



# A SECOND CHANCE

Luigi Belluzzo and Alessandro Umberto Belluzzo discuss how the new Italian voluntary disclosure programme may also affect former Italian taxpayers who have changed their tax residence since 2010

**L**aw Decree No 193/2016, converted to Law No 225/2016, reopened the terms related to the Italian voluntary disclosure programme (VDP). Designed as a last call for tax evaders, the new VDP is intended for taxpayers with undeclared assets or income held in Italy or abroad. It matches the new tax environment, whereby the exchange of information has become a reality for Italy, which recently signed many treaties with low-tax jurisdictions.

Taxpayers will have the right to make use of the renewed measure until 31 July 2017, with 30 September 2017 as the last date for submission of the accompanying report. The measure is intended to regulate the tax years 2010–2015 (inclusive) in case of false tax returns, and 2009–2015 (inclusive) for omitted tax returns. These terms are doubled where the assets and revenues are from blacklisted jurisdictions. Importantly, many countries will be categorised as ‘non-blacklisted’ within the measure, giving taxpayers easier steps towards full compliance.

Users of this VDP will have to cope with the new international rules extending criminal responsibility to advisors and service providers. Advisors and service providers must pay great attention to the tax compliance of clients, taking this opportunity for clients (and themselves) to remove all negative effects of an association to tax crimes. Tax compliance must be evaluated with particular care towards taxpayers who recently moved their tax residence.

The VDP aims to fill the gaps left by the first disclosure programme, both on the domestic home front and internationally.

It is the last opportunity for those who have a pending relationship with the Italian tax authorities to comply with the current standards of fiscal transparency, and offers an opportunity to simplify and update offshore structures.

Access to the new procedure will be available for individuals, partnerships and non-commercial entities, including trusts, if tax resident in Italy. The tax meaning of residence will therefore be of utmost importance, and the use of tax interposition would undermine aggressive tax planning.

Italian tax authorities will have direct access to all people who moved their tax residence abroad from 2010 onwards and are certain to investigate each specific case.

The new procedure incentivises the self-assessment of taxes, penalties and interest by providing a reduction of 10 per cent in respect to the amounts payable if the burden of the calculation were left to the tax authority. The taxpayer and their advisors are therefore expected to pay enhanced attention to avoid the surcharges of penalties due where the amounts paid are incorrect (3 per cent or 10 per cent, depending on whether the error is less than or greater than 10 per cent for the substitute taxes and 30 per cent for ordinary taxes).

The VDP applicant will be required to pay every single euro of unpaid taxes; the only benefit lies in the large reduction of penalties, with the concept of an ‘all in’ disclosure. This means that:

- It will not be possible to regulate only a portion of foreign assets and/or foreign-source items of income while continuing to hide other assets/income.
- The applicant must regulate all the taxable years in accordance with the procedure.
- The disclosure is to be regarded as completed only with the full payment of taxes, reduced sanctions and interests.

The new programme’s method of calculation of penalties is similar to its predecessors. The main difference is that many countries are now expected to move from blacklist to whitelist, as occurred for Switzerland, Monaco and Liechtenstein in 2015. The meaning of this is very practical: the tax years to be considered are halved (e.g. from ten to five) for the whitelist of countries referred to in the so-called Non-Blacklist Law Decree.<sup>1</sup> This now includes, among many others, Andorra, the Cayman Islands, the Cook Islands, Guernsey, Hong Kong, the Isle of Man and Jersey.

Given the new international rules in terms of tax compliance, fiscal transparency and exchange of information, this new Italian tax facility is probably not to be missed as a chance for the taxpayer (and related advisors and service providers) to gain full tax compliance and remove any issues related to money laundering.

<sup>1</sup> Ministerial Decree of 4 September 1996, amended by Ministerial Decree of 9 August 2016



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