



How to avoid professional negligence claims

When I present this talk I encourage the audience to contribute their own ideas of what works for them as regards a number of topics covered during the session.

I have listed a selection of contributed ideas below. I update the list on my website usually within a week of each presentation.

Reducing the high likelihood/high impact tax related risks

- Double check advice given if in doubt;
- Consult outside advisers – on specialist subjects; Take expert external advice;
- Careful review of advice given on on-standard areas; Get another partner to check;
- All correspondence and emails has to be seen first and approved by a partner;
- I don't do anything fancy myself. I leave it to PwC;
- Advising clients that this is not work I wish to advise on. I encourage them to find a firm with greater expertise.
- Correspondence *[by which I assume is meant letters containing advice]* can only be signed out by a partner, including emails.
- Reviewing all high risk work x2 *[I've also heard this referred to as a four eyes policy]*
- Ensuring engagement letter accurately defines relative responsibilities and caveats re such work
- Use peer reviews on all planning exercises
- Check with consultants and refer to this in notes/letters to clients
- Engage tax partner
- Stating clearly what assumptions we have made and also the potential consequences of a variation in each one.
- Ensuring my role is clearly defined and that the client understands the work I am doing.
- Good procedures, good relationships with clients, good engagement letter, lots of training, good staff
- Always get 'expert' help – in cases where I feel I don't possess all knowledge
- Consult a specialist on difficult or high value cases
- Be careful what is or is not implied
- Encourage realistic expectations
- Being clear on tax rules, ifs and buts (not guaranteeing plans will work)
- Referring high impact tax positions to a specialist (buyer beware; point out caveats)
- Avoid areas where we do not feel comfortable, seeking outside assistance where we consider it necessary
- Obtain second opinion possibly from consultants
- Try to ensure advice is in writing and try to hedge around so not being too absolute
- Explain risks upfront to clients. Document with file notes.
- Issue engagement letters with liability limiting clause

Please note that by sharing contributors' views I am neither endorsing nor condoning any of them. It's your decision what you do. Not mine.

Last updated: June 2006