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The Renewed Israeli Voluntary Disclosure Program

On December 13, 2017, the Israel Tax Authority (“ITA”) launched a renewed Voluntary Disclosure Program (“VDP”) granting non-compliant taxpayers the opportunity to voluntarily disclose their previously unreported tax affairs in exchange for the ITA (in collaboration with the State Attorney) undertaking to avoid the initiation of criminal proceedings. The VDP applies to undisclosed income and assets, whether in Israel or abroad and whether passive or active. The renewed VDP was published, *inter alia*, in anticipation of the automatic exchange of information, as per the orders of the Common Reporting Standard (CRS), which is yet to be implemented at the end of 2018.

VDP Tracks

Voluntary disclosure applications under the VDP may be pursued via one of the following tracks: (i) a “regular” application; (ii) an anonymous application; and (iii) a short application.

The orders of the renewed VDP are quite similar to the previous disclosure programs which have been implemented thus far, and shall be in effect until the end of 2019, as follows:

- Under the “regular” application track, the identity of the taxpayer is disclosed once the application is submitted. This track is available until December 31, 2019
- Under the anonymous application track, the disclosure is submitted anonymously and the identity of the taxpayer is disclosed only once an assessment agreement has been reached with the ITA, settling the outstanding tax liability. Once the taxpayer is referred to the civil officer, it is required to conclude a draft assessment agreement within 180 days, and the civil officer may grant an additional 90-days extension. Following that period, if the taxpayer’s identity has not been disclosed, the application will be denied. Due to the limited time provided, it is recommended to collect and prepare all relevant information and documents in advance. *Inter alia*, bank statements for the past ten years and documents supporting the source of the funds should also be gathered. This route is available only until December 31, 2018.
- Under the short application track, the disclosure is handled via an expedited settlement process, allowing taxpayers to submit revised tax returns. The short application track is available only to taxpayers whose undisclosed capital does not exceed NIS 2 million and whose aggregate undisclosed taxable income does not exceed NIS 0.5 million. This track is available until December 31, 2019.

Conditions for the VDP

- The voluntary disclosure should be honest, full and complete and done *bona-fide*.
- At the time of the application, the ITA has no previous 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 mentioned in the voluntary disclosure, including with respect to the applicant's spouse, controlled companies or partners.
- The ITA may not approve a voluntary disclosure application if information related to the voluntary disclosure is held by any other governmental authority, is available in the media, or in civil or criminal proceedings conducted before a judiciary body in Israel or abroad.

Immunity from Criminal Proceeding

A taxpayer who completes the VDP process may be entitled to receive immunity from criminal proceedings subject to the following restrictions:

- A person is entitled to benefit from the VDP only once.
- The VDP will not apply to income originating from illegal activities.
- If the application has not been approved, the ITA may not use the information disclosed in the application in any future criminal or civil proceedings.
- If the application has not been made *bona fide* and with full disclosure or in the event that the taxpayer did not pay the tax liability as agreed according to the assessment agreement with the ITA, the taxpayer shall not receive immunity and the ITA may use the information disclosed under the VDP as evidence in any criminal or civil procedure.
- Immunity shall be granted not only to the tax offences mentioned under tax laws, but also to offences of money laundering originating from the tax offences disclosed in the VDP.

Offsetting Losses and Using Credits

Losses and credits declared under the VDP may be offset or used only against ordinary income and capital gains disclosed in the same application and with respect to the same tax years. Losses or credits that have not been used in the VDP's tax years cannot be carried forward. Similarly, losses or credits reported outside the scope of the VDP cannot be offset or used against ordinary income and capital gains disclosed within the application.

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