

four CORNERS

January 2002, Vol.7, No.1

Accountant: Dave den Boer
Certified Financial Planner:
Andrew van der Woerd
Lawyer: David A. van der Woerd
Real Estate Agent: Judy Schenk

How should you invest your RRSPs this year?

by Andrew van der Woerd

As you are no doubt aware, 2001 proved to be a very volatile year for investors. The TSE300 ended the year down 13.9%, while Nortel Networks, Canada's largest publicly traded company lost an astonishing 75%. Coincidentally interest rates fell dramatically, making retirement funding difficult for *safe haven* investors. Such experiences, although painful, serve to reconfirm the wisdom gained by academics and theorists studying portfolio management over the past century.

For 2002 (and every year for that matter) rational investors (defined as those who wish to maximize returns and reduce risk) need to get back to the basics. They should employ a systematic and continuous approach to portfolio management, which include the following six steps:

1) Identify your objectives and constraints. Investment objectives can be made up of short, mid, or long-term goals and usually range from wealth accumulation to wealth preservation to income generation. The

more you define these objectives, the easier it is to develop a suitable investment policy which takes into consideration tax implications, risk tolerances, liquidity concerns, current financial position and an understanding of the current state of the markets and economy.

2) Asset allocation. Once your investment policy is defined you are ready to develop an appropriate asset allocation strategy. Asset allocation is the process of balancing assets between different categories such as cash, debt, equities, real estate, gold, etc.

Each investment comes with its own unique risk exposures. A portfolio should never be 100% allocated to just one asset class. While such a move might provide certain risk protection, it also increases exposure to other types of danger. Increasing or decreasing the percentage allocated one way or the other allows the investor to tilt their portfolio in the direction that most suits their investment needs. For example, investors who need income should increase their exposure to cash and debt investments, while maintaining a smaller allocation in equities to help protect them from the ravages of inflation.

3) Choosing investments. Once the asset allocation strategy has been formulated, the investor must choose the specific investments to implement the strategy.



Andrew van der Woerd, Certified Financial Planner, is an independent agent of investment products (including stocks, bonds, mutual funds, GICs and term deposits) and life and disability insurance.

A prudent combination of different investments, both within and without each asset class, each with diverging performance characteristics and risk exposures will protect the portfolio from disaster and offer a high probability for performance success.

4) Construction and management of the investment portfolio. This stage is labour intensive and requires ongoing attention. Investors need to keep abreast of legislative, competitive, theoretical, and economic issues that are constantly changing and affect the portfolio performance.

5) Evaluate performance. Investors will need to know how, after an appropriate time frame, their portfolio performed in terms of both its absolute growth, and its growth relative to specified investment targets and competitive benchmarks.

6) Monitor and Re-balance. Inevitably the asset allocations, if not regularly monitored and re-balanced, diverge from the plan.

continued on page 4

Return Postage
Guaranteed: 4 CORNERS
241 Bonaventure Drive
Hamilton, ON L9C 4R1





Dave den Boer is a chartered accountant who has been operating his own accounting office since 1994. He enjoys

providing personal tax, accounting, and consulting service to small businesses and charities.

New Employment Standards in Effect

by Dave den Boer

As of September 4, 2001, Ontario's workplaces are subject to new employment standards legislation, known as the *Employment Standards Act, 2000* (ESA). The ESA repeals and replaces the Ontario *Employment Standards Act*. It also repeals four other provincial employment law statutes. The ESA governs working conditions, and sets out the basic rights and responsibilities of employers and employees in Ontario workplaces. Among other things, it establishes minimum standards of employment, including hours of work and overtime, vacation with pay and public holiday entitlements, pregnancy and parental leave, emergency leave, rest periods, wages, temporary layoffs, home workers, termination and severance entitlements, enforcement, and compliance, benefit plans, equal pay

for equal work, keeping records and other topics.

Employment standards officers have new powers and all persons must cooperate with ESA inspections and investigations. Employers and employees retain the right to have an order from an ESA officer reviewed.

Who is Covered?

The ESA covers every employee and employer in Ontario. The major exceptions are sectors that fall under federal jurisdiction, police officers, judicial, religious or trade union positions and employees of the Crown.

Key Provisions

Employers must post in their workplaces Ministry of Labour documents that outline the rights and obligations of employers and employees.

Pregnancy and parental leave have been extended. Birth mothers are entitled to 17 weeks of pregnancy leave and 35 weeks of job-protected parental leave. All other new parents can take up to 37 weeks leave. As a result, if each parent of a newborn child takes the maximum leave at separate times, the newborn could have a parent at home for up to 89 weeks.

Hours of work and overtime changes have also occurred. The daily limit is eight hours of work, or the number of hours in a regular work day established by the employer. The weekly limit is 48 hours. Employees may agree, in writing, to a longer daily and weekly work period (up to 60 hours a week). Most employees receive overtime pay after 44 hours of work each week. The

overtime rate is 1° times the regular rate of pay. Employees may also take time off in lieu of overtime pay.

Other changes or additions deal with minimum daily and weekly rest periods, vacation with pay and temporary layoffs. More employees will be eligible for public holiday time off with pay. Public holiday pay will be based on the regular wages and vacation pay payable to an employee during the four weeks prior to the holiday—divided by 20. There are eight public holidays each year.

Since this legislation has been in place since September 2001 and due to the many changes, it is advisable for each employer to ensure they are complying with the new ESA. Further information on the ESA can be obtained by calling 1-800-531-5551 and at <http://www.gov.on.ca/lab/main.htm>. You can order copies of the ESA at 1-800-809-4731 or <http://www.e-laws.gov.on.ca/>.

Did You Know?

CCRA recently announced a major change for gifts and awards to employees. Now two non-cash gifts for a special occasion or in recognition of employment achievements to a maximum cost of \$500 will be tax-free to the employee and deductible to the employer.

This policy is retroactive to January 1, 2001. Cash-like gifts, such as gift certificates, will not qualify. Such gifts must not be *disguised remuneration*. This replaces the former policy that generally allowed an annual gift of \$100 or less, including cash, but was not deductible to the employer.



David M. den Boer
CHARTERED ACCOUNTANT

241 Bonaventure Dr., Hamilton, ON L9C 4R1
Tel: (905)389-2670 Fax: (905)389-6268
E-mail: dmdb@nas.net
Website: www.daviddenboer.com

Accounting, Auditing,
Consulting and Taxation Services
for Small Businesses and Nonprofit Organizations



HALL
of
FAME



RE/MAX

Garden City Realty Inc., REALTOR®
Independently Owned and Operated

Judy Schenk

Sales Representative
"Helping Buyers & Sellers Since 1974"

720 Guelph Line
Burlington, Ontario L7R 4E2

(905) 333-3500 24 Hour Paging

1-888-JSCHENK Fax: (905) 333-3616

Toronto Line: (905) 827-6454

Hamilton Line (905) 777-1122

www.remax-gardencity.com/judyschenk

Year-to-Year Contracts must be CLEAR

by David van der Woerd

A recent Ontario Court of Appeal decision affirms that unless year-to-year contracts are carefully prepared, they will be ignored.

Some of you may recognize the facts of the following case as one referenced by my partner, Ed Canning, of our firm's employment law department, in his weekly *Hamilton Spectator* column. This involves the Ontario Court of Appeal decision in the case made by Diana Ceccol against her employer, *The Ontario Gymnastic Federation* (OGF).

The OGF is an incorporated non-profit association, which consists of 160 gymnastic clubs and 60,000 individual members. The activities of the OGF are carried out by an extensive network of staff and volunteers. Ceccol was employed by OGF for almost 16 years, but after her 16th year of service, her employment was terminated, for reasons not related to her job performance. In each of the 16 years Ceccol was employed by OGF, she signed a one year contract. After the sixteenth year, no new contract was offered to her.

The OGF felt that it had no obligations to Ceccol after the end of the term of the 16th contract. It did, however, offer Ceccol a gratuitous severance payment, equal to about three months' salary, if she signed a

release. She refused, and sued OGF for wrongful dismissal.

Ceccol claimed that despite the year-to-year contracts she signed, she was not a year-to-year employee, but rather a full time and indefinite employee. As such, she was entitled to reasonable notice of her termination on the basis of her age, seniority and level of responsibility.

The Court of Appeal looked at Ceccol's contract. It had a definite start date and end date. The court acknowledged that fixed term contracts are legal and when they end, reasonable notice does not apply. However, the court said, fixed term contracts must use "unequivocal and explicit language." When this is not found, the court "will interpret any ambiguities strictly against the employer's interests."

Employers who use renewable year-to-year contracts should take particular note of the following comment by the court.

It seems to me that a court should be particularly vigilant when an employee works for several years under a series of allegedly fixed term contracts. Employers should not be able to evade the traditional protections of the Employment Standards Act and the common law by resorting to the label of 'fixed term contract' when the underlying reality of the employment relationship is something quite different, namely, continuous service by the employee for many years coupled with verbal representations and conduct on the part of the employer that clearly signal an indefinite term relationship.

David A. van der Woerd is a barrister and solicitor at the firm of Ross & McBride practising in Estate, Corporate, Commercial,



and Real Estate. Mr. van der Woerd was appointed Deputy Small Claims Court Judge in Hamilton in 1994 and has been on the wills and estates section of the Hamilton Law Association. He is also a registered trademark agent.

It is not surprising that in Ceccol's case, the court found that because her contract contained a clause that stated she was entitled to a renewal of the contract, dependent on a successful performance appraisal, it was not "unequivocal and explicit", but confusing. The court noted that in all respects, other than having to sign a contract each year, Ceccol was treated as a full time and indefinite employee for the 16 years of her employment.

The Court of Appeal relied upon recent decisions from the Supreme Court of Canada, which talk about the important role that work plays in an individual's life, the imbalance in bargaining power between many employers and employees and the desirability of interpreting the law to protect employees.

In the end, the Court of Appeal agreed that Ceccol was an indefinite employee who was entitled to 16 months notice of her termination and damages were awarded.



ROSS & McBRIDE
LAW FIRM

DAVID A. VAN DER WOERD

Commerce Place, 1 King St. West
Mail: P.O. Box 907, Hamilton, Ontario L8N 3P6
Phone: 905-526-9800 • Fax: 905-526-0732
Email: dvanderwoerd@rossmcbride.com
Direct Dial 905-572-5803

Invest with Confidence

Andrew van der Woerd, B.A., M.B.A., CFP
SELECT CAPITAL MANAGEMENT INC.

405 Pine Cove Road
Burlington, Ontario
L7N 1W4

Phone: (905) 639-1208
Fax: (905) 639-9054
E-mail: andrewww@sympatico.ca



Forecast Positive for Resale Housing Market in 2002

by Judy Schenk

“Low mortgage rates and consumer confidence remain positive factors that will influence the resale market in 2002.” This is according to Ken Hajas, the President of the Hamilton – Burlington District Real Estate Board.

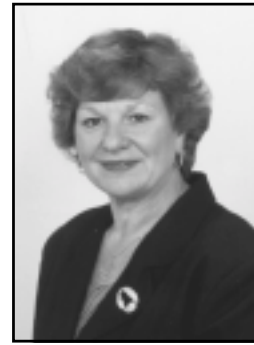
The latest conference held by the Canada Mortgage and Housing Corporation (CMHC) in Hamilton indicates a strong seller's market with very little change in sight. Scarcity of listings is still a major problem.

Also from CMHC, the new home building starts finished on an upswing in 2001. The CMHC report on

housing starts for December 2001 show a 4 per cent increase from November. This is the case, even though economists had been forecasting a drop in housing starts for the final months of 2001.

As CMHC's senior economist Philippe Le Goff notes, “The building industry is responding to tight resale

natural process of portfolio and investor aging usually dictates changes in investment objectives. Investors tend to shift focus from wealth accumulation to wealth preservation, to income generation as they age. Most situations demand that the overall plan be periodically re-evaluated, and



Judy Schenk has been a licensed realtor for over 25 years and affiliated with Re/Max since 1986. She enjoys leading clients to the perfect house. You will be

able to contact her at (905)333-3500.

and rental markets in many metropolitan areas. In fact, the December urban singles segment posted its highest level since March 2000.”

What does this mean to the average home owner?

The value of your home is at its peak, even having surpassed the high sales figures of the 1980s. As well, mortgages are at bargain rates, making buying a home very affordable for would-be home owners. At the same time, rental accommodations are fairly expensive and very scarce in our area. Even with as little as a 5 per cent down payment, many first time buyers can own their home for the cost of rent.

Thank you to my clients

The year 2001 was a record one for realtors—for myself as well. I want to thank each and every one of my faithful clients for making it so; for once again giving me your loyalty, trust, and confidence. I look forward to another great year and wish all of you a blessed, healthy and prosperous 2002.

RRSPs

continued from page 1

They tend to drift from the targeted allocations as expected performances of individual investments diverge with the passage of time. In addition, the

that the asset allocations be re-balanced to match future investment needs.

I admit the above may sound somewhat mechanical, but if you want to minimize the potential for investment mistakes, it is well worth considering.