

STEP BY STEP WITH MONEY – ARE GIFTING CIRCLES LEGAL?

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Over the past weeks we have been saving our money and looking at ways to invest it. Last week, I suggested that we should engage a professional financial adviser and set out factors to consider when choosing one. Our mindset when choosing a professional financial adviser should be the same as choosing our mechanic or dentist. When we need a filling, we ensure our dentist does not use mercury fillings. We question our dentist about the procedure. We should adopt that questioning mindset when choosing our professional financial advisors.

This week I want to raise caution with investing, we need to do our due diligence. We may be offered an incredible investment to earn multiple amounts over and above our initial investment. This is where we should exercise our questioning mindset. In today's economy, receiving a return on our investment of 6% per annum is considered exceptional, 20% even more so and claims of a 200% return is likely to be a lie. Remember, if it looks too good to be true then it probably is.

A 'Gifting Table' in the USA required members to pay a joining fee of \$5,000 in the hopes of walking away with \$40,000 after recruiting members into the sisterhood. The women who set up that gifting table were sent to jail for 4.5 years for running a 'pyramid scheme' (see US District Court, Judge Alvin W. Thompson and Fox CT/August 2, 2013).

In New Zealand, 'Gifting Tables' may be referred to as 'Gifting Circles'. The NZ Commerce Commission defines a pyramid scheme as having the following essential elements (August 2010, Data Sheet): (1) it offers a financial return based on the payments made by new recruits; and (2) the return is dependent primarily on the continued recruitment of new members, **not** [my emphasis] sales of a product or service.

I am unable to find direct comment on the Commerce Commission website on gifting circles. However, "Newshub" in an article dated 4 December 2016 interviewed Antonia Horrocks, General Manager, Commerce Commission, who noted that the commission is not investigating any gifting circles and stated "*we strongly advise New Zealanders not to join up*". Ms Horrocks further noted that the "*Hallmarks of pyramid schemes are that they require continued recruitment of new members, who have to pay to join, and there is an expectation members will eventually profit from being involved*". The article then noted that Ms Horrocks pointed out that the schemes would collapse and those at the bottom would lose their money. Importantly, Ms Horrocks noted that anyone running or promoting a pyramid scheme could be prosecuted.

That same article also interviewed Soreya James, who claimed that gifting circles are not pyramid schemes and that she received less than \$100,000. However, in a "stuff" article titled "*High-flying women lose money in secret spiritual movement with 'hallmarks of pyramid scheme'*" also dated 4 December 2016, Ms James, one of the first women to bring gifting circles into New Zealand stated that rumours she lives off the proceeds are exaggerated and that she lived modestly and at times had been on a benefit or living hand to mouth to make ends meet.

The Commerce Commission provides an example of a scheme where the company and individuals concerned were convicted and fined. **Please note, I am not saying that people operating a gifting circle will be convicted and fined. I am sharing this example as a comparison of gifting circles as investment opportunities...(also, although not binding on New Zealand, the USA decision above is noteworthy).**

Example, a scheme offered membership costing \$3,500 plus GST to an alleged concierge service and access to a closed buyer group that claimed to receive discounts at various rates from a number of businesses. Members were also given the opportunity to earn significant remuneration by the recruitment of new members. The Commerce Commission obtained an injunction against the scheme, which prevented further operation or promotion of the scheme and effectively froze any money in its bank account. The company and individuals involved were convicted and fined. The Court ordered repayment of membership fees to two witnesses from the frozen company bank account.