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Prada Mimics Dolce & Gabbana Tax Trouble, Should Copy Apple & Google Instead

Prada would hate to be accused of copying Dolce & Gabbana in anything, whether in design or tax planning. Domenico Dolce and Stefano Gabbana were found [guilty of tax evasion](#) and given duplicate 20-month suspended prison sentences. They also got big fines and restitution of €343.3 million. Fashion trends spread, and now it is Italian designer Miuccia Prada and her husband, Prada CEO Patrizio Bertelli, who are under investigation for tax evasion.



The Prada store in Rome. (Photo credit: Wikipedia)

The paper *Corriere della Sera* reported that Ms. Prada and Mr. Bertelli paid Italian tax authorities 420 million euros in a settlement. Yet they are reportedly still under investigation. Although many details are unclear, Prada Holding did make a voluntary tax disclosure of assets from low-tax Netherlands and Luxembourg. The investigation hasn't reach the charges stage, but it appears to stem from corporate structuring.

From the sounds of it, it may not be unlike the type that Apple CEO Tim Cook vehemently defended before Congress last year. Just as there as been an

outcry in the U.S. over aggressive tax planning, Italy went after Dolce and Gabbana hard for structuring. In the D&G case, prosecutors wanted the pair locked up for a [three-year prison term](#). All the fuss started with the sale of the [Dolce & Gabbana](#) label to a Luxembourg-based holding company, Gado.

The holding company may have been primarily a tax shelter, and ended up drawing not only the two founders but a number of their colleagues into the fray. However, some of the D&G tax charges were dismissed, including those relating to the valuation of the company at the time of the sale. Prada's situation is different, but it may have involved a similar kind of tax-advantaged structuring.

These are cautionary tales for high profile businesses and individuals, and impact on brand value has to be considered. In 2012, Prada's brand value skyrocketed 63%, bringing it to \$9.5 billion, according to BrandZ, making it the world's fourth most valuable luxury brand. Criminal charges against major brand leaders have sometimes lead to strange results, not only for the figurehead but for the brand too. Prada and D&G might both be encouraged by Martha Stewart.

In 2004, Ms. Stewart was convicted of charges connected to ImClone stock trading. Ms. Stewart is famously difficult and prickly. Yet after 5 months in jail for obstruction of justice, she seemed to emerge more popular than ever. Perhaps the fact that she was seen stoically donning an orange jump suit ironically helped rather than hurt her image. And while some feared that her company stock would take a big hit, Martha Stewart Living Omnimedia did fine.

Some companies say the tax system itself is to blame. In May 2013, the Senate Permanent Subcommittee on Investigations said Apple avoided \$9 billion in U.S. taxes in 2012 via offshore units with no tax home. CEO Tim Cook did a superb job of deflecting the issues. Apple isn't the only one to grab the luck of the Irish.

Google and Facebook use Ireland too. Facebook flipped more than \$700 million to the Cayman Islands as part of a "Double Irish" tax reduction strategy. Google also used [the Double Irish and the Dutch Sandwich](#), saving [billions](#) in U.S. taxes. The Double Irish involves forming a pair of Irish companies to turn payments on intellectual property into tax-deductible royalty payments.

The U.S. parent company forms a subsidiary in Ireland, and with a few paper moves, European income—that previously would have been taxed in the U.S.—is taxed in Ireland instead. Chains of companies can be needed, but the net result may be one 12.5% Irish tax compared to 35% in the U.S. Even this tax can usually be reduced, often by combining Irish and Netherlands entities, with Bermuda for good measure.

Google and Microsoft cut their overseas tax rates to single digits by establishing Dublin-registered subsidiaries which they designated as tax resident in Bermuda. Google and Apple have Irish-registered and tax resident subsidiaries that make sales to customers. Whatever happens with Prada, its CEO and designer, they may want to take a page from Apple's playbook.

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.