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ADVISOR'S EDGE REPORT

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STRATEGIC INTELLIGENCE FOR ADVISORS

BY DANIELLE ARBUCKLE

REVISITING RESOURCES

Commodities look poised for stability, but base metals tell a compelling story.

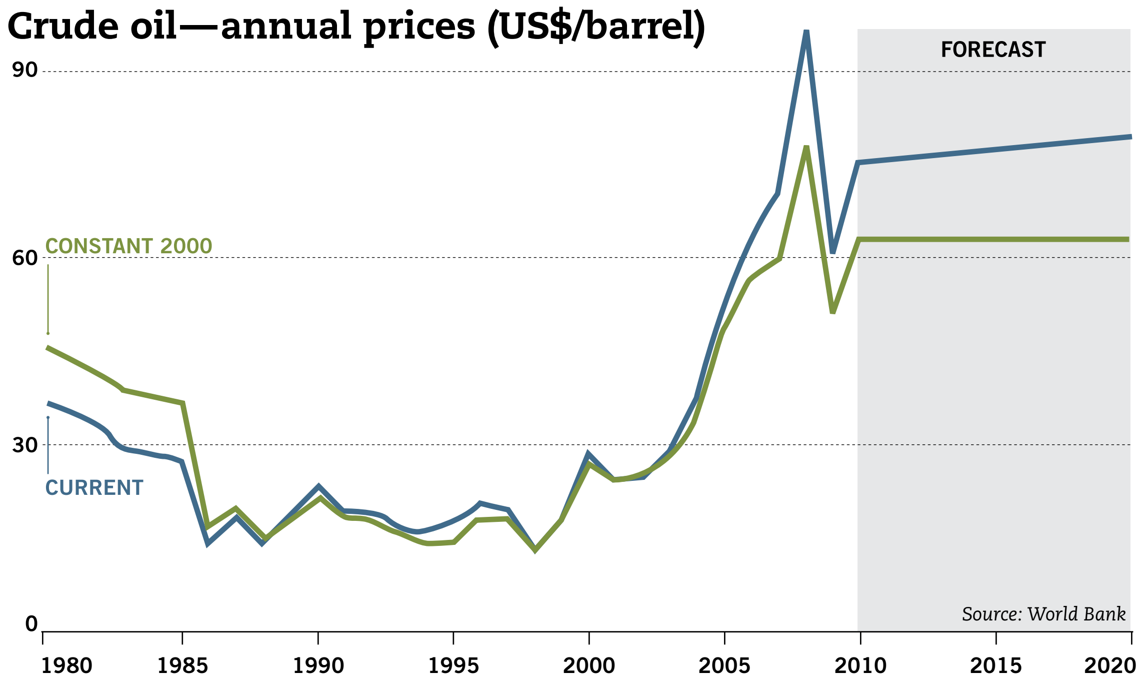
NEWS In the wake of the financial crisis of 2008-2009, you'd be forgiven for expecting commodities prices to continue to fall or rise very modestly. That's what typically happens after a global recession.

Yet this time around, commodities prices for the most part have shown remarkable resilience and have rebounded surprisingly quickly. And that's giving analysts and investors alike something to talk about. In most sectors, prices are stabilizing or increasing steadily now that economic activity is resuming. Still, some sectors have more positive outlooks than others.

For example, oil consumption in developed nations hasn't necessarily rebounded as much as expected, and yet oil prices appear to have hit a floor.

Meanwhile, the North American natural gas picture isn't pretty, and prices are trading in a tight range. Fortunately, consumption in Asia has prevented global demand from completely deteriorating.

Crude oil—annual prices (US$/barrel)



On the mining side, gold, as much a flight-to-safety investment as ever, has surprised some analysts and investors with its inability to break $1,500 per ounce, even at the height of the financial crisis.

And in base metals, some interesting global trends are driving prices for commodities such as copper, zinc and aluminum.

O&G juniors look promising

Taking a look at crude oil, it's been nearly five months since the Deepwater Horizon exploded in the Gulf of Mexico, and the event is still making news. The latest is BP engineers will detach the temporary cap that's stopping the gush while trying to avoid more damage to the environment. It's clear this story continued on page 2

FACEOFF

PARTICIPANTS:

- **Mike Armstrong,** VICE PRESIDENT AND INVESTMENT ADVISOR AT RICHARDSON GMP, SASKATOON
- **Richard Knowles,** FINANCIAL PLANNER, R KNOWLES & ASSOCIATES, VANCOUVER

MODERATED BY VIKRAM BARHAT

Should you only sell what you own?


BARHAT

NEWS **Mike Armstrong:** Arbitragers, speculators and some individual investors engage in a practice known as shorting stock. They make money when the price of the stock they're shorting goes down.

To short stock, you must open a margin account with your brokerage firm. You'll be charged interest on the borrowed funds [and be] subject to several rules and regulations that govern shorting stock. Because short selling is done in a margin account, the trader uses leverage to increase profits (or accelerate losses if the trade goes bad). Some investors practise shorting stock as a hedge to protect their portfolio. In most cases, this isn't continued on page 3

TECH FOR ADVISORS

Certain pieces of technology have changed how we do business so significantly that we can't live without them. **Learn more about what they are and why they're so important at www.advisor.ca/tech.** Also watch for the October issue of Advisor's Edge—the "cyber issue."

INSIDE

BY JAMIE GOLOMBEK

Advisor Expenses

Taking on the CRA, with positive results.

TAX Once in a while, it's refreshing to see a financial advisor take on the Canada Revenue Agency over business expenses and ultimately succeed — in getting at least some originally disallowed expenses permitted.

Take the recent case of insurance specialist Gordon LeRiche (*LeRiche v. The Queen*, 2010 TCC 416). In 2003, continued on page 21

TAX

ADVISOR EXPENSES

continued from page 1


GOLOMBEK

the tax year under review, he was responsible for providing estate-planning advice to CIBC Wood Gundy's clients serviced by its branches in Simcoe, St. Catharines, Hamilton, Burlington and Mississauga, Ontario (two branches).

He also provided estate-planning support to the investment advisors located at those branches. LeRiche and his three assistants worked out of the Wood Gundy offices in Mississauga.

When LeRiche filed his tax return for 2003, he deducted employment expenses of approximately $108,000. But the CRA reassessed him in late 2005, reducing the deductible employment expenses to $34,500. LeRiche objected, and ended up in Tax Court as a result.

At the hearing, LeRiche filed over 140 documents supporting the deduction of nearly all of the items he claimed on his tax return.

The *Income Tax Act* has specific rules governing the types of expenses a commissioned employee is permitted to deduct. In addition, an expense is only deductible if it's "reasonable," was incurred for the purpose of earning income, and was neither a personal nor a capital expense (other than car expenses.)

In conducting its review of LeRiche's expenses, the CRA denied many of them because they weren't incurred for the purpose of earning income from employment, were capital expenses, or weren't reasonable in the circumstances. Some of the expenses under dispute were advertising and promotion, supplies and staff expenses.

Advertising and Promotion

During the year, LeRiche deducted $7,600 in promotional expenses, supported by nearly 100 receipts, and incurred to promote himself to other investment advisors, clients, prospects, colleagues, head-office staff, insurance-company suppliers and strategic alliances.

The CRA allowed only $2,000 in promotional expenses incurred in respect of clients, prospects and strategic alliances, and refused any expenses incurred by him for promotion among advisors and staff.

The Judge disagreed, and found all the promotional expenses to be tax-deductible, as the advisors frequently referred clients to LeRiche. "[T]hey were an important source of business. … It was important for him to meet with the investment advisors to explain to them the services and products he could provide to their clients."

Supplies

LeRiche claimed nearly $13,000 in supplies, which the CRA denied, as Wood Gundy provided them, yet he "chose to purchase duplicate and supplemental supplies."

Again the Judge disagreed, stating "the Court must not second-guess the business judgment of the taxpayer. … [LeRiche] decided that supplies in addition to those provided … were required to effectively carry on his operations. That … was a business decision." The Judge allowed the expenses, other than $4,500 relating to computer equipment that was considered a non-deductible capital expense.

Staff Expenses

LeRiche also claimed $12,200 in staff expenses that he had personally reimbursed to his three assistants. This amount included the costs of assistants' cellphones, highway tolls and miscellaneous out-of-pocket expenses including car allowances.

The allowances were based on an estimate of kilometres driven by each staff member while carrying out her duties. The CRA argued that amounts paid were "not reasonable since [his assistants] did not maintain mileage logs."

But the Judge didn't find this lack of a logbook fatal to LeRiche's ability to deduct mileage allowances paid. "I fail to see why [his] deduction should be denied merely because his employees did not maintain mileage logs. Deductibility is dependent upon the purpose test … and a determination of whether the amounts paid as allowances were reasonable."

In the end, the Court found LeRiche was entitled to deduct a total of $78,000 in expenses.

While he spent over $70,000 in legal and accounting fees in this battle, he regarded the expenses "as an investment, not as a cost. The issues, if not challenged, could have been used for reassessment of future years' tax returns, producing a much larger problem." LeRiche said he tried to avoid a costly trial from the outset, but was "forced into this." At each point in the objection process, no matter what he submitted, the CRA simply "dug in their heels." His only recourse was to go to court.

While LeRiche didn't get the full amount claimed, it was still nearly $45,000 higher than the CRA's original assessment, proving that with good records and proper receipts you can beat the tax man — or at least meet him halfway. AER

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