

Window of Opportunity

Israeli Tax Authority issues New Voluntary Disclosure Procedure

4/12/2014 Dr Judith Taic, tax lawyer

On September 7, 2014 in continuance with the Israeli Government's policy to fight "black" money and to increase the collection of taxes in Israel, the Israeli Tax Authority (hereinafter: ITA) published a New Voluntary Disclosure Procedure that allows a taxpayer to report his/her non-reported income to the tax authority with the possibility to be exempt from criminal proceedings for not reporting.

The New Voluntary Disclosure Procedure came into force on the day of publication and will be in effect until December 31, 2016.

With the New Voluntary Disclosure Procedure the ITA published Temporary Rules - a special temporary order - which will be in effect for a period of one year until September 6, 2015.

The Temporary Rules are setting forth two new optional routes:

1. Anonymous Procedure
2. Special route for small accounts ("Fast Track")

I. Anonymous application

The Temporary Rules allow taxpayers to submit an application for Voluntary Disclosure on an anonymous basis.

According to this procedure the taxpayer submits his/her application to the criminal department of the Israeli Tax Authority without indicating his/her name. The application should include all relevant information, including information showing to which fiscal year the disclosure is related, information to the origin of the capital and income, details as to the amount of income and a calculation of the tax to be paid. With the application all relevant documents and statements to support the information specified in the application must be submitted.

Within 90 days, the relevant local tax office (Assessing officer, director of real estate taxation, manager of VAT) will inspect and agree on the final tax liability. After this period, with a possible extension of another 90 days, the taxpayer is required to provide his/her personal details including his/her name to the ITA for the purpose of completion of the voluntary disclosure. However, the taxpayer will reveal his identity **only** if the final terms are acceptable to him. If the taxpayer does not disclose his/her personal details, the application for the voluntary disclosure will be dismissed.

II. Special route for small accounts (“Fast Track“)

The temporary order also includes a special route for small accounts. This route is available for cases in which the unreported capital does not exceed the sum of NIS 2,000,000 and the taxable income derived from such capital for the relevant years does not exceed NIS 500,000.

According to this route, the taxpayer submits amended tax returns to the criminal department of the ITA. In case the application is approved, the criminal department will transfer the application to the relevant local office, which will issue a payment voucher to the taxpayer. Provided the taxpayer pays the payment voucher within 15 days, he will obtain immunity from criminal proceedings.

III. New Voluntary Disclosure Procedure

In addition to the Temporary Order the ITA issued a New Voluntary Disclosure Procedure, which replaces the Voluntary Disclosure Procedure introduced in 2005.

Similar to the previous rules, the application for the voluntary disclosure shall be complete and honest and shall be made in good faith. The application will not be accepted, if the tax authority has information regarding the taxpayer’s application.

The New Voluntary Disclosure Procedure emphasizes that the taxpayer is not granted an amnesty from tax liability. The taxpayer will be required to pay the applicable tax liability in addition to fines, interest and linkage.

According to the procedure, a taxpayer is entitled to participate in a Voluntary Disclosure Procedure **once** in a lifetime. An additional application will be accepted only in exceptional circumstances.

The New Voluntary Disclosure Procedure will not be applicable to income derived from illegal activities.

The procedure further emphasizes that the procedure is not open if the tax due under the application would be “insignificant”. It is not clear what will be regarded as an “insignificant tax amount”.

In case the Tax Authority rejects the application, the information submitted by the taxpayer in the application will not be used in criminal or civil proceedings.

The New Voluntary Disclosure Procedure will be in effect until December 31, 2016.

