



VOLUNTARY DISCLOSURE 2.0: NEW EDITION

Highlights

- Deadline for access to the voluntary disclosure programme extended to 31 July 2017
- Beneficial impact on penalties and years covered from the stipulation by Italy of a wider network of exchange of information
- Possibility to choose between self-calculation and preliminary review by tax authorities

Decree Law No. 183/2016 (to be converted into law within 23 December 2016) sets out a new opportunity to access to the voluntary disclosure (“VD”) programme originally introduced by Law No. 186/2014 (please refer to [*Alert No. 12/2014*](#)).

Under the new rules, taxpayers (excluding those who already applied for the VD programme in the previous edition) will be admitted to the new VD programme by filing an application within 31 July 2017. Like the previous edition, the new VD programme will not be accessible to those who already have formal knowledge of an investigation or audit in respect of the assets/income held abroad and will cover:

- violations for unreported foreign assets held by Italian resident private individuals and certain other private entities; and
- any other violations committed by any taxpayers (including Italian and foreign corporations).

The purpose of the new VD programme is to obtain full taxation of any income that has not been taxed in any year open to assessment but with a significant discount on administrative penalties and full protection for most tax related criminal penalties, including for money laundering (and self-money laundering) connected to tax crimes.

1. Scope and features of the new VD programme

The new VD programme will cover violations committed until 30 September 2016 (i.e. up until tax period 2015) and will have the following features:

1. Years covered: 2009/2010-2015 or 2004/2006-2015 depending on whether the statute of limitations can be doubled and a tax return has been filed. Doubling of the statute of limitation will apply only if the assets were held in “black listed” States without an exchange of information treaty with Italy; in comparison with the previous edition, there will be a broader range of non-“black listed” States, as in the meantime a significant number of States has signed effective agreements on exchange of information with Italy (hence, aside to Switzerland, Monaco and Liechtenstein which were already regarded as “white listed” for the previous edition, also for example Cayman Islands, Hong Kong, Guernsey, Jersey, Isle of Man, Cook Islands and Gibraltar will qualify). Such evolution of the network of exchange of information treaties might have a positive impact on the overall cost of the new VD programme.
2. Beneficial effect on the compliance burden for subsequent years: the applicant will benefit from an exemption from reporting obligations relating to tax periods 2016 and 2017 (for the period preceding the filing of the VD application) to the extent that the VD application gives full disclosure of the assets held and income has been taxed at source.
3. Obligation to disclose all assets and information (no partial VD admitted).
4. Application of full taxes arising from the foreign-held assets (if assets are worth less than EUR 2 million, a simplified regime can be elected with a 27% tax on a yearly presumed yield of 5% of the year-end value of the assets). A special procedure is provided for the case of regularization of cash held outside of the banking system (that must be deposited with a bank).
5. Reduction of administrative penalties:
 - Administrative penalties on income evasion may be reduced by 87.5% or 75% of their minimum amount depending on how the procedure is applied.
 - Administrative penalties on failure to report the assets may be reduced by 83.3% or 75% depending on where the assets were held (where the highest reduction will apply for assets held in States with an effective exchange of information).

Compared with the previous edition, the new VD programme could result in lower penalties since, meanwhile, the minimum penalties for irregular income tax returns have been decreased from 100% to 90%.
6. No criminal punishment if the violation amounts to a crime for omitted, irregular or false tax returns or omitted payment of taxes.
7. Introduction of specific measures to monitor transfers abroad of individuals who did not apply for the new VD programme.

2. The procedure

As mentioned above, the application for the new VD programme will have to be submitted within 31 July 2017. Thereafter, the taxpayer will have until 30 September 2017 to integrate the application with any relevant documentation.

Differently from the previous edition, taxpayers can choose between two alternative routes for the settlement of the VD:

- spontaneous payment of the taxes, penalties and interest due within 30 September 2017 (in one instalment or three monthly instalments). In such event, the penalty reduction will be the maximum available. Thereafter, tax authorities will review and possibly adjust the amounts payable. If the adjustment does not exceed 30% (10% for income subject to substitute tax), a 3% surcharge will be due (if such threshold is exceeded the surcharge will be of 10%). In case the payment spontaneously made by the taxpayer was excessive, a right for refund or creditability of amounts paid in excess will be available;
- to wait for the calculation by the tax authorities (to be completed within 31 December 2018). The taxes, penalties and interest will thus be calculated by the tax authorities and will have to be paid (in one instalment or three monthly instalments) thereafter. If taxpayer opts for such alternative, however, the penalty reduction will be slightly lower (by 80%, and not 83.3%, for the failure to report and by 85.8%, and not 87.5%, for income tax violations).

[view this newsletter online](#)

This newsletter is intended to provide a first point of reference for current developments in Italian law. It should not be relied on as a substitute for professional advice. If further information or advice is required please refer to your Maisto e Associati contact. Maisto e Associati info@maisto.it

Piazza F.Meda 5
20121 Milan
+39.02.776931
Piazza d'Aracoeli 2
00186 Rome
+39.06.45441410

2, Throgmorton Avenue
London EC2N 2DG
+44.207.3740299
Copyright © 2016 -
Maisto e Associati
[unsubscribe](#)