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The New Israeli Voluntary Disclosure Program

On September 7, 2014, the Israel Tax Authority ("ITA") launched a new voluntary disclosure program (the "New VDP"). The New VDP enables non-compliant taxpayers to come forward and arrange their reporting and tax obligations in exchange for which the ITA (in collaboration with the State Attorney) undertakes not to initiate any criminal proceedings against such taxpayers. The New VDP applies to any undisclosed income and assets, whether in Israel or abroad, passive or active. The New VDP replaces previous programs and is in effect until the end of 2016. This brief memorandum presents the main criteria and guidelines of the New VDP.

The Voluntary Disclosure Procedure

- The application is submitted to the Chief Investigations and Intelligence Officer of the ITA. Once the latter approves the application, the taxpayer will be referred to the relevant civil officer, in order to reach an agreement that will determine the tax liability.
- The New VDP includes two special alternatives, which are available only for the coming year (although the general New VDP will be in effect until the end of 2016):
 - An anonymous application - according to this alternative, the application is submitted on an anonymous basis and the identity of the taxpayer is disclosed only after a tax agreement has been reached with the civil officer. However, once the taxpayer is referred to the civil officer, he is required to disclose his identity within 90 days, unless the civil officer grants him an additional 90 day extension. If after this period his identity has not been disclosed, the application will be denied. Since this is a relatively short period, it is important to collect and prepare all relevant information and documents in advance.
 - "Green Track" application - if the total capital included in the application does not exceed NIS 2 million and the aggregate taxable income does not exceed NIS 0.5 million, the taxpayer may apply according to this special alternative. The application is submitted to the Chief Investigations and Intelligence Officer together with amended tax returns for the relevant period. Once the application is approved, the amended tax returns will be accepted and the taxpayer will pay the tax liability and receive criminal immunity.
- Offsetting Losses - Losses declared under the above two alternatives may be offset only against income and capital gains disclosed in the same application and with respect to the same tax years (losses not offset cannot be carried forward). At the same time, losses reported outside the voluntary disclosure application cannot be offset against income and capital gains disclosed in the application.

Conditions for the Voluntary Disclosure Procedure

- The voluntary disclosure is honest, all-encompassing and done *bona fide*.
- At the time of the application, the ITA has no information regarding the voluntary disclosure, and no investigation or examination has been conducted by the ITA or by the Israeli Police with respect to matters related to the voluntary disclosure, including with respect to the spouse, their controlled companies or partners' files.
- The ITA is entitled not to authorize a voluntary disclosure application if there is information related to the voluntary disclosure in any other governmental authority, the media or in civil or criminal proceedings conducted before a judiciary body in Israel or abroad.
- In exceptional cases, where there are personal and extraordinary circumstances (such as serious illness), the ITA is entitled to approve a voluntary disclosure application, even if it is in possession of information as detailed above.

Additional Limitations

- If the application has not been approved, the ITA will not use the information disclosed in the application in any criminal or civil proceedings. If, however, the application has not been done *bona fide* and with full disclosure, the information may be used as evidence in a criminal or civil proceeding.
- A person is entitled to benefit from the voluntary disclosure procedure only once. An additional application will only be accepted under special circumstances (e.g. - serious illness, advanced age, etc.).
- The New VDP will not apply to income originating from illegal activities.

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This brief memorandum provides general information and does not constitute or substitute any legal advice. As these issues are complex and of a circumstantial nature, which involve different tax and legal aspects, each case should be examined according to its individual circumstances.