
UNITED STATES

Law and Accounting Firms vs. COVID-19
by William Hoke

As the number of COVID-19 cases continues to climb, the tax practices of law and accounting firms worldwide have experienced a business downturn and restrictions that would have been unimaginable just a month ago.

Tax practitioners at several firms shared their thoughts with *Tax Notes* regarding what their shops are doing to adapt, and how they expect what is perhaps the most severe challenge to the profession during their lifetimes to play out. Some say that despite all the gloom and uncertainty, the crisis also presents opportunities for tax professionals.

Tony Monger, director of tax investigations for Mazars in the United Kingdom, said a large part of his firm's revenues comes from audits, which have been "severely impacted" by stay-at-home restrictions. "We might normally have teams of staff at client premises for weeks on end," he said. "Additionally, the U.K. tax authorities are being tasked with a lot of the financial support roles for employees, businesses, and the self-employed, so that they are not able to put many resources into compliance areas such as tax investigations, which is my particular line of work. A result is that, whilst I personally have no problem in working from home, the queries from [HM Revenue & Customs that] provide the bulk of my work are slowing down and are likely to reduce to no more than a trickle."

Mark Vorsatz, managing director and CEO of San Francisco-based Andersen Tax LLP, said suspended court dockets haven't cause a problem for his firm. "However, [the coronavirus] is slowing the ability to get selected transactions implemented that require court supervision and/or government approval," he said.

Muhunthan Kanagaratnam, a partner with Gilbert + Tobin in Sydney, said that while his direct tax team is holding up better than some of the frontline groups at his firm, business is still not at normal levels. "We attribute this to the work shifting from value-focused [mergers and acquisitions] to a more restructuring-oriented focus as businesses change business models and

activities to mitigate costs," he said. "As both of those involve tax considerations, we are seeing new work despite the broader downturn."

Carl-Magnus Ugglå, a partner with Bird & Bird in Stockholm, said the activities of the Swedish Tax Agency and the administrative courts have not been significantly affected by COVID-19. "Work relating to tax controversy is proceeding as planned, and since no deferrals with deadlines have been [announced], so is compliance-related work," he said in an email. "Stand-alone tax work is thus not really affected. However, since the majority of our work is related to transactions (structuring work) and the transaction market to an extent is on pause, we see a decrease in our total workload."

Sweden has been something of an outlier in its response to the pandemic by allowing businesses — including bars and restaurants (serving seated customers only, to avoid overcrowding), as well as many schools — to remain open. While the government has imposed some restrictions, it is largely, and controversially, relying on voluntary efforts and social pressure to reduce the spread of the contagion in hopes that older Swedes will self-isolate and younger people will practice physical distancing.

"There is a combination of factors that have helped us," Ugglå said. "One is . . . that Sweden has chosen less severe restrictions. We are instead working towards a herd immunity, so the decline in business share may be less dramatic. That is naturally a general factor helping all Swedish firms."

Stimulus Planning vs. Survival Strategies

Andreas Erdbrügger, a partner with Flick Gocke Schaumburg in Berlin, said that while the stimulus measures announced by the German government might present some tax planning opportunities, they are not the main emphasis. "Most measures in Germany focus on the postponement of tax payments, not a tax cut," he said. "I can't imagine how all these fiscal measures to help companies and people will be financed in the end. I expect much work for tax advisers in the [coming] years, as the fiscal treasuries will be empty. We expect aggressive tax audits once the crisis is over to refinance the treasury."

Monger said he has not spoken to anyone who has indicated any interest in tax planning at this time. "The focus is very much on surviving and getting used to all the practical difficulties of social distancing," he said.

Vorsatz said the stimulus legislation passed by the U.S. Congress presents some tax planning possibilities. "We have established teams where the subject matter is specifically complex so that we can create a reservoir of working knowledge," he said.

Kanagaratnam said some of the measures announced by the Australian government open up tax planning opportunities, but "only at the margins." He gave as an example measures available only to businesses with revenues below specified thresholds. "As a practical comment, I am not sure that many businesses would be focused on gaming the measures," he said. "They would be concentrating all their efforts in surviving. In the stimulus measures that have been enacted, some antiavoidance measures have also been included, and some of the thresholds use antiavoidance definitions."

Ugglå said Sweden has announced several tax stimulus measures to mitigate the impact of the coronavirus, including temporary reductions in social contributions, the option to postpone payments of a variety of taxes, and the ability to set aside up to SEK 1 million (around \$100,000) of 2019 taxable profits for accrual funds. "We are currently helping a number of clients to take advantage of [these measures]," he said.

As the death count from COVID-19 rises, some people might reflect more on their own mortality and seek estate planning advice. Vorsatz said financial market volatility, the decline in market values, and all-time low interest rates make it an opportune time to do estate planning. "Many of our clients are focused on the issue," he said.

"Most of the wealthy clients already did their [estate] planning," Erdbrügger said. "Possibly, this is a topic for less wealthy people."

Remotely Like an Office

Erdbrügger said that while all meetings involving his firm's staff — either in-house or with clients and opposing counsel — are taking place online or over the phone, the exchange of

information and ideas has been mostly unaffected, especially when it involves existing client relationships and experienced employees. "But some tax offices are less available, [while] others are not affected severely," he said.

Monger said all of his firm's employees are working from home using laptops and mobile phones. "The same might not be true of smaller firms, where staff might only be equipped with office-based PCs, with the result that the lockdown is effectively stopping some smaller businesses from doing any work," he said.

Vorsatz said that while he uses Zoom software for meetings with clients individually, his firm also relies on a Microsoft platform. "About 10 days ago, I had a meeting with 43 individuals in 18 countries and it worked reasonably well," he said.

Recently remoted staff at law and accounting firms are having to deal with many of the same problems faced by employees of other businesses whose offices have been vacated because of the pandemic. "You might have children of school age to look after, or several adults attempting to work from home, where there may be battles to get access to the dining table for work purposes," Monger said. "We also have the situation where some of our younger workers are still living at home with their parents and their only space at home might be a bedroom, which is not ideal for doing office work."

Kanagaratnam said phone and online communications involving small groups function just as effectively as in-person meetings. "In some ways, this is an opportunity for firms to see how having large parts of the firm working remotely can work effectively, which might well change the way we work going forward," he said.

Ugla said his firm has been using its TwoBirds Access tool to carry out online closings for private equity transactions. "We have used this for years, while many of our competitors are now being forced into similar solutions for the first time," he said. "So our clients have benefited from this and perhaps have had an easier time to adapt and continue with their transactions."

Bird & Bird has always held its cross-border practice meetings using Cisco's Webex technology, Ugla said. "I have had other lawyers tell me that this is the first time they found a

reason to learn how videoconferences work," he said in an email. "Our associates naturally all have laptops and handheld devices, but many also have monitors and docking stations, etc., at home, so working from home — including project/team management — is nothing new to them. All that said, I am not going to say that we do not notice any consequences of the COVID-19 situation. The pipeline is not as long as it usually is this time of year, mostly due to transactions being aborted or postponed."

Riding the Roller Coaster

Andersen Tax & Legal is not reducing head count, Vorsatz said. "We anticipate a major decline in corporate revenue and we are positioning our firm to adjust. We have had a partner discussion and are reducing partner remuneration, as well as discretionary expenses," he said. "We will reevaluate within the next 30 days; however, we do not intend to lay off any of our people. During the 2008-2009 recession, we did not lay off any personnel and gave our non-partners modest compensation increases. The partners took deferrals of compensation or reductions."

Gilbert + Tobin has not cut back on staff, Kanagaratnam said. "We are working very hard not to get to that point. We have taken a number of measures to eliminate, reduce, and defer a range of other expenses. Further, the nature of the lockdowns also mean that we are not incurring some expenses," he said. "However, we are realistic that work may eventually dry up so much that we may have to look at reducing staff costs in some form. That does not mean terminating or standing down employees, however. We are watching events unfold closely."

Kanagaratnam said that like many other business sectors, the legal profession has been affected by the coronavirus, but will rebound. "Transactions that have been shelved will eventually come back," he said. "As confidence comes back into the market, there will be many undervalued or distressed businesses ripe for takeover. Our challenge is to keep going in the meantime, and retaining the capacity to ride the confidence roller coaster back up." ■