Tax Seminar

Corporate tax governance and compliance trend

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Introduction

Summary

- I. Substance requirements and beneficial ownership risks
- II. The growing role of internal controls in tax risk management
- III. Best practices from tax administrations and multinational companies
- IV. The specificities of the Italian legislative regime

I. Substance requirements and beneficial ownership risks

I. La notion de BE

II. BEPS

III. ATAD II

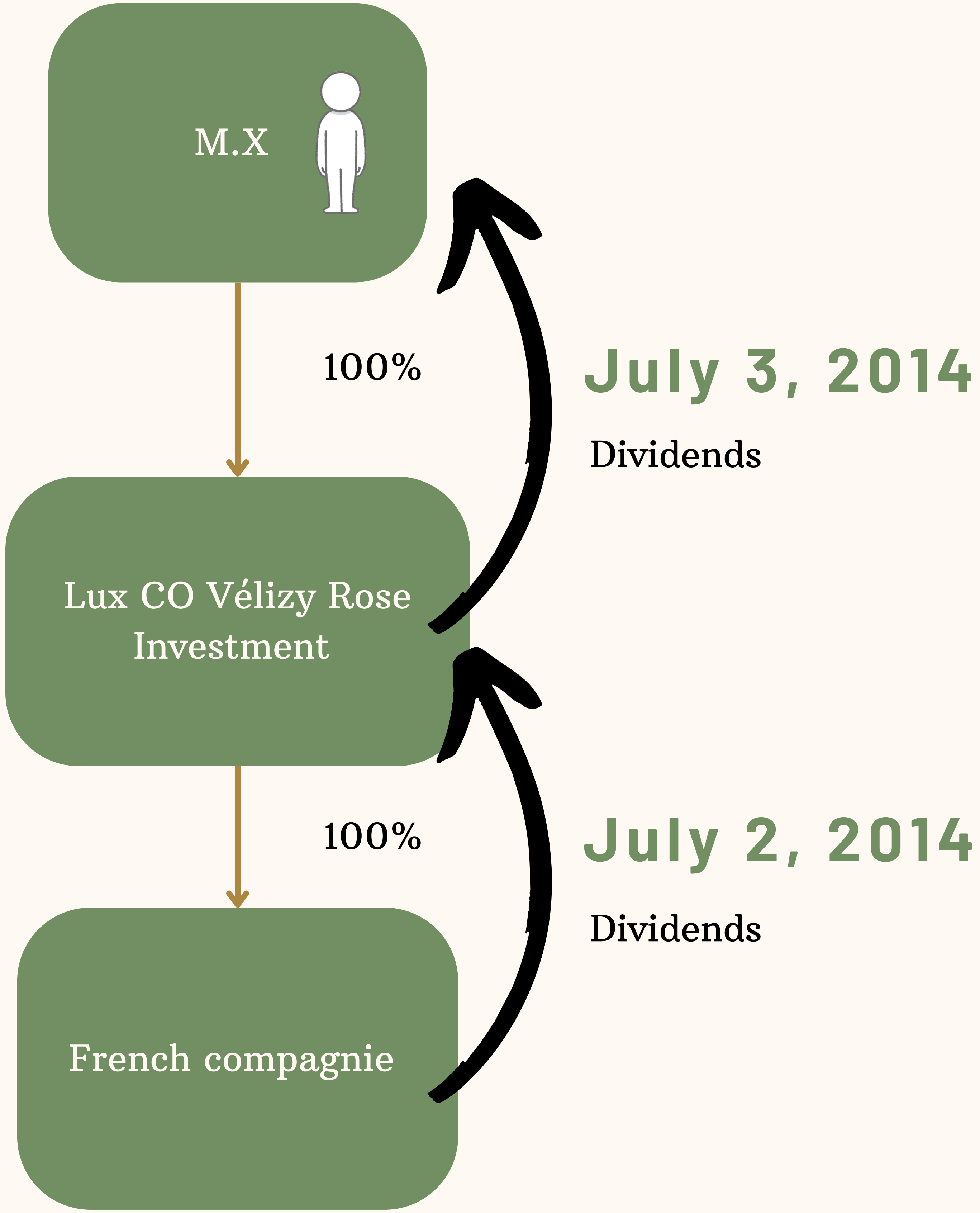
I. Beneficial owner

<u>What is a Beneficial Owner ?</u>

A beneficial owner is one or more natural persons who ultimately own or control an interest in a legal entity or arrangement, such as a company, trust, or foundation.

<u>Characteristics of a Beneficial Owner</u>

- Some may be classified as legal (rights and obligations of the apparent beneficiary regarding income usage),
- Functional (economic function of the entity receiving the income),
- Factual (amounts redistributed to third parties, timing of redistribution, etc.).



II. BEPS

Notion of BEPS :

The BEPS project refers to tax planning strategies used by multinational enterprises to exploit loopholes and mismatches in tax rules to avoid taxation. The OECD and G20 BEPS project consists of 15 actions designed to equip governments with domestic and international rules and tools to combat tax avoidance and ensure that profits are taxed where economic activities take place and value is created.

Action 5 : Addresses harmful tax practices, requiring transparency and peer reviews of preferential tax regimes.

Action 6 : Focuses on preventing treaty shopping, ensuring that tax treaties are not misused to obtain unintended tax benefits.

Action 13 : Requires multinational enterprises to prepare Country-by-Country (CbC) reports, detailing income distribution, taxes paid, and economic activities across jurisdictions.

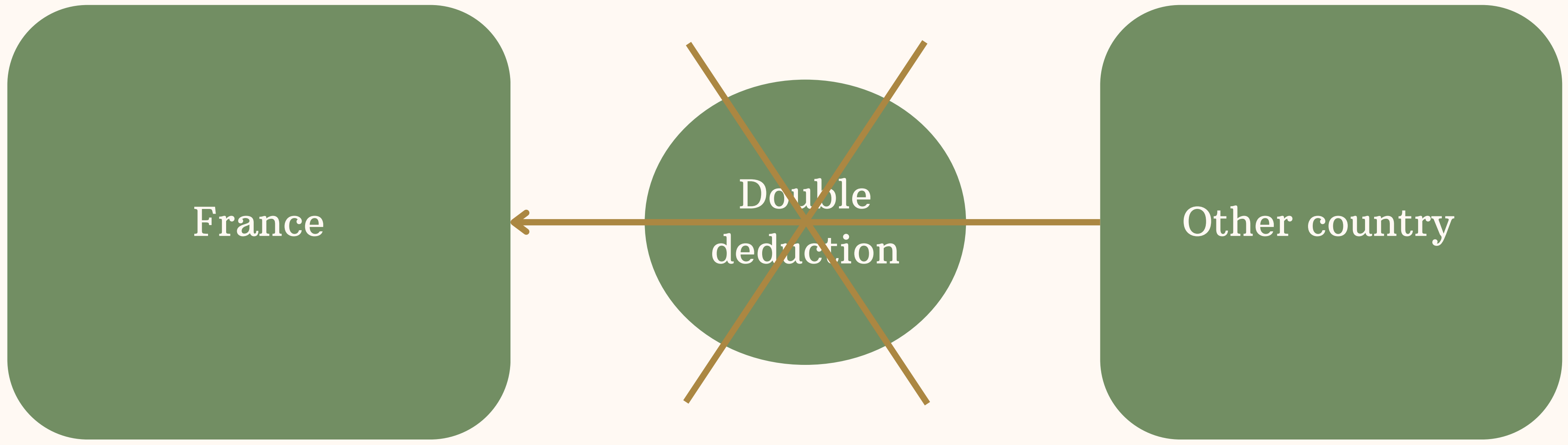
Action 14 : Establishes minimum standards for resolving tax treaty disputes efficiently through mutual agreement procedures and peer monitoring.

ATAD 2

Notion of ATAD 2 :

The deductibility of financial interest is strictly regulated under French tax law, which continues to evolve in this area. The latest regulations target "hybrid mismatches", which result in tax treatment asymmetries between at least two countries.

Adopted through the 2020 Finance Law, ATAD 2 transposed EU anti-avoidance measures into French law. These rules eliminated the previous interest deduction limitation mechanism and replaced it with new restrictions effective January 1, 2020.



II. The growing role of internal controls in tax risk management

Managing Tax Risks: A Key Challenge for Businesses

- **Growing emphasis on tax transparency & compliance**
- **Companies must implement internal controls to mitigate risks**
- **Benefits:**

✓ Ensuring compliance with tax obligations
✓ Reducing exposure to penalties
✓ Strengthening relationships with tax authorities

The Sapin II Law and Compliance in Tax Law

Strengthening Internal Controls & Compliance

- Sapin I Law (1993): Initial steps towards transparency & anti-corruption

- Sapin II Law (2016): Expands compliance requirements

✓ Applies to companies with 500+ employees & €100M+ turnover
✓ Requires a Code of Conduct & Whistleblowing System
✓ Implementation of a Tax Risk Map

Failure to comply → Fines up to €1M & reputational damage

Transfer Pricing & Documentation Obligations

Ensuring transparency in intra-group transactions

- Transfer Pricing = Prices applied in intra-group transactions
- Risk: Tax Base Erosion & Profit Shifting (BEPS)
- OECD Arm's Length Principle: Transactions must reflect market conditions
- France's Requirements:

✓ Documentation mandatory for companies with €400M+ turnover
✓ Failure to comply → Adjustments + 10% penalty on reassessed profits
✓ Risk of double taxation without mutual agreement

Solutions:
✓ Advance Pricing Agreements (APAs) for tax certainty
✓ BEPS reforms → Global 15% minimum tax

Tools & Mechanisms for Tax Risk Management

Proactive measure to ensure compliance

Internal Tax Controls:

✓ Pre-submission review of tax returns
✓ Internal policies on VAT, corporate tax, etc.
✓ Employee training on tax risks

Internal Audits:

✓ Identify & correct errors before tax audits
✓ Ensure compliance with intra-group transactions

Digitalization & AI:

✓ Tax compliance software for automated accuracy
✓ Data analytics to detect anomalies & prevent risks

Cooperation with Tax Authorities

Enhancing Legal Certainty & Reducing Risks

1/ Trust-Based Relationship Program :

- Continuous dialogue & advance validation of tax positions

2 / Tax Rulings :

- Formal opinions securing a company's tax treatment
- Binding for tax authorities → Reduces uncertainty

Benefits of Cooperation:

✓ Anticipates tax obligations
✓ Secures business operations
✓ Avoids costly disputes & penalties

Tax Compliance : A Necessary Evil?

Essential for effective tax revenue collection

A costly burden for businesses:

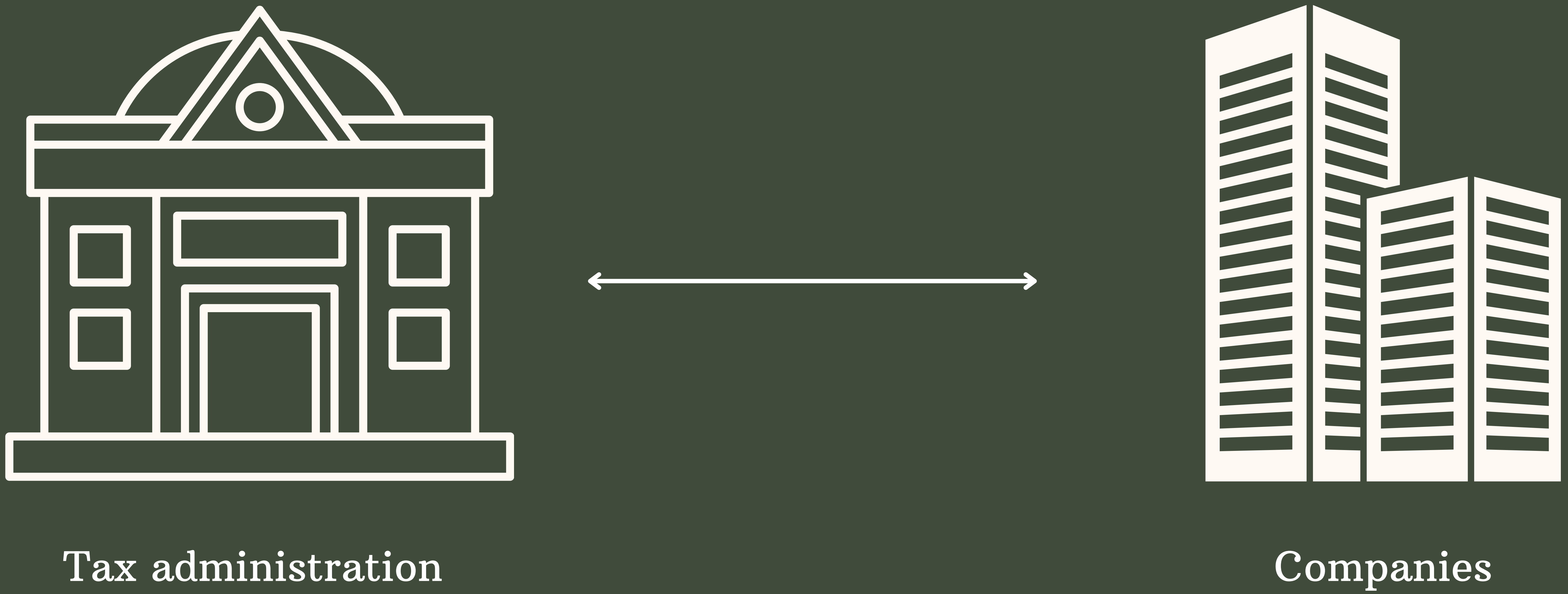
✓ 1%–2% of revenue → Avg. €15K per company
✓ Microenterprises: ~€14K
✓ Large companies: ~€34K

Key takeaway:

✓ Proactive tax risk management protects reputation & minimizes penalties

III. Best practices of french tax administrations and multinational companies

Corporate tax governance



PART 1 : An Efficient French Tax Administration: Digital Modernization and the Fight Against Aggressive Tax Optimization

How avoid tax fraud ? French Tax Administration use digital tools

IA and DATA MINING

- Since 2013
- Modernize and optimize tax controls
- Create typical fraudster profiles

Digitalization of tax procedures

- Online tax declarations
- Simplify transaction tracking
- Improve financial transparency

Modernized collect of DATA

- Collect of DATA from social media and online platforms

Strengthening Cooperation and Transparency with Businesses

ESSOC (État au service d’une société de confiance) Law
Aims to transform the relationship between the French tax administration and businesses by promoting trust and a more cooperative approach.
3 keys principles : right to make mistakes / right to a tax audit on request / personalized support for small and medium sized businesses.

The Country by Country Reporting (CbCR)

- Introduced as part of the OECD’s BEPS action plan
- It mandates large multinational companies to provide detailed annual reports on their operations in each country where they operate.
- Must include key financial informations
- CbCR increases pressure on multinational companies to adopt responsible tax practices that align with their real economic activities.

PART 2 Tax Governance of Multinational Companies: A Balance Between Compliance and Social Pressure

Adopting accountable tax governance

- Internal codes of conduct which define the tax principles the company commits to following. These commitments not only ensure compliance with regulations but also improve the company's image with investors and the public.
- Many multinationals create internal tax compliance committees. It help reduce the risk of tax audits and potential sanctions. They also encourage better cooperation with tax authorities, leading to more stable relationships with governments.
- Some companies go even further by publishing tax transparency reports. Companies aim to avoid accusations of tax secrecy and show that they contribute fairly to public finances.

SEEKING TAX OPTIMIZATION IN ETHICAL FRAMEWORK

Corporate Social Responsability

- Protect their reputation
- Attract responsible investors

For these companies, taxation becomes a communication tool, allowing them to stand out positively and prove that they contribute fairly to public services.

Some multinational companies implement a "tax control framework"

It helps quickly identify potential errors or irregularities and correct them before they lead to sanctions.

IV. The specificities of the Italian legislative regime

Conclusion

Common Goal: Enhancing transparency, risk management & reducing litigation.

- France 🇫🇷: Focus on internal controls, strict reporting & penalties (e.g., Sapin II, transfer pricing).
- Italy 🇮🇹: Cooperative compliance (Decree 128/2015), fostering dialogue & reduced penalties.

Key Contrast: France = control & accountability, Italy = trust & incentives.