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Save Thousands in Legal Fees!

See other side for details.

Tips on buying or selling Real Estate

First, get a good team working for you. Buying or selling a \$150,000.00 asset is no time to nickle and dime on professional help. Be sure the realtor and the lawyer are experienced and professional and that they're working for you, not themselves. Above all else, choose professionals who will tell you what you need to hear, not what you want to hear.

Second, involve us early. In routine matters, we rarely charge for pre-signing advice because it makes the transaction work more smoothly. It makes our lives easier and everybody saves time and money.

Finally, look before you leap. Know your limits and your time constraints and stick to them. Use your head, not your heart. In the end, it's all about money.

Disabled Adult Children It's not uncommon to be consulted by aging parents who worry about the care of an incapacitated adult child after their deaths. Whether the adult child is institutionalized or cared for at home, the parents want some mechanism which will make some financial provision without interfering with essential public assistance.

Typically we approach the solution through a discretionary trust (a "Henson trust") under which any assistance is in the sole discretion of the trustee and the disabled adult child has no legally enforceable right to income or residue. Careful drafting is essential.

Although the device is an excellent solution, the lack of co-ordination between federal tax legislation and provincial welfare legislation makes it less tidy than

one might otherwise hope. Untidy, however, is much better than nothing.

Professionals wanting to know more should read Robert Spenceley's excellent article in the CCH Estate Planner, December 10, 1999.

Deducting fines and levies The Veekens were egg producers on B.C.'s Lower Mainland. They sold vast quantities of eggs. Sometimes too vast. Each time they exceeded quota, the Egg Marketing Board would fine them. "Fine!" said the Veekens, and wrote it off as a cost of doing business. Revenue Canada, paragon of virtue that it is, was morally outraged and disallowed the write-off. The taxpayer appealed.

The Tax Court agreed with the taxpayer but the Federal Court of Appeal reversed the decision. At the Supreme Court of Canada, Justice Iacobucci, formerly one of Canada's leading tax authorities, wrote for the majority that if a fine, levy or penalty is imposed against a taxpayer in the course of its business activities, it is (with limited exceptions) deductible. The full case, ***65302 British Columbia Ltd. v. Canada*** is at <http://www.droit.umontreal.ca>.

This writer is not surprised. As long ago as 1964 in the ***Eldridge*** case, Revenue Canada had recoiled in horror at the notion of allowing defence and bail costs paid by a Vancouver madame for her ladies. "Why, that would be financing a sin!" harrumphed MNR. "Well," said the judge, "you seem quite willing to live off the avails! If you tax it like a business, treat it like a business!"

"Where there's a will... there's relatives."
Professor Jim McKenzie's T-shirt

Aleksandr Nikitin makes legal history

December 29, 1999 marked the acquittal of Aleksandr Nikitin. One of the century's last legal decisions was also one of its most important.

Nikitin, the courageous naval officer turned environmentalist, had blown the whistle on the Russian navy's practice of dumping raw nuclear waste into the ocean. In the old Soviet style, Nikitin was charged with a vague package of "crimes against the people" and was imprisoned indefinitely while they figured out what to do with him. Presumed guilty, Nikitin refused to trade silence for easy treatment and insisted on a full hearing.

For the first time in over eighty years, the Secret Police lost a case. True legal freedom took a giant step forward. As well as Nikitin's courage, that of Judge Sergei Goblets and defence counsel Yuri Schmidt must not be underestimated. Rule of Law in Russia can be marked from December 29, 1999.

"Orbiting the Giant Hairball" Work for the Big Grey? Trying to stay sane until they retire you? Here's the book for you! With chapters like "Pool-Hall Dog", "Pink Buddha" and "A Chicken's Fate", Gordon MacKenzie (an expatriate Canadian, of course) tells how he maintained his crazy creativity while working in the regimented world of Hallmark. An inspiration and a delight.

We're growing With the appointment of law clerk Terrie Anne Watson, our downtown office is now staffed full time. Terrie will handle our litigation and family law files, as well as covering other bases as needed. Clients will come to know Terrie as a thorough and conscientious worker who won't rest until the job is done, and done right.

How to Save Thousands in Legal Fees Practice "preventive law". Get your ducks in a row ***before*** the crisis arrives and you'll pay a fraction of what you would pay for "responsive law". The following two items give some specific guidance.

Free Legal Checkup Why not get the millennium off to a good start? Here's the deal: Take a few moments to list areas of your family or business life that are legally "fuzzy"--- the loose ends you were always afraid to ask about. Now you can ask. This February, all Newsletter readers can call in for fifteen minutes of discussion about any such concerns, **at no cost**. Just mention this article.

A Business "Disaster Plan" Sooner or later, something nasty will happen to your business. Incredibly, many businesses have no contingency plan. Many apply the ostrich method to the prospect of fire, vandalism, security breach or loss of a key player, client or market. A plan is a better idea!

A good plan needs to be in writing, well laid out and understandable. Key personnel need to know where it is and how it works. At least one "outside person" (lawyer, accountant, etc.) should have a copy. Insurance (overhead, income, disability and key-man) must be not only planned but implemented in advance. Back up systems and back up personnel (perhaps a "buddy system") should be ready to roll out without a hitch. Finally, decide if, when and how to advise the bank.

Where's Joe? After a stint with EDS Systemhouse, former partner Joe Cuffari is working for high tech firm Creativity Plus where he brings his legal and business skills and his growing high tech knowledge to bear on a variety of interesting projects. Joe is developing an expertise in the legal and technical aspects of internet security, particularly public key infrastructure (PKI).

You gets what you pays for! A law firm, somewhere in Ontario, currently runs a full page advertisement in a local paper. The rates are amazingly low. The advertisement contains at least five glaring typos. Go figure.

"Orville Wright did not have a pilot's license."
Gordon MacKenzie