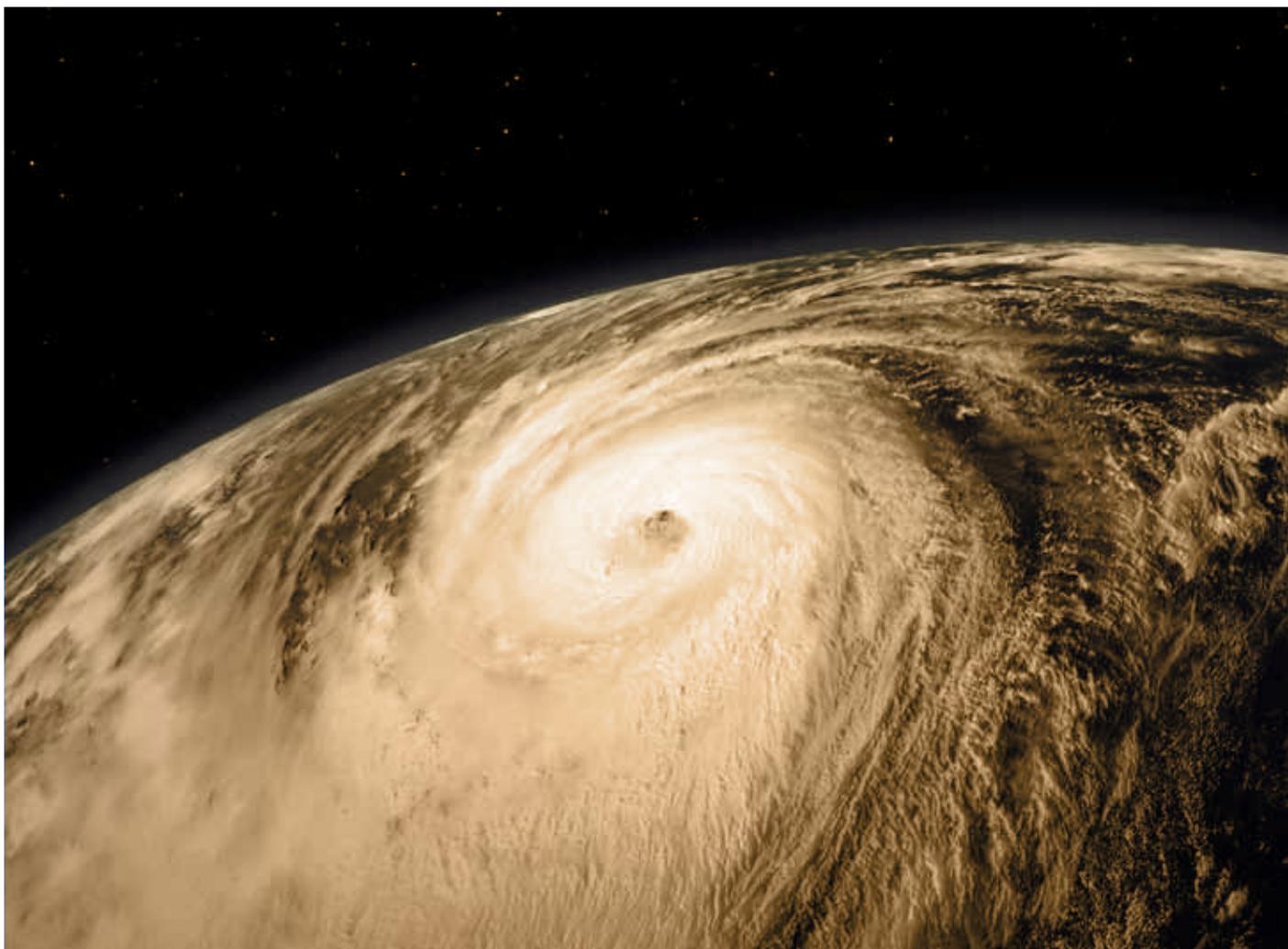


THE PERFECT STORM

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Today family offices are facing a ‘perfect storm.’ With most governments struggling with deficits and under pressure to increase tax revenues, public sentiment growing against income inequality and the media starting to name and shame the wealthy, it is clear in which direction the winds are blowing.

The ‘perfect storm’ is not likely to be devastating for those that embrace it, but those unwilling to adapt will risk their reputations, investigations and even litigation in the longer run. The winds of change that form this storm are (1) taxes (2) structures (3) data and (4)

the family brand, each working in tandem with the other.

TAXES

Taxes are often complex even for the best tax adviser, making it hard to pay the correct tax everywhere. This is now becoming even harder as the wafer-thin and yet bedrock distinction between tax avoidance (legal) and tax evasion (illegal) is about to be swept aside by the UK Finance Bill 2013 introducing a General Anti-Abuse Rule (GAAR) against “tax advantages arising from tax arrangements that are abusive.” The GAAR will make tax avoidance of income tax, corpora-

tion tax, capital gains, stamp duty and inheritance taxes illegal unless it is “a reasonable course of action in relation to the relevant tax provision.” It provides the HMRC a broad remit to pursue tax avoidance based on a new subjective test, while a series of queries and rulings will be needed on legitimate tax planning to achieve some legal clarity.

In parallel the HMRC High Net Worth Unit is aggressively pursuing the wealthy for unpaid taxes, based on volumes of recovered data and unprecedented worldwide cooperation between the major tax authorities, forcing them and their family offices to come forward and put their

affairs in order. Nothing in life is certain, except death and taxes, and the HMRC is now making sure that those who don't pay their taxes will not have not much of a life either.

STRUCTURES

Separate to the tax, the legal structures themselves, in particular offshore structures, are becoming inherently fragile due to the onslaught of this 'perfect storm.' This applies to the wealthy as well as Apple, Google, Amazon and Starbucks, who are all now under scrutiny by both governments and the media for using these structures. Recently, in response, the chairman of Google stated: "If the British system changes the tax laws, then we will comply. If the taxes go up we pay more... That is a political decision." Considering the amounts at stake the G8, supported by the OECD, has now taken Google up on the offer with Mr. Osborne stating at a recent G8 meeting: "We probably made more progress in the last 24 hours than people have made in at least 24 years.

With increased transparency and cross-border cooperation in particular the automatic exchange of tax information and the global register now proposed by the G8, certain structures are simply unlikely to survive. Family offices should therefore re-evaluate and consider more minimalistic and holistic onshore structures, which require detailed thought and some compromises. Depending on secrecy to maintain an inherently fragile structure is not a recommended survival strategy when all the data it is increasingly becoming public.

DATA

We live in an online age where we cannot avoid personal data being generated and stored somewhere. Governments already hold decades of data they are now data mining with advanced forensic software,

meanwhile whistleblowers are selling sensitive stolen data, often from private banks, effectively killing any remaining secrecy. With this deluge of data family offices are being questioned and investigated, while the media is naming and shaming the wealthy as well as their advisers, irrespective of whether the actions are themselves perfectly legal. The media has run out of bad bankers and nobody minds them turning on the wealthy as it currently tracks the general public sentiment towards wealth creation.

Family offices should therefore expect secrets to become public and note that a lot of their data is already public or at least accessible by governments. Simply put, if you don't want it on the front page or if it is too complicated to explain as being reasonable, then best not to do it. Act quickly if past actions or existing structures are likely to be deemed improper, immoral or even illegal, in particular due to the impact it might have on reputations and the family brand.

THE FAMILY BRAND

In 1914 the Rockefellers, the richest family in history of the world, hired Ivy Lee, the founder of modern public relations, to redeem their public reputation and vilified family brand. His recommendation was: "Tell the truth, because sooner or later the public will find out anyway. And if the public doesn't like what you are doing, change your policies and bring them into line with what people want." This is as true now as it was 100 years ago.

Unlike the High Court, the court of public opinion does not respect the law as it has replaced it with an unwritten code of morality. With the media aggressively naming and shaming the wealthy based with stolen data, association with something legal but morally questionable can irreparably tarnish your



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reputation. Family offices therefore need to decide now whether they want their actions, although perfectly legal, to bring them and their family brand into public disrepute. Family offices that leave themselves exposed are putting their reputation at the altar of public opinion.

THE FUTURE

The 'perfect storm' reflects that the world is increasingly demanding more from the wealthy, not only to obey the law and pay taxes, but even more importantly to 'do good' with their wealth through philanthropy and by making good long-term investments that directly benefit society as a whole. As the world's most entrepreneurial and long-term investor class the wealthy should not only embrace these public demands but also be seen by the public to do so.

Today's trends and pressures will lead to an evolution of the family office model towards more holistic, transparent and minimalistic structures, as already adopted by many US family offices, although some may resist the change until forced to do so by law, public sentiment or reputational exposure.

However, those that embrace the 'perfect storm' and adapt early will survive and thrive, allowing them more time and energy to refocus their efforts on those unique core elements that made them so successful to begin with. ■