



# 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.

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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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