

health adviser

Grant Thornton 

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Noticed any red flags flying lately?

Management can only manage with the right tools, and these include reliable financial information. Perhaps you are uncomfortable with the accuracy of the financial information being produced by your accounting system, or you feel there may not be enough controls in place to give you assurance regarding the reliability of your accounting systems?

Individual discrepancies indicated by "red flags" may not seem significant, but an accumulation of small differences may indicate material fraud. Red flags in themselves do not establish the existence of fraud, but they could lead to fraud if not acted upon.

What are the red flags that you should look out for?

- Staff under stress.
- Staff always working long hours and reluctant to take holidays.
- Staff refusing promotion.
- Staff obtaining unexplained wealth or a sudden change of lifestyle.
- New staff resigning quickly.

These are warning signs that fraud or error could occur or may have occurred. Experts suggest that 44% of fraud could have been detected earlier if red flags had not been ignored. Often these red flags are recognised but not acted upon. Business owners must always be conscious of unusual behaviour or out of place behaviour. It is then important to deal with a potential problem pro-actively and not re-actively.

Why are small businesses prone to fraud?

Red flags associated with employee fraud are usually due to weak internal controls, such as:

- Little or no segregation of duties.
- Established controls or procedures are not being followed.
- Where supervision of employees is weak.
- High employee turnover may exist.
- Low level of employee loyalty.

To give management assurance regarding the accuracy of the financial information, we recommend an independent review which would look at your company's system of internal controls to assess whether the controls are sufficient.

If you would like a review of your systems, please contact your partner.

How would you fare in a tax audit?

Now there is a way that you could find out beforehand. Engage one of our taxation specialists to review your organisation and report back on likely areas of risk, with recommendations to solve any problem areas.

Changes in tax laws or changes in the nature of your business and the way in which you conduct it could mean that there are some aspects of your daily operations that may not meet IRD requirements. For example, the income tax and GST treatment of transactions involving overseas parties and property transactions, can raise complex issues that may give rise to penalty exposures and continuing exposure to use of money interest at punitive cost.

Top Tax Discrepancies

The IRD recently completed an analysis of the major discrepancies identified in tax investigations. They represent a good indicator for clients to recognise common errors, and to ensure that checks are made to minimise the risks of falling into the same trap as some other taxpayers.

Top 9 discrepancies by value	\$M	Top 8 discrepancies by cases	No. of cases
Losses ineligible to carry forward	72	GST on FBT	195
Capital expenditure claimed	58	FBT - Motor Vehicles	128
Taxable income treated as capital	56	FBT - Free/Subsidised Goods	76
NRWT- failure to deduct and account	40	FBT - Superannuation	68
Group loss offsets	37	Capital expenditure claimed	123
Arrangements (Accruals regime)	26	Taxable income treated as capital	104
Reserves disallowed	16	Depreciation adjustments	101
GST- time of supply	15	Failure to deduct	
Loss on sale of assets not deductible	14	PAYE/Withholding Tax	67

Business risk and preservation

Arrangements where personal assets are being used to secure business liabilities should be reviewed to see if there are opportunities to 'quarantine' these assets so they are not dissipated through business failure.

Business preservation and succession matters should be considered, so as to have in place positive outcomes if the business owner or key person dies, or becomes terminally ill, or permanently disabled.

Those who take control in such an event need to have the resources and direction to ensure the business continues to trade in an appropriate manner or is able to be sold in an orderly fashion.

Part of this process includes having the principal income earner (or other key persons) adequately insured to provide sufficient capital and income should the need arise. Grant Thornton will work with you to assess what is currently in

place and how any shortfall requirements can be met.

This process provides reassurance to business owners that the way forward is well thought through and provides comfort to have considered and dealt with many of the risks.

Wills and Power of Attorney

Why is a Will important?

Your Will sets out your wishes when you die. We advocate everyone make a Will. Your Will should be reviewed regularly to ensure its contents accurately reflect your intentions in relation to the division of your estate.

It is important to address the appropriate division of your assets to the beneficiaries of your estate. Most parents, when addressing the contents of their Will, seek equality between their children. However, in relation to family business assets including shares in a company, it may be better to leave one child all of the shares in the company with the fellow siblings sharing in the non-business assets of your estate.

A review of the contents of your Will ensures your estate is appropriately allocated without conflict or having left issues for your trustees to deal with after your death.

Assets such as business loans owed to you by your company and shareholder current accounts need to be carefully examined along with advances or loans to family trusts. These assets form part of your estate and need to be addressed regularly as the amounts involved and number can vary.

From a risk management perspective, we encourage you to spend time ensuring the contents of your Will covers all your assets and fairly reflects your intentions.

What is an Enduring Power of Attorney?

There are different forms of power of attorney ("POA"). An enduring power of attorney is where you appoint a person (attorney) to be legally empowered to act for you in relation to your property and in relation to your care and welfare when you are unable to act for yourself.

The benefit of this is to allow decisions to be taken in respect of a person's assets and in respect of their care even if that person has lost the ability to make those decisions for themselves.

In the event that a person loses their ability to make decisions and manage their affairs and a POA does not exist, there is a costly and complex process of applying to the Court for a manager to be appointed to look after the person's affairs.

From a risk management perspective, we encourage all our clients to review their specific requirements and to consult their legal adviser regarding the consideration of giving a POA. A POA can ensure your assets and welfare are protected and managed in the event of you losing the ability to control or manage.

Relationship Property

The amendments to the Property (Relationships) Act 1976 came into force on February 1 2002. Broadly, the act provides the same benefits, responsibilities and legal structure for de facto and same sex couples that were previously available to married couples under the Matrimonial Property Act 1976.

From a risk management perspective it is important, under this new legislation, to assess the need for protection of your assets, both business and personal. Entering a new relationship has the potential to expose your assets (and liabilities) to claims from your new partner.

The legislation provides guidance as to what criteria deems a 'relationship' to be in place. The key time to protect your assets is at the commencement of the relationship and not two years down the track when things may be going wrong.

Something to think about

Other areas which you need to consider when assessing your risk management include:

- Business Structures
- Personal Guarantees
- Overdrawn Shareholder Current Accounts
- Directors' and Officers' Liability
- Employers' Liability 'Employment Agreements'
- Employers' Liability 'Occupational Safety and Health'
- Public Liability, Statutory Liability, Professional Liability
- Co-shareholder/Partnership Agreements
- Private Retirement Income and Capital Requirements

Family Trusts

This is one of the most often-talked about topics. **Why establish a Trust?**

- For protection of assets from creditors. Claims can come from a variety of sources, especially for self employed professionals, business owners trading as a sole trader or a partnership, and company directors.
- Tax savings, stemming from the ability to split income to beneficiaries that may be on a lower tax rate, eg spouse or children (this is now limited in the case of children under the age of 16).
- Protection against means testing for rest home subsidies or other income tested benefits.
- Protection against matrimonial disputes.
- Asset management, where someone is unable to manage their affairs because of age or infirmity. This can be very useful if there may be a child who, due to medical or employment conditions, is disadvantaged compared to other children in the family. A provision can be made for that child and continue after the death of the Settlers without any worry that he or she may miss out or be disadvantaged.
- Transferring assets to a Trust during a Settlor's lifetime makes the administration of an Estate much easier, with associated cost savings as well. The death of a Settlor does not affect the running of a Trust - it continues as before. A Will can be challenged after your death and your Estate may not go where you intended. Setting up a Trust with a corresponding Memorandum of Wishes as to how you wish your assets to be distributed can make it much simpler.
- The new Property (Relationships) Act 1976 has changed the way matrimonial property is split and any clients with an existing Trust need to review their Trust structure.

If you require further information on any of these topics or would like details on any other accounting matters, contact your local Grant Thornton office:

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