

client newsletter

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Safeguard your business

Being able to trust your team and advisors is gold standard. Keep it that way and don't make it easy for someone to abuse your trust. Think about these tips to safeguard your business and keep those trusted relationships strong.

Housekeeping

Good systems make it easy to understand and hard to hide things. If you have a system, make sure it's documented. They don't have to be complicated. For instance, when you refund a customer, make sure it's signed off by a manager or yourself and recorded somewhere central. Checklists can make a system easier for staff to understand and work with too.

Have systems in place to routinely look at where your money's going or that require you to sign off on key transactions.

Monitoring

Do you have regular reporting? Things to look for are unusual customer refunds or credits, a spike in new suppliers or payments to existing ones. Do your sales look right? Is there a dip in cash sales?

Know what benchmarks other businesses in your industry are hitting. Compare your profit to overhead ratios with theirs and question inconsistencies.

Buddy systems

Red flag any of your systems where only one signatory is required or only one person overlooks income and expenses. Make it part of the monthly routine to run the bank statements by more than one pair of eyes. Consider whether training up 'buddies' to share key financial responsibilities might make it harder to siphon off funds unseen.

Buddy systems can strengthen your succession plans as well as taking the pressure off when a signatory takes holidays. Ironically, it seems that people engaging in suspect activity tend not to take holidays for fear of being found out as they know someone else is performing their duties.

Risk and Reward

Keeping the relationship special

We have long known we're a nation powered by small business. And that lends itself to highly personalised ways of doing business, strong relationships going back a long way, teams that feel like family.

That's why it's so devastating when a business finds out someone they've trusted has cheated them, sometimes over a long time: a so-called 'person in a special relationship'. There have been a number of high profile employee cases recently, but it's not just employees – it could be any advisor. If they betray your trust, they are people who can damage your business badly.

When these stories come to light, there are many variables: gambling addictions, sudden illness in a loved one, someone dipping into client funds thinking they'd be able to pay it back, someone who's worked with the business since Mum and Dad ran it. The common thread is in the environment: someone was trusted enough that no one was checking.

Background checks

Reference checks are a truism of recruitment but it's important to take them seriously. If you're interviewing for a role with access to sensitive financial data or business assets, consider whether background checks are advisable, e.g. criminal record checks or confirmation of qualifications. Make sure background checks fall within legal requirements or you can fall foul of the Privacy Commissioner and/or the Employment Relations Authority. There are specialists who can provide this service.

Audit

While audit is a significant additional business expense and we don't suggest it lightly, periodic independent financial reviews or spot checks might be worth considering, if only to let it be widely known that this is one of your resources.

We can help you with risk assessment for your business and help you strengthen your systems if needed.

Enforcing employment standards

It is taking time for the impact of this year's employment law changes to sink in. Parental leave and the demise of zero hours contracts received a lot of press. Enforcing employment standards has had some coverage but always sounds a bit abstract in comparison. Yet this is an area that seems to bite employers.

The basic idea is to make sure employers pay at least minimum wage and give employees their proper holiday entitlements. Simple, right? However, it's exposed a dramatic number of cases where employers aren't doing this. The consequences can be grim.

Penalties for serious breaches

Where an employer has committed serious breaches of employment standards, the Employment Court can now order some very heavyweight penalties as well as compensation for affected employees.

'Pecuniary' penalties may be up to \$50,000 for individuals or, for a company, whichever is the greater of an amount up to \$100,000 or three times whatever gain the company made from the breach. Compensation to affected employees is tied to the amount the employee lost or was likely to lose because of the breach.

The employer may also face being banned from being an employer, an 'officer of an employer', or even involved in employing people. An 'officer of an employer' can be a director of a company, a partner in a partnership, or anyone in an influential senior role in a business. A banning order can be in place for up to ten years: a bit limiting, if you're in business.

The law explicitly prohibits insuring against penalties for breaching employment standards. It doesn't say anything about insuring for the legal costs or compensating affected employees but it would be better not to be in the situation where you have to do this kind of breakdown.

These more draconian sanctions are in addition to those already in the armoury of Labour Inspectors.

Liability for a breach

It's in senior management's interests to make sure the business' practices are in line with employment standards because the liability doesn't stop at the business entity. Where an employer is ordered to pay money to compensate an employee and can't or won't pay, the above-mentioned 'officers of an employer' may be liable if they are involved. A person is 'involved in a breach' whether they have actively brought it about or been a party to it in any way — directly or indirectly.

In June this year, in a case preceding the latest changes, an employer was ordered to pay \$161,343.67 in wage arrears, and interest at the rate of 5% per year, for breaches of minimum entitlement requirements involving 121 different employees. The employer was also ordered to pay \$65,000 in penalties for failing to provide written employment agreements; failing to keep holiday records; and failing to pay holiday pay, public holiday pay and minimum wages. The sole director and major shareholder of the employer company was found liable with the company for the wage arrears.

All employers need to know what the employment standards are and have good systems in place to meet them. It's not enough to simply say 'It doesn't affect us. We're not defrauding our employees.' There are enough employers out there getting it wrong on holiday pay and minimum wage entitlements to make another look at your systems worth your while. Ask us if you'd like more detail.

'Employees must be paid for all hours they work, and employers are required by law to keep proper time and wage records for all staff'

*Loua Ward, Regional Manager
Labour Inspectorate*

Vulnerable employees

The Labour Inspectorate is upfront about targeting employers who exploit vulnerable employees — for instance, those new to New Zealand, without long term visas or people to advise them.

In August, the Employment Relations Authority (ERA) ordered a Wellington grocery store to pay \$53,000 in penalties and arrears for employment law breaches. The employer had failed to pay the employee minimum wage, holiday pay or additional pay for working on public holidays; had not paid the employee for all hours worked; and had charged the employee more than \$10,000 in premiums by way of a payment of \$5,000 upfront, \$3,240 in regular small cash payments, and \$2,167 funding company expenses on the employee's personal credit card.

The penalty for breaches of the legislation was \$25,000, in addition to \$28,781.23 to be paid to the employee for minimum wage arrears, reimbursement of premiums and holiday pay arrears. 'This ruling sends a clear message to employers that failure to comply with minimum employment labour standards will not be tolerated,' said Loua Ward, Labour Inspectorate Regional Manager.





Tax Talk

Provide GST registration details to remote vendors

From 1 October 2016 non-resident businesses must charge and return GST where they meet the criteria to register for GST and they supply remote services (including online services) to New Zealand residents. As a New Zealand resident business, you won't be charged GST on these supplies, if:

- you are GST-registered
- the supplies are part of your taxable activity, and
- you let the non-resident supplier know you're GST registered and provide your New Zealand GST registration number or business number

Non-resident suppliers don't have to give you a tax invoice and you can't claim back any incorrectly charged GST in your GST return, except where the supplier treats your business as an individual customer and charges you GST by mistake. If that happens, you contact the supplier who either refunds the amount to you or issues a tax invoice for you to claim the refund on your GST return. You can only obtain a tax invoice when the supply is less than \$1,000. So it's just easier to let the supplier know upfront.

You might like to advise your regular suppliers ahead of time and word up your purchasing team to highlight it in their calendars to start reminding suppliers at time of purchase.

Tax changes for LTCs: watch this space

Proposals to change the rules governing look-through companies (LTCs) and closely held companies are currently going through parliamentary hearings and consultations. If passed, the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is expected to take start taking effect from the 2017 tax year.

The proposed changes are part of the moves to simplify tax, however there are some proposals which have a significant favourable effect. One such proposal is the removal of the loss limitation deduction in most cases (that is, where LTC losses are effectively limited to the amount the owner has at risk economically).

Another proposal affects situations where companies are liquidated and distributions of capital gains are made to shareholders. Currently, distributions of tainted capital gains (arising through a transaction with an associated party) involved in the transaction giving rise to the capital gain, are taxable. The new proposal is to exclude genuine capital gains from this by only taxing those distributed capital gains where the purchaser is a company and the shareholders of the company disposing of the asset retain an interest in the asset of at least 85% after the disposal.

If you would like more detail on how the proposals would affect your business, please contact us.

Got to love your P&L statement

How often do you look at the Profit and Loss (P&L) statement for your business? Only once a year? It could be more useful to monitor it more often.

Your P&L statement gives you a great way to keep an eye on how your business is doing. Like the name suggests, it shows profit and loss for a given period. That might be monthly, quarterly or annually, as often as you like.

Your P&L statement charts revenue and expenses - incomings and outgoings - so that it can help you see what's actually happening with your cashflow. This is why it's also sometimes called an income and expenditure account or a statement of financial performance.

The basics

When you look over your P&L statement, look for a few basics:

This year/last year?	How do this year's numbers compare with last year's?
What's the margin?	What's the margin between revenue and expenses? After you've taken away all your expenses, the remainder is your profit. This will give you an idea of how much you can take out of the business and how much you are likely to need for your normal business costs. Is there room to factor in a buffer amount for unexpected costs? Do the numbers fit with what you know you need for upcoming tax payments? Should you be reinvesting in the business?
What are the trends?	Do revenues or costs rise or fall in a regular pattern from month to month? Can you see why the patterns occur?
What bucks the trend?	Can you see any incomings or outgoings that don't fit with the pattern? With windfall revenues, is there anything you could do to extend them so they become the norm rather than the exception? With sudden unpredictable spikes in your costs, are these easily explained or are they symptoms of emerging business risk?

Take action

Regularly checking in with your P&L is a great risk management strategy. And if you're trying new marketing techniques or running new product lines, it's a good way to track whether they're performing well.

You know we love this stuff. We would be happy to talk you through how to gain more meaningful data from your P&L.



Your business performance in perspective

Your P&L statement is accrual based and also includes non-cash expenses such as depreciation.

It will show all income and expenses for the period, whether or not the income has been received or the expenses paid for.

This presents a more comprehensive picture of business performance which makes it a great tool for you to use for analysis or planning.

Disclaimer

This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation.



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