



How to avoid professional negligence claims

Does the risk of a PI claim keep you awake at night? If 'yes', why?

This sheet contains a summary of all of the ideas on this topic contributed by those who have heard me present this talk recently. Thanks to those who contributed.

By far the majority answered 'No' but a number of people added comments:

NO:

- No point worrying about what might happen. Better to spend the time avoiding the risk in the first place
- It should do but I sleep well!
- Our firm has very strict procedures which, if adhered to by all, minimises the risk of a claim.
- I'm not a partner. The impact of a claim would not be huge on my life.
- But it probably should!
- But then again, maybe I'm naïve enough to think that my tax manager and staff are good at their jobs!
- [added later] Not until this talk;
- Although I am often concerned that my advice might not be comprehensive
- Although I'm conscious of the risk to my job if I make a mistake;
- As I would not like to be wasting negative energy on a case;
- As I'm not a partner but I believe it is quite easy for a tax adviser to unwittingly become a victim of a PI claim – eg: due to admin staff misfiling papers etc;
- But I am very conscious of the risk;
- But it should!
- But it is something I am aware of;
- But the inevitability of claims does;
- Not as an employee – however it is a concern;
- Doesn't keep me awake but it is always a worry in the current litigious society in which we live;
- Hopefully trust is enough and our systems catch any problems;
- I am a bad sleeper anyway!
- I rely on my insurance
- I trust the Almighty.
- I try to leave the office behind me when I go home;
- It's a factor in the decision of whether or not to set up my own practice;
- It has not done so far but by the end of your presentation I may do in future!
- It used to, many years ago – I wised up!
- Not previously. Thanks Mark!
- Not unless I have prepared a very complex tax comp;
- Not until today and listening to what can go wrong on this course;
- Not usually – I do my worrying during the day!

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- PI claims do concern me but don't keep me awake;
- Sometimes – depending on the proximity to a deadline;
- The risk of a claim can only be managed by balancing time/cost constraints with following risk minimisation actions;
- Too much else to think about!
- That's for the managing partner to worry about!
- The partners in the firm do it for me;
- Very limited risk on the advice that I give;
- We have good internal resources and controls to ensure correct advice provided and uptodate;
- What's PI for? Insurers should be kept awake, not me.

Those who said 'yes' all explained why:

YES:

- Causes stress
- My integrity is at stake
- Long term effect on my career and professional reputation
- Growing too quickly and coming across some situations that I've not dealt with before
- Occasionally when deadlines are missed and a client incurs penalties, also when typing errors are made
- Uncertain outcomes
- Only if I'm worried about a certain job or clients
- Occasionally = the damage to my reputation
- Work being dealt with by inappropriate staff
- Occasionally – fear of reaction of client/firm
- Complex tax system
- Litigious public
- Litigious society – aggrieved incompetent clients looking for someone to blame for business failure
- Decreasing time availability
- Increasing amount of PI small print
- Anyone doing a proper job will be sued at some point in time;
- Because even though conscious of PI issues I am always prone to human error;
- Because it could cost me money;
- Because of the embarrassment;
- Clients wishing to maximise tax savings ie: 50/50 shareholdings with spouse; risks discussed with clients but not documented in the majority of cases. Relationship based on trust;
- Convinced my knowledge is not as uptodate as it should be but working on it
- Could lose everything;
- Due to the ever-changing tax laws, regulations and the purposive construction of the law;
- Failure to recognise a claim or a potential claim;

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- Fear of getting it wrong;
- I have discovered some 'Donald Rumsfeld' type "unknown unknowns";
- I know I don't know everything!
- I may lose my livelihood;
- I'm somewhat paranoid (possibly I'm a perfectionist who keeps revisiting past decisions);
- In case I do something wrong that I'm not aware of.
- In case one has not thought of all possible answers to a tax problem
- It has done previously on occasion – but I always managed to resolve things; If one has good systems and is confident of advice then all should be ok;
- Knock on ICAEW Disciplinary effect;
- Lack of internal controls;
- Living in a more litigious environment;
- Never had a claim but always worry that if there was one I worry that the insurers would wriggle out of liability;
- Occasionally
- Occasionally if I have taken too long to do a job;
- Occasionally if there has been a problem that involves a mistake by my firm;
- Occasionally when errors are picked up when reviewing tax returns when they are completed under pressure during December/January each year.
- Occasionally! Mainly because of fear of impact on credibility;
- Old planning tips now under scrutiny – Arctic and personal service companies;
- Only when there is real cause of concern such as exceeding my technical expertise;
- PI cover may not be high enough;
- Professional image, loss of clients, disciplinary issues with the Institute;
- Reputational impact and interpretation of advice;
- Some clients may misinterpret the advice we gave them;
- Sometimes – if I know I have made a mistake.
- Sometimes – loss of reputation and self-esteem;
- Sometimes as I have differing opinions on many tax advice issues to others in my practice;
- Sometimes – I worry that will not be covered by my policy, not sure why.
- Sometimes because I fear the loss of my reputation and self-esteem;
- Sometimes due to certain clients' ethics;
- The ever changing world of tax makes it hard to keep up;
- The law is changing very rapidly and difficult to keep up to date;
- The longer I work in tax the more aware I become that it is impossible to be fully up to date in all aspects of tax;
- Time and repercussions
- Very occasionally – financial impact, cost and impact on my credibility;
- Wondering what have I inherited on joining a firm following a partner's retirement;

Please note that by sharing contributors' views I am neither endorsing nor condoning any of them. But I'm sure you'll get some value from knowing what others do and by comparing your own approach.

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