



# Practical Aspects of the Voluntary Disclosure Procedure

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# The new VDP

- Three main routes -
  - ***Regular Route***. The application should include details of the taxpayer. This route is in force until December 31, 2019.
  - ***The Anonymous Route***. After the conclusion of the negotiations on a “no-names” basis, the name and details of the taxpayer are provided to the ITA. This route is in force until **December 31, 2018**.
  - ***The Expedited Route***. Relevant where the capital included does not exceed NIS 2,000,000 and the taxable income does not exceed NIS 500,000. This route is in force until December 31, 2019.

# The new VDP

- ***Appendices***. All relevant attachments, including information regarding the source of the funds, should be attached to the application, **otherwise it might be rejected by the ITA**.
- ***Fines***. Under certain conditions, the tax amounts are subject to fines, in addition to interest and indexation (CPI).
- ***Time line***. Time limitations are strict (90 days in the Regular or Expedited Route or 180 days under the Anonymous Route).
- ***Taxation of capital***. Taxation/refraining from taxation of the opening balance under certain conditions, (e.g. "clean capital": capital which was generated by a non-Israeli resident outside of Israel; gifts and inheritance, will probably not be taxed).

# Amended Returns

- limited to technical mistakes only.
- Material mistakes can be corrected **only in certain cases.**
- In all other cases, a VDP should be applied for.



## Issues to Consider

- **Family members and partners**
- **Employee-employer relationship**
- **Partial Disclosure**
- **Does the ITA possess previous information?**

## Issues to Consider

- **Transfer of funds into Israel from non-Israeli banks**
  - Banks are subject to regulation under which they are required to verify the source of the funds (anti money laundering rules) as well as the taxation of the funds.



# Deceased taxpayers

- The deceased is not subject to criminal sanctions.
  - status of the spouse should be examined
  - When the heirs/custodian become subject to criminal sanctions?
- Specific provision set out in the statute of limitations in the case of a deceased taxpayer (section 120 of the Ordinance) – the representatives are subject to tax in the year of death and the three years prior to it.



# Practical issues

- **Calculation of capital gains**
  - Losses / gains arising from the change of the exchange rate
  - Losses / gains from the change of CPI (relevant for companies and family companies)
- Damages suffered as a result of the **historical calculation of gains and income** in NIS when the exchange rate was high, whilst the tax payment is made today when the exchange rate is low.
  - 1/1/2008: **GBP to NIS** → 7.65 | **Euro** → 5.67 | **US\$** → 3.86
  - June 2018: **GBP to NIS** → 4.77 | **Euro** → 4.17 | **US\$** → 3.57
- Tax payment is subject to **Interest and CPI linkage** from the end of each year until the date of payment.



## Practical issues

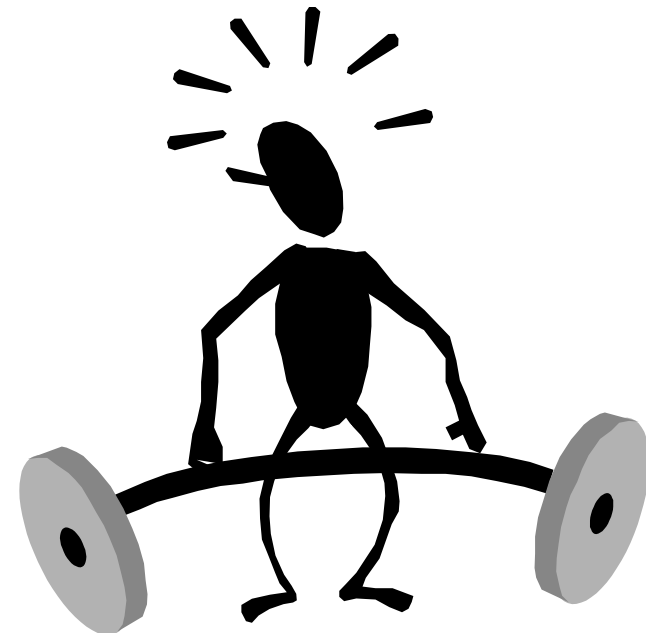
- The years to be included in the VDP – 10 years?
  - Losses from 2008 onwards
- Statute of limitation – can the ITA tax the period before the 10 year period?
  - In the Aharonov judgment (57131-01-14), the court approved the ITA's position according to which they ordered a taxpayer to submit tax returns **13 years back** and assessed him for these years
- VDP in other jurisdictions
  - Managing of the process in parallel
  - Tax payment (and tax credit) in Israel on income which was assessed and paid for in another jurisdiction
  - Tax refunds when the taxes were not paid in accordance with the relevant treaty

## Practical issues

- The power of the assessing officer to **reopen the draft agreement** after the disclosure of the name of the taxpayer **Anonymous Route**
- The requirements of the ITA to prove the sources of the funds in order to exempt the initial capital from taxation (at 10%-15%)

## The Main Weakness of the Procedure

- No option for appeal.
- The decision is not explained.
- Time limits to settle the civil liability.
- Taxation of the capital.
- Fines in certain cases.



**Think Quickly Act Quickly !**

*Thank  
you!*