

International employers – top traps for Spain

A high level overview for international employers looking at the top five traps for those new to employment law in Spain.

Submitted	27 October 2014
Reviewed	16 April 2018
Applicable Law	Spain
Topic	Employment, Pensions & Incentives > International overviews

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Set out below is a high level overview of the top employment traps that an employer might face when dealing with Spanish employment law for the first time.

- Failing to appreciate the limits which apply to the linking of fixed term employment contracts and therefore risking having such employees become permanent employees.
- Using (and incorrectly labelling) individuals as self-employed or independent contractors which can lead to sanctions, fines and the individual claiming employment status, damages and extended protection.
- Not being sufficiently careful when using an external company to provide services (whether that be to cover a temporary need for additional personnel or in order to outsource services – such as cleaning) leading to a finding that there has been an illegal transfer of employees, the individuals claiming employment status and compensation.
- Being unaware of the fact that an employer can (generally) take disciplinary action without prior notice and/or without allowing the employee to allege anything and so not maintaining confidentiality when planning disciplinary action against an employee thereby allowing the employee, as a tactical move, to lodge a claim (on other grounds) purely to enable them to claim that any subsequent disciplinary action is unlawful victimisation and consequently null and void.
- When reaching agreement before the Administrative Authorities to allow a severance package to be exempt from tax, failing to comply with statutory formalities that apply in relation to the way in which a dismissal should be carried out with the consequent risk that a labour and tax inspection could find that, instead of a dismissal, there has been mutual agreement (with amounts paid being taxable). After the tax reform published on 30 July 2014 including taxation of severances over €180,000, doing the correct tax withholdings is now another key area for employers.

Comprehensive information on the employment law issues that arise in Spain is available [here](#).

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