

Tax: transparency is the new norm

The proliferation of new regulations worldwide, combined with deliberate data leaks to the media, has placed ever greater pressure on the global wealth advisory industry. In this new age of transparency, how can wealth advisers reconcile client needs with regulatory and moral obligations?

These were the topics discussed:

- *The Panama and Paradise Papers have raised the question of morality in the tax planning industry generally and undermined consumer confidence in the Offshore Industry:*
 - *Can good compliance rebuild that trust?*
 - *“Self-righteous” hacking is here to stay and will get more sophisticated*
 - *Can you mitigate the risk of reputational damage both for you and your clients?*
- *International transparency requirements are getting more onerous:*
 - *Will this result in a move away from the use of offshore centres?*
 - *Will we see a movement of funds to countries which have not signed up to CRS?*
 - *Transparency and privacy - are not mutually exclusive but there is a real tension*
 - *With all this extra data being collected and shared what should the compliance team do with this collected data?*
- *The narrowing definition of “legitimate tax avoidance” and increasing penalties for “getting it wrong” combine to make life in this space a challenge:*
 - *Are we being judged for yesterday’s actions by today’s moral code?*
 - *Are we likely to see a significant increase in the number of prosecutions or tax investigations?*
 - *What should you do when CRS shows up that your client previously lied to you?*
 - *How will the Regulators deal with the huge amount of data they will receive?*

PANEL SPEAKERS

- **Fernando Gandioli**, Partner, Withers KhattarWong
- **Peter Kiernan**, Independent Consultant
- **Vikna Rajah**, Partner, Head of Tax, Trust & Private Client, Rajah & Tann
- **Sunil Iyer**, Director, Iyer Practice Advisers
- **Woon Hum Tan**, Partner, Head of Trust, Asset & Wealth Management Practice, Shook Lin & Bok
- **Denise Lim**, Partner - Risk Assurance, PwC



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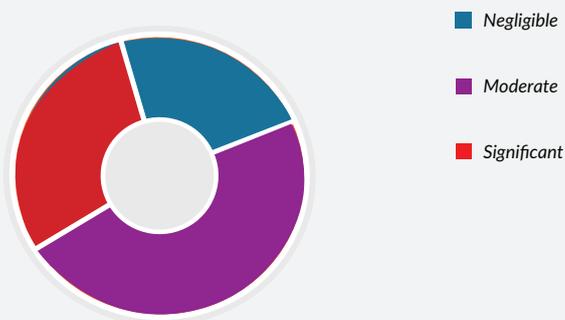
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WHAT IS TERMED ‘SELF-RIGHTEOUS’ HACKING as witnessed in the ‘Panama’ and also ‘Paradise’ Papers sagas is destined to be a regular feature of the new financial, media and social media landscapes, as the authorities and individuals take up arms against tax evasion.

Wealth advisers are now struggling with core issues arising from the proliferation of regulations surrounding financial and data reporting. Can wealth advisers, for example, mitigate the risk of reputational damage for their firms and their clients? Can advisers still promote the use of offshore financial centres? Will

CAN WEALTH ADVISERS, FOR EXAMPLE, MITIGATE THE RISK OF REPUTATIONAL DAMAGE FOR THEIR FIRMS AND THEIR CLIENTS?

GIVEN THE CHANGES MADE BY DONALD TRUMP’S ADMINISTRATION TO THE US TAX REGIME, HOW LIKELY ARE WE TO SEE REPATRIATION OF INCOME AND PROFITS TO THE US?



Source: Hubbis Compliance in Asian Wealth Management Forum 2018

there be a movement of funds to countries which have not signed up to the Common Reporting Standard (CRS)?

These and other important questions were debated by a panel of experts at the Hubbis Compliance in Asian Wealth Management Forum in Singapore on January 18.

Balancing transparency and privacy

The world is clearly waiting to see how transparency and privacy play out as private banks and other wealth firms are required to collect and maintain ever more data on clients. Many are on tenterhooks to see if there will be a surge in the rate of prosecutions.

And individual practitioners and their firms are wondering how to react if they learn, due to CRS, that their clients have been less than forthcoming with them in the past, or even worse they might have been acting fraudulently or with criminal intent.

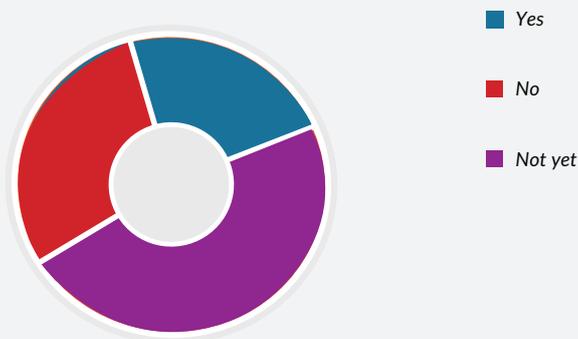
The unprecedented supposedly altruistic data leaks in the ‘Panama’ and ‘Paradise’ papers sagas have raised the question of morality in the tax planning industry generally and undermined consumer confidence in the offshore industry.

The documents appeared to indicate that in many cases the offshore vehicles - mostly legitimate in



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HAS THE BAD PUBLICITY CONCERNING THE USE OF OFFSHORE STRUCTURES MADE THEIR CONTINUED USE TOO RISKY?



Source: Hubbis Compliance in Asian Wealth Management Forum 2018

themselves - had been used for various illegal activities, ranging from fraud to tax evasion to sanctions avoidance.

Offshore structures becoming tainted

“I think most of the public distrust offshore tax structures, especially the lack of a moral position,” said one panellist. “People will more often now wash their hands of these offshore structures. In the UK they used to regard tax avoidance as legal, but tax evasion as not. But now there is an increasingly strong perception in the UK that tax avoidance is tantamount to tax evasion. Accordingly, in the UK there is a growing impetus toward very straightforward tax planning.”

Another expert explained that the trend towards eschewing offshore structures has been growing for the past five or more years. “That said, we still see people who find uses for the structures, but they are very much more careful, they obtain tax opinions, and they solicit clearance, and so forth. The days of someone who decides to open a number of offshore companies to hold properties or similar assets are probably gone.”

But offshore can still be legitimate

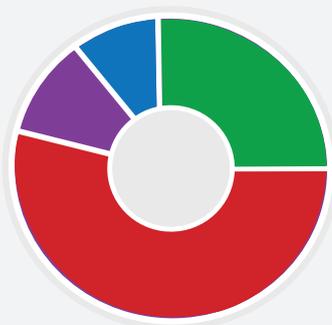
Another panel member observed that while sullied, offshore financial centres can still have a legitimate role. Foreign investors, for example, who are



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WHAT IMPACT DO THE PANAMA AND PARADISE PAPERS LEAKS HAVE ON THE CREDIBILITY OF USING OFFSHORE STRUCTURES?



- None, but I'm not sure the public or media would accept that
- Some, there is an increasing distaste in tax authorities for such mechanisms
- A lot, the adverse media coverage makes even the most benign use of offshore structures look seedy when exposed by a leak
- None, properly used they serve a valuable purpose with no loss to tax revenues

Source: Hubbis Compliance in Asian Wealth Management Forum 2018

looking to invest into the US often still have a fair and sensible need for offshore structures.

“The use of BVI and Cayman entities are very effective for inbound US investment,” he explained, “for example for estate tax exposures in the case of individuals and they can provide significant benefits for funds. The one caveat is that an Asian investor who is now contemplating an investment in the US might think more carefully about the offshore jurisdiction. On the other hand, much tighter anti-avoidance practices and legislation in the US means the outbound sector from the US has certainly moved away from using offshore structures.”

Mid-shore benefitting...

Singapore attracts wealth from all over the world, but a Singapore structure is not considered as such a ‘red flag’ as perhaps a BVI or Cayman structure.

“Here in Singapore,” observed one panellist, “efficient tax planning which is purely legitimate, purely in line in with intentions of specific tax incentives, is sensible and legal. Mid-shore structures have benefited from the sullied reputations of some offshore centres, but certainly, aggressive tax planning that appears to be avoidance in Singapore is scrutinised very carefully and the authorities are increasingly tough in their actions.”

Another expert agreed that mid-shore structures in Hong Kong and Singapore have been on the rise as both jurisdictions offer appealing structures for tax mitigation and estate planning purposes. These two jurisdictions have maintained, and even built, positive reputational quality for Asian and global investors.

One panellist said he hoped that the media frenzy would not kill the offshore industry. “There is still a place for privacy protection for very wealthy families but there is increasing scrutiny of the sources of wealth globally, for example in the UK via the Unexplained Wealth Orders directives.”



WOON HUM TAN
Shook Lin & Bok

MID-SHORE STRUCTURES HAVE BENEFITTED FROM THE SULLIED REPUTATIONS OF SOME OFFSHORE CENTRES, BUT CERTAINLY, AGGRESSIVE TAX PLANNING THAT APPEARS TO BE AVOIDANCE IN SINGAPORE IS SCRUTINISED VERY CAREFULLY AND THE AUTHORITIES ARE INCREASINGLY TOUGH IN THEIR ACTIONS.

An example might be a foreigner buying some prime real estate in London, who might in the future have to explain in detail where the funds originated from for the purchase, not just the bank account but how those funds were derived in the first place. This, said one expert, has arisen due to concerns over the UK assets owned by many foreign parties, especially in recent years Russians, some of which are reputed to be associated with criminal gangs. And this could well be the tip of the iceberg.

Panellists said they felt it would be rather naïve to move funds from country to country to avoid the regulatory proliferation worldwide. “More and more countries are signing up to these directives, so there is little point in trying to dodge to non-compliant jurisdictions,” observed one panellist.

“Even though the US is to some extent moving in an opposite direction to the UK and some other jurisdictions, for example by not participating in CRS and by strong opposition from many conservatives to FATCA, information exchange is generally on the rise and the overall thrust seems inexorably towards more regulation and more enforcement.”

Reconciling privacy and transparency amidst the new regulations and directives is therefore likely to be an increasingly difficult juggling act. “There is clearly a general change in climate taking place and tax authorities are getting ever tougher, so caution will likely increase.” ■



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