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ARTICLE

TAXATION AND REPUTATION: MULTINATIONALS IN THE SPOTLIGHT

Madrid, October 6, 2021

1. TIMES OF CRISIS AND MISTRUST

In recent years, and primarily due to the financial crisis that hit the world in 2008, **relations between companies and citizens have changed.**

Austerity policies, numerous corruption cases and the deterioration of the fiscal situation in many countries and ensuing rise of debt, created a new political, economic and social context dominated by the mistrust of large corporations.

Citizens and governments began to engage in increased **public scrutiny of the tax contributions made by companies**, and to judge corporations based on their perceived commitment to the country – the so-called corporate citizenship.

On one side, the governments hardest hit by the crisis began to apply fiscal pressure to companies with the aim of cleaning up the public accounts. On the other, citizens – also subjected to greater fiscal pressure – began to demand that companies “do their part”. A very attractive rhetoric thus emerged from crisis situations such as the one we went through in the Great Recession, which **blamed the “elite” for the problems of the average citizen and demonized large corporations**, portraying them as selfish entities that sought to benefit from the situation instead of helping resolve it through larger tax contributions.

This vision of Goliaths projecting the resources of companies and **the idea that they pay little tax actually gained ground in public institutions**. It is also unnecessary to look back to 2008; there are more recent examples.

In 2019, the Spanish Tax Agency published a statistic on the taxation of companies that may be interpreted in such a way as to detract from the reality of corporate taxation. According to the Tax Agency, Spanish multinationals only paid out 12.6% of their profits in Corporate Income Tax. However, as explained later in

Vozpopuli, the publication had not clarified that this percentage was obtained by comparing the accounting profit of companies in 2016 with what was paid in taxes that year. A strange criterion, particularly when taking into account that the Corporate Income Tax that a company pays each year is based on the previous year’s profits. The Tax Agency made the correct calculation, that of accrual, which is a comparison of the profit and concluded that multinationals paid 15.5% of their profits in Corporate Income Tax. However the percentage that stood out and figured in the government press releases was the abovementioned 12.6%.

“This tendency of continuous social and media scrutiny remains the norm and is unlikely to change in the near future”

The demonization of multinationals was further intensified by media action and social media chatter, both of which constitute **powerful channels to apply pressure to corporations with a great impact on their reputation.**

This **tendency of continuous social and media scrutiny remains the norm and is unlikely to change in the near future.**

On the contrary, it is likely that the new reality of global crisis caused by the pandemic, in addition to recent investigations into corruption of Ibex 35 companies, does in fact justify this trend. Among other matters, the recent increase of printed money is highly likely to lead to a rise in inflation; in other words, an increase of the prices of the products we consume, which **may be misinterpreted by the public as a decision by companies to increase their profits** without appreciating the context of the expansive monetary policy in which they are immersed.

Furthermore, the **level of indebtedness at a national level has now been continually** growing for almost 15 years, with 2020 witnessing the largest percentage rise. This results in **additional pressure on the government to be more effective in its capacity to collect revenue.**

The fiscal situation has deteriorated not only in Spain, but also in **many other countries where the level of public debt has grown substantially** due to the emergency protocols that were enacted in order to tackle COVID-19.

In Eurozone countries that had higher debt levels prior to the onset of the pandemic, the economic situation has worsened further. According to Eurostat, the debt/GDP ratio has increased by 18% in France, by 21.2% in Italy and by 25% in the case of Greece. In total, debt in the Eurozone has exceeded 100% of GDP in the first quarter of 2021.

SPAIN: Evolution of debt

DATE	TOTAL DEB (€m)	DEBT (% GDP)	PER CAPITA DEB
2020	1.145.097	98,60 %	28.388€
2019	1.345.440	119,90 %	25.116€
2018	1.188.820	95,50 %	24.998€
2017	1.173.350	97,40 %	24.542€
2016	1.104.554	99,20 %	23.704€
2015	1.070.079	99,30 %	23.042€
2014	1.039.388	100,70 %	22.377€
2013	977.312	95,80 %	21.012€
2012	889.909	86,30 %	19.045€
2011	743.043	69,90 %	15.871€
2010	649.153	60,50 %	13.910€
2009	569.535	53,30 %	12.252€
2008	440.621	39,70 %	9.529€
2007	384.662	35,80 %	8.423€

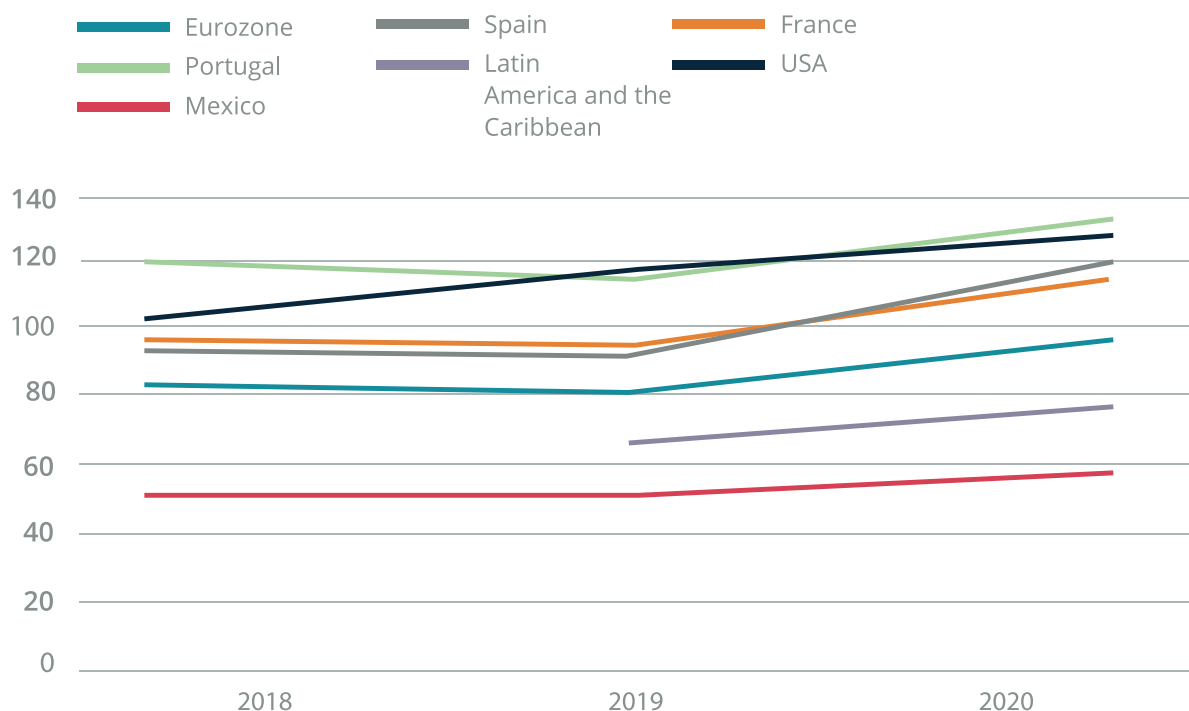
Source: [Datos Macro](#), April 2021.

In the United States, gross federal debt stands at almost 130% of GDP – an all-time high.

The situation is especially critical in Latin America and the Caribbean, which are the most indebted emerging regions, according to ECLAC. Despite the fact that the debt of these countries has not reached the same proportions as in Europe or the United States, the 10-point fiscal deterioration that the region has suffered from is potentially very harmful for countries with economies that are overall less resilient and that have more difficulties in attracting foreign investment.

In short, there are **new challenges on the horizon** that companies will have to tackle and that foreseeably **will cause both governments and populations to become more demanding in the tax contributions made by large corporations and in the practice of generous corporate citizenship.**

Public debt as a percentage of GDP



Data from Eurostat, Cepal, DataLab US Government, Datos Macro



2. THE IMPERATIVE OF TRANSPARENCY AND PARALLEL JUDGEMENT

In recent decades, **transparency has become a *sine qua non* exercise for companies**. Citizens, governments and organizations expect companies, especially those that operate on a large scale and in many countries, to be transparent in their activities and their accounts. Accordingly, transparency is also demanded in connection to the payment of taxes and the framework of the businesses of these large corporations, whereby they are subject to a form of **public and continuous scrutiny that judges, with its own criteria, whether the fiscal activities of a company are ethical and sufficient**, irrespective of legality.

However, companies are not only showing greater transparency because they are required to do so by external pressures, but because **transparency is now (or should be) an intrinsic value entrenched in any organization**.

In fact, **a lack of transparency from companies is usually interpreted as meaning that “they have something to hide”**.

This focus is often employed by the media, leading us to consider that a company that is not 100% transparent is incontrovertibly hiding **illegal or unethical fiscal activities**.

Tax evasion and avoidance has thus become a recurrent theme in the news and are used to criticize the fiscal activities of large corporations. The subject of **corporate tax contributions is very appealing to the media**, which often looks for the clickbait and **thus publicly condemns companies that are yet to be tried in court**.

“A lack of transparency from companies is usually interpreted as meaning that they have something to hide”

The reality is that as soon as there is a controversy over tax matters, the social and moral status of the company is called into question and the reputational risk comes into play immediately. Additionally, in these cases, the tax authorities often resort directly to criminal justice or to the Public Prosecutor's Office, instead of waiting for an administrative ruling. This course of action places these disputes on a legal footing that is perceived to be more serious as it is reserved for major crimes, thus generating an even greater reputational impact for the company affected. As if this were not enough, There are often leaks that violate the secrecy orders and confidentiality that these types of proceedings require in court cases on tax matters, **converting the reputational damage into another bullet to use in the framework of litigation.**

94% of leading multinationals are opaque with regards to the taxes they pay in Spain.

Most companies with subsidiaries in Spain are opaque with their tax information and do not comply with transparency criteria in general.

Source: El Confidencial. April 2018.

3. THE THIN LINE BETWEEN LEGAL AND ETHICAL COMPLIANCE

The response is resounding in the field of communication. **Not only must things be done correctly, but they must also be demonstrated**

to be done correctly. The media may enhance the perception that a company is operating questionably and judge its tax contributions to be insufficient. In any event, companies must also be able to report on how and why they pay the taxes they do, the rules that affect them and the legality thereof, all while using a narrative that any person in the street would be able to understand and apply to his domestic economy.

In other words, companies must be able to explain all sides of their fiscal activity: first, **how their tax contributions help the national social well-being and, second, how it is necessary for these contributions to be reasonable in order to allow the business to be viable and, above all, how it creates jobs and wealth for each of the countries in which it operates.**

In the case of **multinationals, the difficulty is two-fold.** On the one hand, because they must be able to translate the technical side of the rules to an **informative language that is easily understood**, and, on the other hand, because they must show how the different rules they apply are aligned and **why the structure they have chosen out of all the possible alternatives best adapts to their specific business needs.**

On many occasions, **the narrative focuses on criticizing companies** when the heart of the real discussion is based on judging whether or not the taxes they pay are sufficient, and hence, **the focus of the criticism must be legislative.** Because, if not, one can only interpret these reports as such: for companies to be ethically responsible from a fiscal point of view, they must have structures that maximize the payment of taxes or the payment of more taxes voluntarily, something that defies any form of business logic.

The reality is that the criticism of companies by the media is so pervasive that the idea that they perform **fiscal engineering** to not make a just tax contribution ends up taking hold and undermining the reputation of the companies in question.

One of the key measures used to combat this effect is centered around knowing how best to communicate how the fiscal activity of the company positively affects the impact generated by the company, e.g., scope of job creation and better labor conditions, the hiring of local suppliers, investment in R&D and even high impact social and environmental projects.

In other words, it is fundamental for companies to explain how they contribute to society, to the economy and to public wellbeing.

A company that is transparent and pays the taxes required by law should not be subjected to scorn by the media, an outcome suffered by many organizations. But, when companies remain silent in response to these critiques and do not offer explanations about their fiscal activities,

this fuels the perception of opacity and secrecy that surrounds them and ends up negatively affecting their reputation although, in reality, there is nothing opaque or secret, and much less, illegal.

“Is fundamental for companies to explain how they contribute to society, to the economy and to public wellbeing”



Amazon is an example of a company that has been harshly criticized for its tax policy, despite the company’s efforts to show that it upholds the law, a corporate policy that backs tax hikes in countries where it operates and its contribution in terms of both the jobs it creates and the tax collected directly in the locations its activity is based.

Amazon did not pay Corporate Income Tax in eight European countries where it billed €44 billion.

The multinational resorted to a company in Luxembourg to avoid making tax payments in most large countries in the EU, including Spain.

Amazon pays 1.6 million euros in Building Tax to Badajoz.

The company invests 41.8 million euros in the works – a figure that amounts to 60 million with general VAT expenses, without including the 13.7 million euros it paid to Avante for the land.

Bezos backs higher Corporate Income Tax proposed by Biden to finance his infrastructure plan.

The President of the United States identified Amazon as one of the large corporations that exploits legal loopholes to avoid paying taxes.

Amazon to open three new logistics centers in Madrid, which will create 220 permanent jobs.

The new centers will also attract some 20 partner distribution companies. The facilities will start up between August and November this year

4. THE INTERNATIONAL COMMUNITY – THE NEW TAX REGULATOR

Another point of fiscal pressure is the international community. Growing international cooperation and **joint regulation on tax matters** means that companies will not only be subject to fiscal pressure within the borders of the countries where they operate, but will also increasingly be subject to a larger number of tax obligations at a European and a global level.

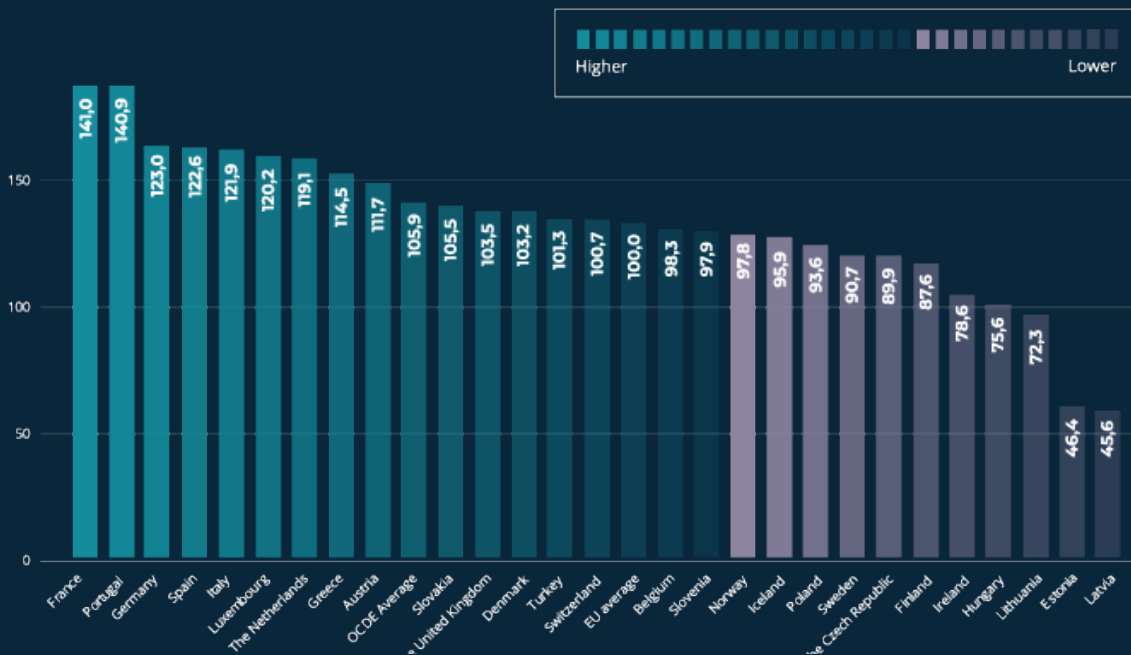
An example of this is the **creation of the first European Public Prosecutor’s Office**, set up with the aim of prosecuting fraud cases

that are in breach of the financial interests of the European Union. Until now, only national authorities could investigate and try fraud offenses, but **the Member States of the EU have transferred powers to this supranational authority so that it can exercise criminal actions and call for proceedings to be opened on its own account.**

In this regard, the commitment of G7 is noteworthy (United Kingdom, France, Italy, Canada, Japan, Germany and the United States) in creating a **universal tax on companies of at least 15%**. The aim of this measure is to do away with tax competition between countries due to the perception that large corporations, particularly technology companies, pay very little in taxes due to being based in countries where Corporate Income Tax is very low.

Regulatory fiscal pressure on Corporate Income Tax in 2020.

The higher the figure, the higher the marginal tax rates; the lower the rate, the lower the payments. These are calculated by taking into account not only the nominal rate, but also the tax structure (deductions, exemptions, etc.).



Source: [Cinco Días](#). Differences between Corporate Income Tax rates in the EU.

Although these practices are lawful, the governments of many countries are trying to limit the possibility of large multinationals, particularly technology companies, choosing countries with laxer tax systems. This places them in an open conflict to obtain part of the profits generated by such companies. Furthermore, the perception is prevalent that it is **unethical for a company to locate its base in countries with very low tax rates**, even if they are not classified as tax havens.

Whatever the case, the reality is that the main powers are now reaching an agreement to establish a **common front and starting to level out the playing field based on a trend founded on the idea that companies do not pay enough taxes**, which necessarily makes them “evil”, while the international community is the final governing body with sufficient power to tackle them. For the companies affected, this has two important consequences: the first is that these companies are subject to **greater scrutiny and social judgement, no longer just from national, but also international, public opinion**, which will positively view any “victory” by the international community against the large corporations. The second is that they will be subject to **more complex tax obligations** that will combine the national legislation of the countries where they operate with the new international legislative framework.

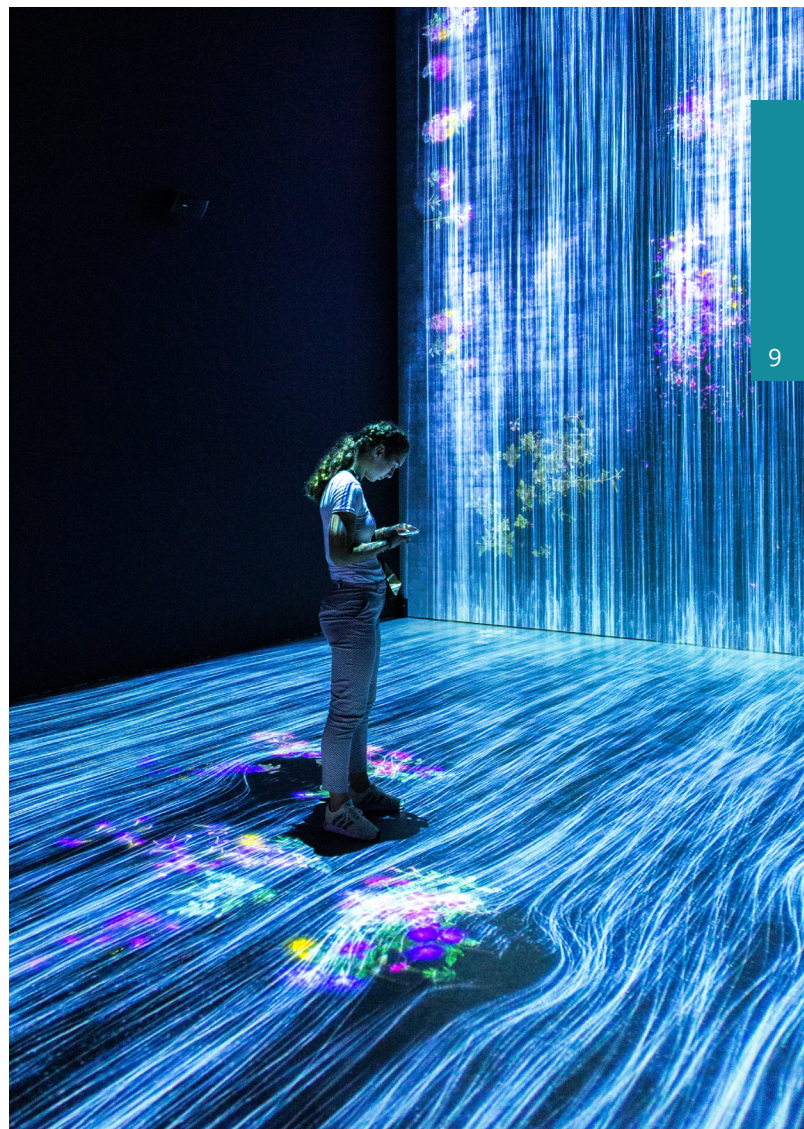
5. THE PANDEMIC, SPEEDING UP THE DIGITAL TRANSFORMATION

The global expansion of COVID-19 and the measures adopted to tackle it have wreaked havoc at all levels. But secondary from the damage to lives and health, the economic impact is that which has been felt the most. To combat the pandemic, **many governments have had to address an unprecedented public spending contingency**, which, as we have seen,

has opened up a tremendous hole in the public accounts.

In fact, the Member States of the European Union have resumed an initiative to have large corporations make their accounts public. The bill had been blocked by 12 countries in 2019, but, **in the wake of the pandemic, it now has sufficient support to be pushed through**.

The sentiment, as expressed by the MEP and Coordinator for Economic and Monetary Affairs of the Social Democrat Group, Jonás Fernández, is that *“now that governments, with public funds, are helping out companies to overcome the effects of the pandemic, it is more necessary than ever to guarantee that multinationals pay their dues”*.



For its part, the Government of Spain has announced a **new tax reform**, which, should it be approved in the Lower House of Parliament, will come into force in 2023 and which provides for **an increase of fiscal pressure at all levels** in order to receive the European recovery funds promised. This reform will not only affect individuals and tax new services, but will also raise Corporate Income Tax and remove discounts on hiring, among other features. In turn, companies and employer organizations are calling for huge tax breaks in response to the rise in Corporate Income Tax and cutbacks in deductions. They criticize the fact that these taxes hinder the activity of Spanish companies, making them less competitive than their foreign rivals and propose that the minimum rate of 15% on companies be applied to the taxable base and not to the accounting profit, as suggested in Biden's proposal in relation to the minimum universal tax. This initiative takes place against the backdrop of the public perception of taxation which, according to the latest CIS survey in 2021, is that 81.4% of Spanish people do not feel that taxes are collected fairly and 90% think that tax fraud is high in Spain. Hence, **organizations should take into account that the European Union, public perception, the public authorities and the need for economic recovery in the wake of the pandemic will all be constant pillars of fiscal pressure in the coming years.** Years in which it is likely that relations between public authorities and companies will be dominated by a dynamic of 'give and take' on tax matters.

In addition, the imposition of restrictions on in situ work caused by the pandemic has enhanced such digital habits as remote working and online shopping, thus speeding up a key phenomenon that was already underway with effects that are already being felt at a tax level: the digital transformation.

Germany, France, Spain and Italy have backed a universal corporate income tax from the outset, because they feel that the crisis caused by the pandemic has been highly beneficial for some companies, mainly the tech giants, which have reported unprecedented income that is much higher than in any other sector of the economy, but which have been accused of not paying their fair share of taxes thanks to most of their business being online.

Even examining Spain alone, it is estimated that online shopping grew by 22% during the State of Emergency. That is why the finance ministers of these four European powers declared in a joint letter that **"a physical presence has been the historical basis for our tax system. This basis must evolve by our economies transforming to digital economies"**.

"It is likely that relations between public authorities and companies will be dominated by a dynamic of 'give and take' on tax matters"

In Spain, the digital economy already accounted for 19% of GDP in 2020, thus becoming the second most important sector in the country behind real estate. **This percentage stands at 22% globally.** For this reason, countries like France and Italy have adopted new "digital taxes" to tackle the new economic and fiscal reality we are seeing. **Spain has already set in motion the so-called "Google tax",** which levies a 3% tax on certain digital services, such as online advertising, digital intermediation and the sale of user data carried out by those companies that **invoice at least 750 million euros globally and 3 million in Spain.**

In conclusion, digitalization means that companies operate everywhere and nowhere. This can create legal and fiscal confusion but also means that they will have to report their digital activities differently. And given **that digital operations are not limited by physical borders, neither are the tax obligations that companies will have to adapt to.**

Accordingly, all companies will have to anticipate this tax risk and prepare to address new pressures stemming from the digital transformation, like the aforementioned Google tax, in addition to addressing tax obligations that will be imposed by the international community and supranational organizations including the European Union.

This means that, although large and small companies will be subjected to the challenges of digitalization, it will **primarily be the multinationals that are most exposed to increasing global and public scrutiny, thus amplifying the risks to their reputations.**

6. TAX AUTHORITY DEBTOR'S LISTS – PUBLIC AND HARMFUL

Another problem that is not new, but recurrent in terms of reputation, is the **ease with which you can be listed as a debtor by the tax authorities.** These lists can be publicly accessed and frequently appear in the media with the wide circulation.

Taxpayers, whether natural or legal persons, are fully identified on the list, by their name, surname(s), Tax ID numbers and complete

company name. The official title under which this list is published - "publication of important situations of breach of tax obligations" – **pre-judges those who appear on this list** although this pre-judgment is an affront on the presumption of innocence. **Companies are thus subject to the scorn of the media without having been sentenced by a court,** and the impact that this scorn has on their reputations, and consequently on the smooth functioning of their businesses.

“All companies will have to anticipate this tax risk and prepare to address new pressures stemming from the digital transformation”

There are often even companies that appear on these lists by mistake or because they have not been updated, e.g. a case of a debt that has been paid off. In fact, a 2017 ruling allows legal proceedings to be brought so that those affected by error can thus protect their honor and request compensation. The ruling literally recognizes that “the inclusion of a company in a debtors’ file automatically has a negative stigma that is not easy to recover from, given the globalized world we live in”. Accordingly, the following is established as case law doctrine, “whereby the erroneous inclusion on a debtors file breaches the right to honor of the person whose details are included in the file, due to the negative social *assessment of those people included in these registers and because the charge of being a “debtor” harms the dignity of the person, undermines their reputation and is an affront to their own estimation*”.

The problem is that until such time as a court upholds the claim of the affected party, so much time has gone by that the reputation and the activity of the affected company can suffer damage that is hard to repair, even when the courts rule in their favor.

Furthermore, rulings in their favor do not receive the same degree of media attention as the opening of files or the lodging of claims against companies. **Companies are thus obliged to assume direct communication with their stakeholders** when the final ruling is in their favor because traditional and social media will continue to focus on publishing news about companies under suspicion and those cases where the ruling goes against companies.

Affected companies need to implement the pertinent communication actions with the aim of minimizing the damage to their reputation on a parallel, yet complementary, basis to their judicial strategy.

However, **communication efforts geared to minimizing the impact of media scrutiny on reputation should not be limited to times of crisis**.

The company must be able to communicate transparently, **consistently and continually the positive impact of its tax contributions so that, should any discrepancy arise, there are some messages that have already been conveyed and there exists a starting point from which to build**.

“Until such time as a court upholds the claim of the affected party, so much time has gone by that the reputation and the activity of the affected company can suffer damage that is hard to repair”

7. ANTICIPATION, PREPARATION AND RECOVERY: KEYS TO MANAGING REPUTATION

Companies must be aware that **this latent risk that exists at a reputational level and must be managed on before, during and after its materialization.**

BEFORE. It is essential for companies to anticipate the general risk as well as various critical scenarios that may occur. Accordingly, they can prepare themselves to offer a satisfactory response to the doubts raised by society and their main publics that is sufficiently straight-forward so as to be understood, while also being **sufficiently detailed and specific so as not to be questioned** by the specialists that are familiar with the complexities of these matters.

To that end, it is important, firstly, for companies to perform a detailed analysis of the strong and weak points of their tax situation, the specific populations to be addressed therewith and their specific interests, as well as to systematically monitor the risk to assess whether it is a question of the taxation of the company, why, by whom and where.

In the same way, it is fundamental for companies **to preemptively integrate the narrative on its tax activities into the global narrative of the company and within its public affairs plan.** As previously mentioned, this will allow them to be in a better position in the event that a discrepancy arises.

DURING. Should a **crisis arise** related to the company's tax payments, this should not be underestimated, since it **may amount to a risk that affects the viability of the business itself**, as well as all the dimensions and departments of the company. For this reason, it would be inappropriate to only formulate a response to provide to the media, to limit explanations to the tax authorities, or to convey this to other publics directly without framing this in the global corporate narrative. A **multi-channel and multi-stakeholder response** is essential in addressing this kind of issue.

AFTER. It will also be important **to work on the recovery once a conflict** that has negatively impacted the reputation of a company. Detecting potential improvements both at an organizational level and a relational level will be key to **recovering the lost trust.** To achieve that, it will be essential for **reputation to be integrated as a priority variable in corporate decision-making**, such that anything that is communicated is unequivocally aligned with the values and actions of the company.

In conclusion, **it is key for the experts in tax planning and the specialists in communication to coordinate** explanations in an integrated, consistent and continuous fashion over time regarding the key aspects of their tax system and how they are acting to form part of the solution.

In this way, this risk can be addressed in a more integrated fashion, thus achieving greater control over the reputational impact of media-driven backlash.

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