

ANGOLA STEPS UP FISCAL RECOVERY POLICIES - AVM

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The Ministry of Finance is launching a raft of debt actions as it pursues tax debt relating to profits on oil sales

Significant growth in the Lusophone nation of Angola means it is currently offering considerably more opportunities for law firms than the still struggling Portuguese economy, according to AVM Advogados senior partner António Vicente Marques.

The fact that the Angolan Ministry of Finance is devoting considerable resources to collecting tax debt means that tax advice, in particular, is greatly in demand in the country.

"The ministry is going after tax debt, particularly in relation to profits on oil sales, and we are seeing a lot of debt actions," Vicente Marques says.

Last year, the Angolan government published its national development plan for 2013 to 2017, which included proposals to reduce tax evasion. One of the proposals is that Angola enters into cooperation agreements with international institutions and organisations with a view to improving

the exchange of information in order to better combat tax and customs fraud and organised crime. The plan stated that the Angolan government would enter into double taxation agreements with countries with which it has strong economic and political relationships, specifically members of the Community of Portuguese Speaking Countries (Comunidade dos Países de Língua Portuguesa) and the Southern African Development Community (Comunidade de Desenvolvimento da África Austral). In addition, the government intends to create a specialised tax court to decide on tax matters, except those of a criminal nature, as well as promote the unification of tax administration justice managed by the National Tax Directorate and the National Customs Service.

Meanwhile, arbitration proceedings are another difficult issue for clients with interests in Angola, according to AVM Partner, Claudia Santos Cruz. Decisions in arbitration proceedings in foreign jurisdictions are often at risk of being overturned by Angolan courts, which can review them at their discretion whether the defendant is an Angolan national or entity. This is because Angola has not signed up to the relevant international conventions relating to the recognition and execution of foreign decisions.

To illustrate this point, Angola is not a signatory to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, nor a party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

"When reviewing a foreign arbitration, the Angolan courts may have a different decision," says Santos Cruz. "So clients are advised to have the seat of the arbitration in Luanda. This makes the arbitration Angolan and means in theory that it can't be reviewed on the merits."

Foreign firms seek mergers

Another challenge for clients working in Angola is the issue of "local content", according to Santos Cruz. Under the country's general local content rules, companies' workforces must be 70 per cent Angolan nationals. The rules also state that companies should source certain products and services exclusively from Angolan companies, which are companies with majority Angolan ownership. These rules aim to promote Angolan employment, Angolan ownership of businesses as well as Angolan industry, production and services.

Vicente Marques adds that the Angolan market is becoming increasingly attractive to foreign law firms but such firms cannot directly enter the market because of local bar rules. This means that foreign law firms are frequently approaching some domestic firms with merger proposals. As a result, top quality local lawyers are in very high demand.

Due to this high demand, lawyers are frequently offered new roles by clients and law firms and consequently often move jobs. As a result it can be difficult for law firms to keep hold of the most talented lawyers. But the high demand is also improving the standard of local lawyers, Vicente Marques adds. "Five years ago, law graduates were not as well qualified as they are now. Local lawyers have more skills and international experience these days which is excellent for the Angolan legal market."