

## International Tax Review

June 2002 -

### World's leading tax advisers: Part 2 - Asia Asia shows stability in turbulent times

**This year's Asia survey finds PricewaterhouseCoopers holding on to its premier position in the region. Law firms, in the meantime, are failing to forge ahead. Georgina Stanley investigates what's new, and what clients are looking for**

The last six months have seen the accounting world turned upside down and, for an industry frequently dismissed as dull by the general public, it has been in the press on an almost daily basis. The Enron disaster and the demise of Andersen mean that it is also the end of the era for the *International Tax Review* surveys ? this is almost certainly the last time that Andersen will ever feature.

The remaining big four professional services firms are in the midst of dividing the spoils of Andersen's international network amongst themselves and working out the final details of their respective takeover plans. With many of these unions just weeks from completion, next year's survey promises to reveal a very different picture.

For now though, it is perhaps a fitting epitaph for Andersen that despite the firm's ultimate collapse, clients have not been swayed and the firm has managed to improve its position on last year's results in several jurisdictions. And, in what is a new addition to the *International Tax Review* Asia-Pacific survey, the firm was also voted the second best tax advisory firm, for both planning and transaction work, in India.

#### The results

The results this year indicate a fairly stable environment in Asia, with many of the results little changed compared with last year. Of the countries surveyed both this year and last (Australia, Singapore, Hong Kong and mainland China, and Korea), PricewaterhouseCoopers, the biggest of the professional services firms, has kept hold of its position at the top. The firm also came first in new entries to the survey India and Malaysia.

For the other firms there was little change on last year's results other than in Singapore, where Deloitte Touche Tohmatsu toppled from first place to fifth in both tax transactional and planning work. In the same jurisdiction KPMG managed to bounce back from sixth place last year to second this year.

On the whole, law firms have failed to make much of an impact in the survey findings and perhaps this is unsurprising. Michael Clough, a tax partner at Mallesons in Melbourne, commented: "I think the survey results reflect the nature of legal firms ? our client base is much smaller. For example, we only act for Telstra in the telco industry. The same goes for all the large law firms. Conflicts are a much more keenly felt issue in a law firm."

And in Hong Kong and mainland China there is even less demand for tax lawyers, as the compulsory audits for companies based in Hong Kong lead many to take their tax work straight to their auditors. Michael Olesnicky, a tax partner with Baker & McKenzie in Hong Kong, said: "There is this idea that tax work is for accountants and that lawyers stick to the more traditional work. Multinationals are comfortable dealing with lawyers for tax work, but with local clients it can be a battle to convince them".

While we received votes for advisers in other jurisdictions including Vietnam and New Zealand, the poor response rate reduced the validity of the findings so we have not included them here. For the first time, we have also not included results for Japan for the same reason.

It is worth noting that responses from Australia soared yet again this year with well over 100 individuals all being put forward for best individual adviser. Of these, Tony Clemens at PricewaterhouseCoopers won by a fairly

#### Methodology

The results of *International Tax Review's* annual survey of Asia's top tax advisers were compiled from responses to 2000 questionnaires that were sent to in-house tax experts and chief financial officers at leading international corporations and financial institutions. For the second year running contacts were also able to post their responses online at

[www.internationaltaxreview.com](http://www.internationaltaxreview.com)

Respondents were asked to name the top two firms for tax planning and tax transactional work, as well as list their top three individual practitioners and the top two firms across five different specialist areas.

To give a clearer picture of what in-house practitioners are looking for, respondents were also asked detailed questions about their own tax departments, as well as the criteria they use when selecting external tax advisers and how satisfied they are with adviser capabilities. For the first time, the survey also asked for an assessment of firms' client communication skills.

(Please see below for details of the questionnaire.)

substantial amount, and both colleagues and rivals alike echoed client confidence in Clemens.

### Australia

#### Planning

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Ernst & Young
5. Andersen
6. Shaddick & Spence
7. Greenwood & Freehills
8. Malesons Stephen & Jaques
9. Allens Arthur Robinson
10. Blake Dawson Waldron

#### Transactional

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. Ernst & Young
4. KPMG
5. Andersen
6. Allens Arthur Robinson
7. Malesons Stephen & Jaques
8. Corrs Chambers Westgarth
9. Freehills
10. Greenwood & Freehills

#### Individuals

- Anthony Carroll ?  
PricewaterhouseCoopers  
Anthony Clemens ?  
PricewaterhouseCoopers  
Mark Ferrier ? Greenwood & Freehills  
Paul Koenig ? PricewaterhouseCoopers  
Damian Lockie ? Ernst & Young  
John Murray ? PricewaterhouseCoopers  
Richard Shaddick ? Shaddick & Spence  
Ken Spence ? Shaddick & Spence  
Rick Taylor ? Deloitte Touche Tohmatsu

*alphabetical order*

### Areas of practice

#### M&A

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. Ernst & Young
4. KPMG
5. Andersen
6. Malesons Stephen & Jaques

#### Transfer pricing

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. Ernst & Young
4. KPMG
5. Andersen
6. Greenwood & Freehills

#### Capital markets

1. PricewaterhouseCoopers
2. Ernst & Young
3. Deloitte Touche Tohmatsu
4. KPMG
5. Malesons Stephen & Jaques
6. Andersen

#### Cross-border structuring

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. Ernst & Young
4. Andersen
5. KPMG
6. Greenwood & Freehills

#### Indirect taxes

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Ernst & Young
5. Andersen
6. Greenwood & Freehills

### In-house opinions

This year's questionnaire introduced a series of additional questions on advisers' communication and marketing skills, which revealed that most clients want practical information from advisers rather than glossy brochures and parties. 27% voted for briefings and newsletters being the most helpful marketing activities closely followed by conferences and seminars, while brochures received 4%, corporate entertainment 8% and advertising a rather pitiful 3%.

When it came to selection criteria, irrespective of jurisdiction, the priorities were clear. 43% of clients find knowledge the most important attribute in an adviser, with people receiving 28% closely followed by industry-specific knowledge at 27%. While firms are investing large sums of money designing fancy technology programmes, it would seem that clients are not all that bothered, with less than 2% voting it the most important thing and most voting it the least important activity.

Despite the relatively poor value awarded to global networks, several clients interviewed by *International Tax Review* gave opposing opinions. Roger Foenander, group general manager of taxation at Amcor in Melbourne, explained that for him, it is the global structure of the big four and their understanding of the jurisdiction that is important. He said: "In the case of PricewaterhouseCoopers and why we use them for global structuring, it is because they have people in Europe and the US who have worked in Australia and are aware of our particular tax issues.

"We have a partnering relationship with PricewaterhouseCoopers and that is important to us. There is not a lot of difference between the professionals in the firms, it is just how the service is delivered; the responsiveness for example."

And in Japan, Kenji Yokoyama, deputy general manager of tax at Nomura agreed, saying: "Business is rapidly expanding and going global, so we need an adviser who has global tax skills and who understands tax conditions all over the world and has experience negotiating with the tax office for APAs."

## A fallen giant

Andersen has been in the press almost every day for months now, whether in reference to the Enron scandal in the US, the collapse of insurance firm HIH in Australia, merger speculation or auditor independence issues.

In Asia, most of the takeovers of Andersen units are meant to complete by July. In Hong Kong and mainland China, Andersen is set to join PricewaterhouseCoopers; in Australia and New Zealand, Ernst & Young; while, in one of its few successful pick-ups, KPMG has managed to secure Andersen in Japan. Deloitte Touche Tomatsu meanwhile is hopeful that its unions with Andersen in the UK and the US will generate spin-off work in Asia.

Mike de Palo, head of tax at Deloitte Touche Tohmatsu in Sydney, said: "we are merging with Andersen in a number of countries worldwide so we see an opportunity for flow-on work from the rest of the network. Particularly the US and the UK. We are also hoping to pick up opportunities from Andersen Australia, but it won't walk in the door."

The landscape for international tax advice in Asia will look radically different this time next year, and the merger between PricewaterhouseCoopers and Andersen in Hong Kong and China will create a firm of around 6000 people. Rod Houg Lee, head of the tax practice at PwC in Hong Kong, explained that with Andersen's strength in mainland China but relative weakness in Hong Kong, there was a good fit between the two firms. However, the damage to the Andersen network and the resulting drop in spin-off work means there will inevitably be some cutbacks.

David Smith, a tax partner with KPMG in Hong Kong, which came joint third with Andersen behind Deloitte Touche Tohmatsu and PricewaterhouseCoopers, claims that he does not feel threatened by the size of the combined firm. He adds: "The size of the competition is not the issue. Deloitte & Touche and PwC were already much bigger. Tax consulting is about adding value, which in turn is about the quality of resources, particularly senior resources, and that is where we believe we excel. It goes without saying that the bigger the firm the more resources can be drawn on, but we believe success comes from having high quality resources and harnessing them in a manner which adds more value for our clients."

Joseph Tse at Deloitte Touche Tohmatsu in Hong Kong is equally unconcerned. "Although Andersen is the smallest in Hong Kong, the merger will give them more headcount and more prestigious clients making them the biggest firm in China. We are still pushing to be the best although becoming the biggest will take a lot longer now. Being number two is not a bad position to be in."

In Australia, the merger between Ernst & Young and Andersen (numbers four and five respectively for tax planning work and three and five for transactional work) will not be enough to knock PricewaterhouseCoopers off the top spot, at least in size.

Paul Koenig, national managing partner of tax and legal at PricewaterhouseCoopers in Sydney, commented: "If the merger goes ahead it will not alter the fact that we are the leading tax practice in Australia, no matter how you cut it. And that, of course, is down to our clients and our people ? they put us there and it is they who will keep us there. One of the underlying differences in our business, I think, is that we put our clients' interests first ? our people are completely focused on the commercial impact they can deliver to our clients' businesses."

"The Andersen/Ernst & Young merger in New Zealand led to redundancies and I fully expect that there will be job losses from this takeover in Australia too. We are receiving numerous job enquiries from staff of both firms."

Mike de Palo at Deloitte Touche Tohmatsu in Sydney, along with tax partners at big four firms in Hong Kong, Tokyo and Australia, all confirmed that they had received enquiries from staff at Andersen in each jurisdiction and its proposed partner.

### Hong Kong and China

#### Planning

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. = Andersen
3. = KPMG
5. Ernst & Young
6. Baker & McKenzie

#### Transactional

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Andersen
5. Ernst & Young
6. Baker & McKenzie

#### Individuals

- Kaiser Kwan ? Deloitte Touche Tohmatsu  
 Yvonne Law ? Deloitte Touche Tohmatsu  
 Rod Houg Lee ? PricewaterhouseCoopers  
 Michael Olesnick ? Baker & McKenzie  
 Christian Stewart ? PricewaterhouseCoopers  
 Constant Tse ? Deloitte Touche Tohmatsu  
 Cassie Wong ? PricewaterhouseCoopers  
 Joseph Wong ? Deloitte Touche Tohmatsu  
 Matthew Wong ? PricewaterhouseCoopers

Peter Yu ? PricewaterhouseCoopers  
*alphabetical order*

#### Areas of practice

##### M&A

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Andersen
5. Ernst & Young

##### Transfer pricing

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Andersen
5. Ernst & Young

##### Capital markets

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Andersen
5. Baker & McKenzie

##### Cross-border structuring

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Andersen
6. Baker & McKenzie

##### Indirect taxes

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. KPMG
4. Ernst & Young
5. Andersen

### A new beginning

It is not just the big four that could grow as a result of the Andersen scandal. The whole issue of auditor independence has been thrown into the spotlight and potential action from the SEC could mean a radical overhaul of the way professional services firms are able to offer tax advice.

At the moment, what happens next is anyone's guess, but there are several possibilities ranging from something as relatively mild as increased self-regulation to a concept as drastic as the total separation of all audit and tax work, which could ultimately create a series of global tax boutiques.

According to Tony Verzi chairman of tax at Ernst & Young in Sydney, self-regulation is the best policy for the future. He added: "Blanket bans on non-audit work are not necessary. There is no need for splitting tax and audit. It isn't something you sign-off depending on how much money you get, it is about quality assurance."

Glenn Williams at Ernst & Young, also in Sydney, agrees with this, saying: "You can't start with the premise that within professional accounting firms there are unethical people. There should be rules within the firms ... if one client makes up 50% of a firm's business, for example, would a firm jeopardise that? There is at least a perceived conflict, so firms need to have their own rules to deal with that, and businesses also need to have their own processes in place to deal with that."

Though law firms are not playing a big role in tax work across Asia, an enforced separation of audit and tax work could mean that lawyers would get a bigger piece of the action. Clough confirmed that Mallesons has received several pieces of work as a result of client concerns about auditor independence. And in Hong Kong, Olesnick also backed up the fact that the firm has had increased interest as a result of Andersen collapsing.

Cameron Rider at Allens Arthur Robinson adds: "It is quite common to have auditors doing other work here. It is an area where in the future law firms are going to have the opportunity to do more work."

Though this may be the case, advisers within the big five feel that the size of the law firms and their lack of truly global networks may mean that they are incapable of taking full advantage of the situation. Stephen Chubb, an international tax partner at Ernst & Young in Sydney, commented: "Competition from law firms may increase due to perceived conflict issues now there is only a big four. However, the advantages of the big four in scale and global reach will still make it difficult for law firms to compete in this area."

Tony Clemens at PricewaterhouseCoopers in Sydney agrees, believing that the nature of the work means clients would be more likely to switch their alliance to another accounting firm rather than a law firm: "I do not think that lawyers will be able to jump in and do the accountants' tax work even if auditor independence means the tax work must be dropped. It sounds great for lawyers, but clients still like the global delivery and creative ideas of the big accounting firms. Hence, audit clients are likely to just move to another accounting firm for global tax services delivery".

But although it could be argued that there are advantages to having a big four rather than a big five, such as consolidation of expertise within the firms, and consistency of approach, as well as the inevitable increase in industry specialization, ultimately Andersen's demise is bad for the industry overall.

As Peter Le Huray, a tax partner with PricewaterhouseCoopers in Melbourne commented: "Personally I think there

are no real winners out of this whole rationalization from five to four. The focus on the independence issue presents a real challenge for our whole industry. For tax services, the bottom line is that a tax director may believe that the best tax services are provided by advisers with its audit firm, but engagement is now going to be subject to working through the independence issues".

### India

#### Planning

1. PricewaterhouseCoopers
2. Andersen
3. KPMG
4. RSM & Co
5. = Deloitte Touche Tohmatsu
5. = Ernst & Young
7. A F Ferguson & Co

#### Transactional

1. PricewaterhouseCoopers
2. = Andersen
2. = Deloitte Touche Tohmatsu
4. RSM & Co
5. KPMG
6. Ernst & Young
7. A F Ferguson & Co

#### Individuals

- Soli Dastoor ? Mulla & Mulla Co  
 Bansi S Mehta ? Bansi S Mehta & Co  
 Jairaj Pundare ? Andersen  
 Ashok Wadhwa ? RSM & Co  
*alphabetical order*

### Areas of practice

#### M&A

1. Ernst & Young
2. = PricewaterhouseCoopers
2. = RSM & Co
4. Andersen
5. = KPMG
5. = Deloitte Touche Tohmatsu

#### Transfer pricing

1. PricewaterhouseCoopers
2. Deloitte Touche Tohmatsu
3. Andersen
4. KPMG
5. Ernst & Young
6. RSM & Co

#### Capital markets

1. PricewaterhouseCoopers
2. RSM & Co
3. Ernst & Young
4. Andersen

#### Cross-border structuring

1. Andersen
2. PricewaterhouseCoopers
3. Deloitte Touche Tohmatsu
4. RSM & Co
5. Ernst & Young
6. KPMG

#### Indirect taxes

1. PricewaterhouseCoopers
2. = Ernst & Young
2. = KPMG
4. Andersen
5. Deloitte Touche Tohmatsu
6. Dastoor & Co

### Regional differences

While many companies organize their Asia tax practice on a regional basis, there are big differences between the way tax is viewed across Asia.

#### Japan

As mentioned earlier, we have not included any results for Japan in this year's survey. The reason is that while Japan is technologically advanced, when it comes to tax advice the country is some years behind jurisdictions such as the US and Europe. Many Japanese multinationals are only just beginning to realize the importance of internal tax functions and, as such, there are few tax directors to participate in the survey.

But this is changing, and with a wealth of external knowledge available it is possible that the country will be able to catch up with its western contemporaries remarkably quickly.

Wayne Aoki, an international tax partner with Shin Nihon Ernst & Young in Tokyo, remarked: "Japanese companies are behind their counterparts. They are only just waking up to globalization and tax minimization. Before, companies had the idea that tax was not manageable but, as they compete with foreign companies, they are planning and starting to view tax as a manageable expense".

Toru Suda, managing partner of Deloitte Touche Tohmatsu's tax practice in Tokyo agreed, adding: "Businesses are smarter and they are considering bottom lines ? how much they earn after tax for their shareholders ? so they want to minimize tax costs. They are asking us, when they are making investments, how to minimize tax expenses."

As more and more Japanese multinationals develop their own in-house tax practices instead of merely using their general accounting divisions, tax planning is on the increase in Japan. But it is still hampered by the fact that senior management often does not see any value in spending on tax in a bad economic climate where there is little or no profit. Japan has endured a virtual recession for 12 years now, and while the Japanese government is looking at ways of reforming the taxation process in Japan to rehabilitate the economy, it is torn between bringing the country out of recession and balancing the budget deficit.

Changes in attitudes towards tax planning are ushering in new attitudes towards litigation. Typically, the Japanese are unwilling to embark on litigation against the government and the situation has been the same for tax. But according to Gary Thomas, a tax partner at White & Case in Tokyo, the situation is changing. Last year a group of attorneys (bengoshi) and licensed tax attorneys (zeirishi) set up a professional association called the Tax Litigation Society (Sozei Soshou Gakkai), which is aiming to make the tax litigation process fairer and more objective for taxpayers, as well as increase the skills of practitioners wanting to specialize in tax litigation.

"Tax litigation has been relatively rare in Japan to date. There has traditionally been a strong reluctance on the part of the Japanese to litigate against the government about anything, in particular, tax disputes. However, increasingly people are willing to appeal tax assessments and it is believed that they would be more willing to do so if the process were fairer. It may be the dawn of a new era here in regard to the handling of tax disputes," Thomas said.

Auditor independence is still an issue in Japan, despite the relative lack of sophisticated tax planning work, as companies headquartered elsewhere are still concerned about the issue. James Dodds at KPMG in Japan said: "For the future, it depends on how far the SEC goes, and whether the Japanese authorities bring in the same restrictions. For clients it is something they have to think about, because of how their own countries are thinking about the auditor independence issues. In some cases the head office is saying they don't want auditors doing particular types of service."

### Hong Kong

In Hong Kong, the last year has seen few tax changes for advisers and in-house counsel to grapple with. The hotly debated topics are the possible introduction of goods and services tax, keeping the country competitive with Singapore and, perhaps more importantly following China's accession into the WTO, mainland China.

And while there is only limited demand for tax lawyers in Hong Kong, as David Smith at KPMG in Hong Kong explained, there could be greater opportunities for law firms to establish themselves in the China tax market, as they would not have to take market share from the professional services firms already established in the region.

"Hong Kong businesses have traditionally seen tax as more accounting than legal, approaching the auditor to do tax work has been the norm in Hong Kong. As such, although a couple of law firms have established tax practices, I do not think the demand is such that many other firms will make a significant investment in establishing tax practices."

### Australia

For years, Australian companies and tax advisory firms have been burdened with significant tax reform. And things show no sign of changing. Consolidation is coming into effect in July this year, but companies still have not been given full details of the legislation so that they may prepare.

But despite the fact that there are such a lot of changes in the tax regime, many in Australia believe that further changes are needed to the international tax regime. A report written by Michael Wachtel and Alf Capito at Andersen in Australia suggested several ways of making the Australia more attractive to international investment.

Ian Farmer at PricewaterhouseCoopers in Sydney explained the problem: "Australia-based companies grow to a certain size and then to grow any more they have to expand into offshore markets. They then become less focused on their Australian businesses and various factors can suggest that it is better for them to be headquartered elsewhere in the world ? closer to their growing markets and sources of capital. We need to focus on aspects of tax policy that influence them to stay headquartered here. At the moment our CFC rules are inordinately complex and our tax system in general is not at all friendly to Australia-based multinationals."

Rick Taylor, a partner at Deloitte Touche Tohmatsu in Sydney, agreed, saying: "to remain effective we have to get on top of tax issues. We have no tax incentives here and that is the wrong approach. We see tax as a way of collecting revenues but it should also be seen as a way of attracting people".

### Korea

#### Planning

1. PricewaterhouseCoopers
2. Kim & Chang
3. Andersen
4. Ernst & Young
5. = KPMG

#### Transactional

1. PricewaterhouseCoopers
2. Kim & Chang
3. Ernst & Young
4. KPMG
5. = Andersen

#### Individuals

- Joong Hyun ? PricewaterhouseCoopers  
 Hong Kyu ? PricewaterhouseCoopers  
 Il Hwan Oh ? PricewaterhouseCoopers  
 Brian Park ? PricewaterhouseCoopers  
 Sung Soo ? PricewaterhouseCoopers

5. = Deloitte Touche  
Tohmatsu

5. = Deloitte Touche  
Tohmatsu

Ken Sook ? Ernst & Young  
Jin Young-Lee ?  
PricewaterhouseCoopers  
Jong Yul-Lee ? Kim & Chang

*alphabetical order*

#### Areas of practice

##### M&A

1. PricewaterhouseCoopers
2. Kim & Chang
3. Deloitte Touche Tohmatsu
4. = KPMG
4. = Ernst & Young
6. Andersen

##### Cross-border structuring

1. PricewaterhouseCoopers
2. Kim & Chang
3. Ernst & Young
4. Andersen

##### Transfer pricing

1. PricewaterhouseCoopers
2. Kim & Chang
3. Ernst & Young
4. Deloitte Touche Tohmatsu
5. = Andersen
5. = KPMG

##### Indirect taxes

1. PricewaterhouseCoopers
2. Ernst & Young
3. Kim & Chang
4. Andersen
5. Deloitte Touche Tohmatsu

##### Capital markets

1. PricewaterhouseCoopers
2. Kim & Chang
3. Ernst & Young
4. KPMG
5. Andersen

#### Looking ahead

The next few years are going to be an exciting time for tax advisers across the world and Asia is no exception. The Enron affair has made advisers and clients alike question their expectations and demands. As firms reorganize themselves to deal with new staff, new clients and possibly new regulations, the collapse of Andersen will be in everyone's minds for the foreseeable future. Olesnick sees it thus: "Andersen is a tragic case. It was a sound reputable firm yet a few people do something silly and the whole firm collapses. It didn't take much to do that so I worry about the big firms.

"It should make us wonder whether, as a firm, you can get too big. Two years ago law firms were worried about accounting firms getting bigger. Now the accounting firms are under increasing pressure to split up audit from consultancy functions, so the big question is: where does the tax function go?"

#### Malaysia

##### Planning

1. PricewaterhouseCoopers
2. KPMG
3. Andersen
4. Ernst & Young
5. Deloitte Touche Tohmatsu
6. Howarth, Mock & Poon

##### Transactional

1. PricewaterhouseCoopers
2. KPMG
3. Andersen
4. Deloitte Touche Tohmatsu
5. Ernst & Young
6. Howarth, Mock & Poon

##### Individuals

Kelvin Chang ? Deloitte Touche Tohmatsu  
Henk Hop ? Andersen, Netherlands  
Khoo Chuan Keat ? PricewaterhouseCoopers  
Kang Beng Hoe ? PricewaterhouseCoopers  
Frances Po Yih Ming ?  
PricewaterhouseCoopers  
Po Keat Quah ? KPMG  
Sidney Woodhull ? Shearn Delamore

*alphabetical order*

#### Areas of practice

##### M&A

1. PricewaterhouseCoopers
2. = Andersen
2. = KPMG
4. Deloitte Touche Tohmatsu
5. Ernst & Young
6. Howarth, Mock & Poon

##### Cross-border structuring

1. PricewaterhouseCoopers
2. Andersen
3. KPMG
4. Deloitte Touche Tohmatsu
5. Ernst & Young

##### Transfer pricing

1. PricewaterhouseCoopers
2. = Andersen
2. = KPMG
4. Ernst & Young
5. Deloitte Touche Tohmatsu
6. Howarth, Mock & Poon

##### Indirect taxes

1. PricewaterhouseCoopers
2. = Andersen
2. = KPMG
4. Deloitte Touche Tohmatsu
5. Ernst & Young

##### Capital markets

1. PricewaterhouseCoopers
2. KPMG
3. Andersen
4. Deloitte Touche Tohmatsu

6. Howarth, Mock & Poon      6. Howarth, Mock & Poon

## CLIENTS SPEAK OUT

### Nomura

One Japanese company that has woken up to tax planning is Japanese bank Nomura. The company set up a transfer pricing policy three years ago with the help of advisers Pricewaterhouse-Coopers and Ernst & Young, and with its profits now distributed globally, is looking at tax minimization schemes as well as the possibility of an APA.

Kenji Yokoyama, deputy general manager of taxation at Nomura in Tokyo, commented: "At the moment we have two priorities. The first is that we would like to arrange an APA for our transfer pricing and the second is to minimize our tax liability. Before 1999 we had no transfer pricing policy. After the Russian crisis in 1998, we developed a new strategy, which integrated our business line globally and set up a global business framework. Before we had no tax liability because of NOL. No tax meant no planning.

"Now we are comfortable on a day-to-day transaction basis with transfer pricing, and minimization is the most important thing because Nomura is a giant, so if we miss something small it could mean big economic damage. That is why we need advisers. Now, the executives expect us to increase the company's bottom line by reducing our global tax rate."

### James Hardie Industries

An Australian company that demonstrates the problems that multinationals are facing in the jurisdiction is building supply company James Hardie Industries which, in 2001, relocated to the Netherlands. The company has operations in Australia, New Zealand, the US and Asia, and by 2001 almost 80% of its income was being earned overseas, predominantly in the US. While it was paying a lot for foreign tax it was not paying enough Australian tax to carry imputation credits on dividends. The relocation deal was carried out by creating a Dutch holding company while keeping the primary listing on the Australian stock exchange and listing ADRs on the New York stock exchange.

Phillip Morley, of James Hardie Industries, now based in the US, explained the situation: "We had a large and growing business in the USA and needed to repatriate profits to our Australian shareholders in a tax-effective manner. There was growth in Australia too, but we didn't have the potential that we have achieved in the US. We needed the global coverage of a firm like PwC to assist us to put in place a plan to increase returns to Australian shareholders.

"I would say that 80% of our profits were in the US but most shareholders were in Australia. We had to get money from A to B, and our Australian shareholders benefit from the company being located offshore because we have an enhanced global tax rate and can get the profits back with lower taxes being levied by foreign jurisdictions. Part of the proof in that is that on the scheme of arrangement approved last September, our share price was \$4.50 ? the other day it was \$6.50, an increase of 45%."

While the company received better treaty treatment with the US by moving to the Netherlands and also gained access to capital markets and long-term debt options, tax played a fundamental role in the company's decision to move.

Keith Sheppard, a PricewaterhouseCoopers tax partner, who along with Tony Clemens worked on the deal, said: "Before any restructuring was done, one dollar of profits made in the US ended up being 26 cents in the hands of the Australian shareholder, and the main components of that were US corporate tax and withholding tax."

Companies including Brambles and BHP Biliton have opted for dual listing to give themselves access to a better tax regime without cutting all ties with Australia.

### Amcor

Packaging firm Amcor has decided against moving but is putting more emphasis on its internal tax function. Head of tax, Roger Foenander, explained that the internal tax function has moved from around 80% compliance and 20% value-added to the opposite in the last few years. He added that this had been largely due to building more efficient internal relationships and technology processes. "We have created a culture where business units are more tax aware and will approach us as they undertake transactions rather than after transactions have been effected.

"We have specific key performance indicators for the whole tax group: tax expense savings; tax cost savings;



training; service delivery responsiveness to our internal clients' requirement, and we are continually monitoring the group's tax risk profile. On a six-month basis we will review tax risks across the group and the actions we are taking to mitigate those risks."

### Singapore

#### Planning

1. PricewaterhouseCoopers
2. Andersen
3. Ernst & Young
4. KPMG
5. Deloitte Touche Tohmatsu
6. Baker & McKenzie

#### Transactional

- 1 PricewaterhouseCoopers
2. KPMG
3. = Andersen
3. = Ernst & Young
5. Deloitte Touche Tohmatsu
5. Baker & McKenzie

#### Individuals

- Paula Eastwood ? PricewaterhouseCoopers  
 Nicole Fung ? PricewaterhouseCoopers  
 Wong Wah Lee ? KPMG  
 Ajit Prabhu ? Deloitte Touche Tohmatsu  
 Chong Lee Siang ? Andersen  
 Chong Choy Wai ? Andersen  
 Alan Yam ? Andersen

*alphabetical order*

### Areas of practice

#### M&A

1. PricewaterhouseCoopers
2. Andersen
3. Ernst & Young
4. Deloitte Touche Tohmatsu
5. = Baker & McKenzie
5. = KPMG

#### Transfer pricing

1. PricewaterhouseCoopers
2. Ernst & Young
3. Andersen
4. KPMG
5. Baker & McKenzie

#### Capital markets

1. PricewaterhouseCoopers
2. = Ernst & Young
2. = KPMG
4. Baker & McKenzie

#### Cross-border structuring

1. PricewaterhouseCoopers
2. Ernst & Young
3. Andersen
4. Baker & McKenzie
5. = Deloitte Touche Tohmatsu
5. = KPMG

#### Indirect taxes

1. PricewaterhouseCoopers
2. Ernst & Young
2. KPMG
4. Andersen
5. Deloitte Touche Tohmatsu

## How companies select their advisers in Asia

### Q. How many firms do you use annually for tax advice?

- 46% of respondents use one firm  
 51% of respondents use between two and five firms  
 3% of respondents use more than five firms

### Q. Approximately how often do you review your use of firms?

- 26% of respondents review every six months  
 60% of respondents review every year  
 13% of respondents review every two to five years  
 1% of respondents review every five years or more

### Q. Approximately how much do you spend on tax

- advice every year (US\$)?  
 53% spend up to \$100,000  
 41% spend between \$100,000 and \$200,000  
 5% spend between \$200,000 and \$500,000  
 1% spend more than \$500,000

### Q. Is the size of your in-house tax department increasing or decreasing?

- 8% of respondents said that their in-house department is increasing in size  
 80% of respondents said that their in-house department is the same size  
 12% of respondents said that their in-house department is decreasing in size

### Q. Is your dependence on third-party advice increasing or decreasing?

- 77% of respondents said that their reliance on advisers is increasing

20% of respondents said that their reliance on advisers is the same  
3% of respondents said that their reliance on advisers is decreasing

**Q. What are the most important criteria in selecting your tax advisers?**

1. Knowledge
2. Responsiveness
3. People
4. Industry expertise
5. Price
6. Network capabilities
7. Technology

**Q. What is your current level of satisfaction for each of the criteria?**

	<b>Very satisfied</b>	<b>Satisfied</b>	<b>Not satisfied</b>
<b>Industry expertise</b>	32%	68%	0%
<b>Knowledge</b>	65%	35%	0%
<b>Network</b>	43%	56%	1%
<b>People</b>	47%	53%	0%
<b>Price</b>	13%	79%	8%
<b>Responsiveness</b>	56%	44%	0%
<b>Technology</b>	26%	74%	0%

**Q. How would you assess the level of contact with outside advisers?**

- 1% Poor
- 7% Average
- 35% Good
- 57% Very good

**Q. Which of the following marketing activities are most effective in bringing a law or professional services firm's tax services to your attention?**

- 27% of respondents said client briefings/newsletters
- 24% of respondents said hosting conferences/seminars
- 19% of respondents said provision of internet information
- 8% of respondents said articles in trade press
- 8% of respondents said corporate entertainment
- 7% of respondents said research on tax advisers' capabilities
- 4% of respondents said brochures
- 3% of respondents said advertising

## Directory

**BDO International / BDO McCabe Lo & Co**

**Deloitte Touche Tohmatsu**

**Ernst & Young**

**Grant Thornton**

**Kim & Chang**

**KPMG**

**Mallesons Stephen Jaques**

**PKF Australia**

**PricewaterhouseCoopers**

**Shearn Delamore & Co**

**Sycip Salazar Hernandez & Gatmaitan**

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