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LIFESTYLE AUDITS CURB ERRANT BEHAVIOUR

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In today's heightened times of public scrutiny and calls for ethical leaders, it's not surprising that many concerned citizens have become far more demanding for good governance and transparency. Social media has been a major contributor to this call, such that a person's privacy -- including matters such as their social pleasures and behaviour -- are broadcasted in seconds to almost any corner of the world. For example, if a work colleague is an avid user of Facebook or Twitter, it's not too difficult finding out what that person's likes and dislikes are, what gyms or sport clubs they attend and how often, right down to discovering their dream car or accommodation.

Many people have become habituated to sharing their and other individual's personal details, and the information they openly disclose on public networks and other environments may become their greatest downfall. Besides the internet security risks amongst others, they may also have inadvertently alerted a number of parties, including the tax authorities of their lifestyle which may be at odds with the manner in which they initially led them to believe. So, in a workplace environment for example, if a colleague is on a low paygrade and there is no reasonable explanation regarding their sudden (or gradual) noticeable wealth, then this 'new status' could trigger a number of questions from envious co-workers, and possibly even the receiver of revenue and similar regulatory bodies.

Whilst a lifestyle audit is typically initiated by an official from the government's revenue or tax departments, there are also legitimate reasons for an organisation to question their employee regarding a mismatch of their earnings as compared to the employee's lifestyle.

Expectedly, an organisation should be concerned if say a low paygrade employee were to be arriving at work every day in a Lamborghini, and they were fully kitted with a R35,000 Kiton suit and Panerai watch. Indeed the extravagance depicted in this example may be a lot more subtle, such where the employee may not have wanted to attract unnecessary attention and they may then have quietly disbursed their illicit gains amongst their related beneficiaries.

"Lifestyle audits are an excellent barometer of the extent of the fraud risk within an organisation, and that companies should make use of this proactive anti-fraud mechanism to protect themselves before they fall victim to fraud and, in some instances, to identify fraud which is happening right under their nose!" - Powell (2011:4)

Source: The best practices applied

Of course there could be a plausible reason that an employee's income is unaligned to their new-found assets. But it is rare that these vast differences between income and assets are legitimately supported by a passing relative who left their massive fortunes to a remaining family member or friend. Besides the obvious questions that will be asked regarding the manner in which an individual acquired their unusual mismatched wealth of assets and lifestyle; the government authorities will most certainly be triggered into action to determine whether or not the individual acquired their assets on a legitimate basis, including the associated taxes that should have been paid on the individual's earnings in such a position.

In relation to conducting a lifestyle audit; it is often used as a tool by government authorities to investigate claims and or suspicion of individuals who are evading their tax obligations. Quite different to tax avoidance, evading the payment of personal taxes is often categorised as a form of white-collar crime and employers have a responsibility to alert the authorities if they reasonably suspect this type of behaviour from their employees.

Whilst an employer does not have the legal grounds to conduct a lifestyle audit on their employees in the same fashion as the government authorities, it may be prudent to understand the mechanisms that will spark such an investigation. Given a government's authority and extended legal reach, such an investigation is completely within their jurisdiction and powers. This having been said, increasingly tax and regulatory authorities across the world are uniting their efforts in order to apprehend individuals who evade their personal tax obligations.

In respect of employers making use of a lifestyle audit; employers do have the means -- whilst following proper procedures -- to make use of a lifestyle audit as a proactive way to determine the manner in which an employee's lifestyle differs as compared to their financial means. This is even more so if a *prima facie* case has been established and where the organisation has suffered a loss as a result of an implicated employee and their errant actions.

Indeed such an investigation, undertaken by the employer, will generally require the consent of their employee being investigated. Obviously, with or without the employee's consent, a lot of information will in all likelihood already be in the public domain for the employer to collect. Notwithstanding, it is imperative that the privacy rights of the employee -- or for that matter any person subject to a lifestyle audit -- are observed and protected.

Tax evasion as a white-collar crime is costing governments billions each year as perpetrators inflate their annual deductible personal expenses whilst not declaring all their income sources. Misrepresentation of this nature, such where the individual intentionally behaves in a manner to deceive the authorities and evade the payment of their personal taxes, falls within the category of occupational fraud and it is growing at an alarming rate.

Whilst tax evasion may not necessarily fall within the scope of the *2016 Report to the Nations on Occupational Fraud and Abuse* ('Report') -- which has been produced annually since 1996 by the Association of Certified Fraud Examiners ('ACFE') -- the point is made that occupational fraud is a growing international threat and trying to prevent and detect it, remains a formidable task. Whilst organisations surveyed in the ACFE Report estimate annual losses of 5% revenue due to general fraud, the fact that perpetrators go to great lengths to conceal their fraudulent activities, makes it nearly impossible to determine the actual losses associated with individuals under-reporting their income and assets. This being the case, the ACFE Report confirmed that the more senior an individual is within an organisation and who have fraudulent tendencies, the greater the size of the fraud.

Interestingly, the biggest behavioural 'red flag' to occupational fraud, was found to be individuals who are living beyond their means, and this was followed by other warning signs such as individuals experiencing financial difficulties or those with excessive control issues amongst other factors. Although it may be debateable as to whether or not an organisation will accept that tax evasion on the part of their employees is an occupational fraud warranting their investigation or attention, an incongruent lifestyle on the part of an employee could be an indication of a potential fraud from within the organisation. But in addition, it could also form part of a reportable irregularity whereby the organisation has a duty to report such notable lifestyle differences to the government and regulatory authorities.

If an organisation operating in South Africa fails to report on such incongruence attached to an employee, this may well offset some form of vicarious liability as set out in legislation such as the Public Finance Management Act'99, the Municipal Finance Management Act'03, the Prevention of Organised Crime Act'98, the Prevention and Combatting of Corrupt Activities Act'04 and the Financial Intelligence Centre Act'01 (irrespective of whether or not the organisation has suffered a loss).

Given the many South African public personalities who have been implicated in rather dubious financial gains in recent times and which have been splashed over the media headlines, one wonders why there aren't more lifestyle audits being conducted and bringing the perpetrators to book.

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About Megan Grindell

Megan Grindell is a specialist in the areas of fraud and ethics risk management, corporate governance and labour relations. She has in excess of 20 years business experience in both large multinationals and consulting organisations. Megan is a Certified Ethics Officer and a Certified Fraud Examiner, and holds qualifications in the HR field, labour law and business analysis. She is a seasoned trainer and research practitioner. She has presented on various fraud, labour relations and ethics topics at a number of industry forums. Megan has worked extensively in 12 countries: across Sub-Saharan Africa, Middle East and Indian Ocean. Her ability to work across various jurisdictions and cultures has ensured her ability to develop and maintain astute and adaptive ethics, governance, labour relations and investigative policies and methodologies.