

Criminal behaviour?

The international fight against tax avoidance is intensifying; clients are scared of reputational damage and there is a concern that tax advisers could be perceived as facilitating crimes

The global drive to tackle tax avoidance means that domestic tax authorities are feeling increasingly empowered and consequently, tax inspections are on the rise. Clients are terrified that their tax structures could be interpreted as tax avoidance, with the result that their reputations could be completely destroyed. As a result, there is increasing pressure on lawyers to not only provide legal advice but also assess the potential reputational risk associated with certain tax structures. It's a difficult

environment for tax lawyers to operate in. As one partner puts it, there is now "an increasing focus on tax advisers as potential criminals".

The economy is improving and, as transactions are increasing, there is a greater demand for tax advice, says Broseta lawyer Luis Alaix. "Tax inspections and related

litigation is also a hot topic," he adds. "During the crisis, inspections increased, as the tax authorities needed to complement the revenues they were losing as a consequence of the reduction in taxpayers' income – though the economy is improving, we still see significant tax inspection activity." Meanwhile, with regard to recent trends and developments, Baker McKenzie partner María Antonia Azpeitia says that the Spanish corporate income tax law of 2015 is "not only a challenge for practitioners, but also for the administration, and this means a delay in the processes". One partner says: "Changes in personnel at the Spanish tax inspectorate mean that getting answers from inspectors can be a slow process, because the new members of the inspectorate were not big advocates of the new law."

There is still uncertainty surrounding the Organisation for Economic Co-operation and Development's BEPS (base erosion and profit sharing) initiative, according to Javier González Carcedo, partner at PwC Tax and Legal Services. "Many domestic jurisdictions have implemented BEPS, but there is now uncertainty due to the EU Anti-Tax Avoidance Directive (which must be implemented by member states by 2019); the issue is how the deployment of this directive will be aligned with BEPS," he says.

Potential criminals

The BEPS and European Union fight against tax avoidance is giving more power to tax authorities and reducing the rights of taxpayers, says Ashurst partner Eduardo Gracia. As a result, tax advisers



Spain: What are the biggest challenges law firms currently face in the area of tax?

"The implementation of BEPs and its application by the tax authorities requires tax advisers to have an in-depth understanding of their clients' business, their industry sector and the particularities of the different jurisdictions in which the client operates. Without this understanding, providing the correct advice is no longer possible in this environment." **Bosco Montejo, counsel, Freshfields Bruckhaus Deringer**

"Having the means to provide the service needed by clients with an increasingly international profile, which in many cases requires a more and more specialised network." **Manuel Díaz Corral, lawyer, Ontier**

"The era of tax creativity and less conservative approaches is basically over, at least as far as the bigger players are concerned. International groups are changing their corporate structures to materially increase their tax payments in the countries in which they operate. They are doing this because of the painful tax assessments different tax administrations are delivering and also for reputational reasons." **Javier Fernández Cuenca, partner, Lener**

"One of the biggest challenges for law firms in the area of tax is how to provide tax certainty in an uncertain world. In this regard, clients demand that professionals are informed, have an international and global view of any transaction and its consequences in any jurisdiction, and, most difficult of all, anticipate the consequences of any tax reform." **Enrique Ortega, partner, Gómez-Acebo & Pombo**

"The level of uncertainty and risk which is, frankly speaking, not acceptable for both taxpayers and tax lawyers. It seems as if tax law is not treated as law." **Javier Prieto, partner, Araoz & Rueda**

"Recruiting talented young lawyers. After the economic crisis, it was relatively easy finding lawyers, now the best professionals are asking for better conditions and career opportunities." **Jordi Capelteras, partner, Jausas**

