

Tax Flash

December 2016

Law 4446/2016 titled «**Bankruptcy Code, Administrative Justice, Duties, Voluntary Disclosure of Income of previous years, Electronic Transactions, Amendments to L. 4270/2014 and other provisions**» introduces a new Voluntary Disclosure Programme. The most important points of this programme are summarized below.

A. Voluntary Disclosure of Income of previous years

Introduction

- A new Voluntary Disclosure Programme (“VDP”) is introduced for Undeclared Income of previous years providing for special conditions and significantly reduced penalties. The VDP, which entered into force on the 21st of December i.e. the date of publication of the present law, and will be applicable up to 31.5.2017, does not constitute a tax amnesty regime, since it requires the filing of standard tax returns for all tax objects by offering as an incentive only the reduction of the additional taxes and fines and the alleviation of any sanctions.

For the application of the VDP a decision of the General Secretary of Public Revenues is required to be issued that will clarify procedural and other practical issues (e.g. supporting documentation required per income category).

Scope

The following taxpayers fall within the scope of the new VDP provisions:

- Taxpayers who have not submitted any tax returns or have submitted incomplete or inaccurate tax returns for all taxes, duties or contributions and for whom no audit mandate has been issued.
- Taxpayers for whom an audit mandate has been already issued or will be issued up to 31.5.2017.
- The provisions apply both to individuals and legal entities.

A1. Taxpayers who have not submitted tax returns or have submitted incomplete or inaccurate tax returns for all taxes, duties or contributions

- Taxpayers may submit initial or amended tax returns as well as informative tax declarations, irrespective of whether tax is due on condition that the deadline for the submission of the initial tax return expired up to 30.9.2016. According to the preamble of the law, the submission of the return is possible, irrespective of the statute of limitation status.
- In case where no tax arises for payment no procedural fines are due (article 54 of Law 4172/2013 and article 4 of Law 2523/1997).

Additional tax

- An additional tax is due, which is calculated at the rate of 8% on the principal tax due, if the submission of the tax return is effected from the 21.12.2016 (date of publication of the law) up to 31.3.2017 and 10% on the principal tax due, if the submission of the tax return is effected from 1.4.2017 up to 31.5.2017.

As regards the calculation of the principal tax, it should be noted that the latter will be calculated on the basis of the tax rates applicable in the year when the tax liability was generated rather than on the basis of a uniform tax rate (as was the case with previous tax amnesty programs) for each type of undeclared income.

The implementation of these provisions entails the complexity of identifying the year when the tax liability for said income was generated and to determine the exact nature of the income, in order to apply the correct income tax rates for the corresponding year.

- The additional tax is further readjusted from 5% up to 25% depending on the year in which the deadline for the submission of the initial tax return expired. In particular:

Table of readjusted tax rates

Tax year	Percentage of readjusted additional tax	Additional tax if the return is filed up to 31.3.2017	Additional tax if the return is filed up to 31.5.2017
Up to 2001	25%	10%	12,5%
2002	23%	9,84%	12,3%
2003	20%	9,6%	12%
2004	16%	9,28%	11,6%
2005	15%	9,2%	11,5%
2006	12%	8,96%	11,2%
2007	10%	8,8%	11%
2008	6%	8,48%	10,6%
2009	5%	8,4%	10,5%
2010 onwards	0%	8%	10%

A2. Taxpayers for whom an audit mandate has been already issued or will be issued up to 31.5.2017

Additional tax

Case	Deadline for the submission of the tax returns	Percentage of additional tax	
Notification of an audit mandate prior to 12.12.2016	Within 60 days from the publication of the present Law	13%	
	Following the lapse of 60 days and	Prior to the notification of a temporary corrective tax/penalties assessment	15%
		After the notification of a temporary corrective tax/penalties assessment	30%
Notification of an audit mandate after 12.12.2016 and up to 31.5.2017	Within 90 days from the notification of the audit mandate	8% up to 31.3.2017 10% as of 1.4.2017 up to 31.5.2017	
	Following the lapse of 90 days and	Prior to the notification of a temporary corrective tax/penalties assessment	15%
		After the notification of a temporary corrective tax/penalties assessment	30%
Notification of a temporary corrective tax/penalties assessment prior to 12.12.2016	Within 30 days from the publication of the law (i.e. 21.12.2016)	25%	

- The above rates of additional tax are readjusted based on the percentages indicated in the first table, depending on the year that the deadline for the submission of the tax return expired.

The aforementioned deadlines apply only to the tax objects indicated in the tax assessment mandate. For any other tax object, the returns may be filed at any time up to 31.05.2017 with the additional taxes indicated in the previous case (under A.1.).

Non-imposition of administrative and criminal penalties

- The application of the VDP ensures that no other administrative and/or criminal penalties would be imposed to the taxpayer regarding the tax infringements restored by application of the Programme, whilst any safeguard measures that have been imposed are alleviated.
- The submission of tax returns within the framework of the VDP does not constitute a selection criterion for regular tax audits.

Deadline for the payment of the tax due

- The tax due shall be paid in a lump sum within 30 days from the submission of the tax return, whilst it is clarified that in any case, it would not be refunded. The taxpayer, however, may benefit from available debt settlement programs.

Exemptions

- The provisions of the VDP are not applicable:
 - a) to cases where a final corrective tax/penalties assessment has been issued until 12.12.2016
 - b) to tax returns with reservations or to credit tax returns
 - c) to income tax returns declaring loss in the respective fiscal year
 - d) when the tax returns concern amounts deriving from criminal activities (“money-laundering”) except from cases of tax evasion.