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Dolce & Gabbana Cleared Of Tax Evasion, Could Help Lionel Messi Trial

Designers [Stefano Gabbana](#) and [Domenico Dolce](#) were ruled not guilty of tax evasion by Italy's highest court. The big ruling overturned two sentences by lower courts that found them [guilty of tax evasion](#), imposing 18 month jail sentences. Prosecutors had wanted the pair locked up for heftier [three-year prison terms](#), but now the pair have been vindicated in the face of accusations they hid hundreds of millions of Euros.

The reversal hits Italian tax authorities hard after they had won big in the tax evasion trial. Italy's appeals court upheld the verdict but reduced the jail terms from 20 months to 18 months each. But the high court's innocence ruling restores the duo's image. Financially, Italy made out just fine given the 343.3 million euros in fines and restitution the government collected from the pair.

The sale of the [Dolce & Gabbana](#) label to Luxembourg-based Gado may primarily have been a tax shelter. But exactly who did what and who knew what can be debated. Not only were the two founders pursued, but a number of their colleagues were too. The complex deal had advisers and lawyers and in some respects was not too different from many company sales or restructurings.



That makes it a cautionary tale for high profile businesses and individuals around the world. Americans are particularly unable to hide anything under [FATCA](#)—the Foreign Account Tax Compliance Act. America’s global tax law, it requires foreign banks to reveal American accounts holding over \$50,000. The world has agreed, even Russian and China, and names are being revealed to the IRS.

In IRS administrative cases and tax prosecutions, trusts and companies are under fire. The IRS and DOJ use these common devices to enhance evidence of willfulness, making the cover-up is worse than the crime. Such layers can make innocent activity seem [willful, triggering IRS penalties or jail](#).

Parallels can be drawn with the Spanish tax evasion case facing Lionel Messi. After all, a key element in Mr. Messi’s case seems to be the clandestine nature of the tiered arrangement.

Structures were used by Dolce & Gabbana too. The Messi deal was structured in part to keep his name hidden. The Spanish prosecutor alleges that money was routed through U.K. and Swiss companies and then to companies in Uruguay and Belize.

The reason? To make it opaque. Mr. Messi denies the allegations, but is understandably saying that his agent—er actually his former agent—did the deals without his knowledge. His father surely also had a larger role in the tax maneuvers than did the footballer. Yet Spain has put the screws to Mr. Messi, as his [criminal tax case heads toward trial](#).

All of this comes at a time when secrecy itself is under attack. The UK is moving to make company ownership entirely transparent. If current proposals pass into law, that may be replicated elsewhere. The topic of company ownership transparency is being discussed in Brussels too.

Nominee ownership used to be common. Nominees are straw-men listed as owners or directors of a company, but who are acting on behalf of someone else. As secrecy itself as come under attack, this once extremely common device is now more likely to be viewed as a problem that triggers others.

All indications are that Lionel Messi and his father have tried multiple times to settle their tax case, to pay the money and move on. But the message coming from Spanish authorities has been a stern one. They have been accused of evading 4.2 million euros in tax on earnings from sponsors. Details appear in the [formal complaint](#) filed by the prosecutor.

Mr. Messi may take some encouragement from Italy's high court vindication of Messrs. Gabbana and Dolce. One cannot know everything about what one's advisers are doing. Details of companies, trusts, tax treaties and the like are too complex. There may be a worldwide preoccupation with taxes and transparency, perhaps fueled in part by America's FATCA jihad. Despite the Dolce & Gabbana victory, whatever the source, secrecy and willfulness are being linked like never before.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.