want the condominium to be subject to probate on her death.

The judge ordered that Ms. Chilton be permitted to reside in the condo for the rest of her life, but if she ceased to occupy it, or upon her death, the property would be sold, and the trustee in bankruptcy would be entitled to half of the net proceeds from the sale. ❍

STANLEY T. RULE

is a partner at the Kelowna law firm **SABEY RULE LLP.** His areas of practice include: Dispute Resolution, Estate Planning, Probate & Estate Administration.
He encourages discussion about the law and reform on his blog at:
www.rulelaw.blogspot.com

Saskatchewan Budget

Saskatchewan's Deputy Premier & Finance Minister **Donna Harpauer** tabled the province's budget on Tuesday, April 6th. Expected revenues for 2021 are **$14.48 billion.** Expected expenditures are **$17.1 billion** leaving a deficit of **$2.6 billion**. Total public debt is forecast to be **$27.8 billion.**

Saskatchewan's real GDP is forecast to grow 3.4 per cent in 2021, but that follows a projected 4.2 per cent contraction in 2020.

SK. Top Personal Combined Marginal Rates	
Interest and/or Income	47.50%
Capital Gains	23.75%
Eligible Dividends	29.64%
Non-Eligible Dividends	42.29%

BC Budget Highlights

BC Finance Minister **Selina Robinson** delivered the province's 2021 budget on April 20, 2021. The budget anticipates a deficit of **$8.1 billion** for 2020-21 and projects deficits of **$9.7 billion** for 2021-22 and **$5.5 billion** for 22-23.

BC's Top Personal Combined Marginal Rates	
Interest and/or Income	53.50%
Capital Gains	26.75%
Eligible Dividends	36.54%
Non-Eligible Dividends	48.89%

Corporate Income Tax Rates		
	Province	Combined
General	12%	27%
Small Business	2%	11%

Alberta Budget Highlights

Alberta's Finance Minister **Travis Toews** delivered the province's 2021 budget on February 25, 2021.

The budget anticipates a deficit of **$18.2 billion** for 2021 and projects a deficit of **$11.0 billion** for 2022.

No changes to corporate or personal tax rates were introduced:

Alberta Top Personal Combined Marginal Rates	
Interest and/or Income	48%
Capital Gains	24%
Eligible Dividends	34.31%
Non-Eligible Dividends	42.30%

Corporate Income Tax Rates		
	Province	Combined
General	8%	23%
Small Business	2%	11%

BC Minister of Finance Presents Fiscal 2021/2 Budget

ON APRIL 20, 2021, BC's Finance Minister **Selina Robinson** delivered the 2021-2022 Provincial Budget in the Victoria legislature. Like their federal counterparts, the BC government was gearing its spending towards "response and recovery from the pandemic."

While the minister conceded, "the main risk to BC's economic outlook remains the Covid-19 pandemic and its lasting effect on provincial, national and global economics," her ministry projected BC economy would grow between 4.4% - 4.9% during 2021/2 and 3.8% - 4.3% during 2022/3.

"Budget 2020 presented a balanced fiscal plan, but the Covid-19 pandemic took an unprecedented toll on government revenues and it required us to take immediate action to ensure that our people and our economy remained healthy and safe."

"This created a deficit for fiscal 2020/1, but, the deficit is going to be lower than the $13.6 billion projected in the fall update. This $5.5 billion improvement is mainly thanks to higher revenues, but also somewhat lower spending and improved operating results in government organization including ICBC."

The fact that our forecast has shifted so much since four months ago is a reminder that we are still in the midst of a worldwide pandemic which continues to make it rather difficult to predict how things will develop in the future."

The minister reported that by March 2021, employment levels had surpassed pre-pandemic levels and attributed the recovery to:

- Government emergency response programs
- Adjusted business practices
- Consumer pivot towards the purchase of goods while services have been disrupted
- Low interest rates
- Increased demand for larger homes

2021-22 BC Budget Estimates

Figures in millions of dollars	
Revenues	$ 58,929
Expenses	$ 64,377
Recovery	$ 3,250
Forecast Allowance	$ 1,000
Surplus/Deficit	**(-$9,698)**
Healthcare Budget	$ 23,873
Capital Expenditures	$ 13,455

Sample Annuity Rates

Rates are as of **April 30, 2021** & based on a $100,000 premium. Payments are **Guaranteed for LIFE** & include a 10- year guaranteed payment stream (i.e. balance paid to beneficiaries). Rates change daily. Quotes available upon request. E & O.E.

# of Lives, Age & Gender	Monthly Income	Annual Payment as % of Premium
65 Yr Male	$ 487.07	5.84%
65 Yr Female	$ 454.48	5.45%
65 Yr Joint	$ 411.36	4.94%
70 Yr Male	$ 560.17	6.72%
70 Yr Female	$ 519.40	6.23%
70 Yr Joint	$ 463.95	5.57%
75 Yr Male	$ 618.00	7.42%
75 Yr Female	$ 570.65	6.85%
75 Yr Joint	$ 524.17	6.29%
80 Yr Male	$ 729.71	8.76%
80 Yr Female	$ 677.50	8.13%
80 Yr Joint	$ 619.79	7.44%