



# OFFSHORE VOLUNTARY DISCLOSURE

COMPARATIVE ANALYSIS, GUIDANCE  
AND POLICY ADVICE



September 2010





# **Offshore Voluntary Disclosure**

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AND POLICY ADVICE

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## FOREWORD AND INTRODUCTION BY THE DIRECTOR OF THE CENTRE FOR TAX POLICY AND ADMINISTRATION OF THE OECD

Over the past two years the international tax environment has changed dramatically towards greater transparency and exchange of information. All financial centres have now committed to the OECD standard on transparency and exchange of information for tax purposes. There is not a single reservation to Article 26 of the OECD Model Tax Convention. More than 500 tax information exchange agreements and double tax conventions have been signed or brought up to the standard. In response to a request from the leaders of the G20 the “Global Forum on Transparency and Exchange of Information” has been reorganised to deliver a robust peer review on effective implementation of the standards and the peer review process started in March of this year. As international exchange relationships grow wider proper protection of taxpayers’ rights becomes of even greater importance. It is for this reason that the OECD continuously works to ensure that such rights are protected both in law and in practice.

In this changing environment taxpayers with undisclosed income and/or assets are increasingly realising that in the very near future there will be no more safe havens for money on which tax has been evaded. The time required for exchange of information agreements or other mechanisms to come into effect offers a unique opportunity for taxpayers to voluntarily disclose their hidden income and assets. Governments and tax administrations are seizing this opportunity to facilitate voluntary disclosures.

Improved information exchange and use of voluntary disclosure initiatives reflect longstanding OECD policies. For years the OECD has advocated a policy of improved international tax co-operation including better information exchange and transparency to counter offshore tax evasion. At the same time the OECD has been encouraging countries to examine voluntary compliance strategies to enable non-compliant taxpayers to declare income and wealth that they have in the past concealed by means of taking advantage of strict bank secrecy jurisdictions (see e.g. OECD (2000), *Improving Access to Bank Information for Tax Purposes*, OECD, Paris). These policies are now bearing fruit and are helping governments raise revenues needed perhaps more than ever to support their economies in times of crisis. The increase in the risk of detection through improved international tax co-operation and the availability of voluntary disclosure programmes has resulted in a large number of taxpayers coming forward and significant amount of tax being collected. For instance, more than 14,700 taxpayers took advantage of a recent US initiative and in Germany more than 20,000 taxpayers made a voluntary disclosure resulting in reported additional revenue to the German government in the range of 4 billion Euros. Economies in transition and developing economies are also impacted by offshore non compliance. In Brazil, China, India, Russia and South Africa significant sums are lost to offshore non compliance. The relative cost may be even higher in developing countries.

While the OECD’s work on exchange of information is widely documented, less may be known about its work on voluntary compliance or disclosure initiatives. This publication brings together the OECD’s work in this area which has been led by the Committee on Fiscal Affairs’ Working Party on Tax Avoidance and Evasion and the Forum of Tax Administration. It consists of three parts. Its first part contains a

“Framework for successful offshore voluntary compliance programmes”, setting out a number of key principles developed by the OECD and based on the experience of member countries, that should help countries in designing programmes that identify the fine line between encouraging non-compliant taxpayers to permanently improve their compliance and retaining the support and compliance of the vast majority of taxpayers who are already compliant.

The second part reproduces a part of Chapter 5 of the 2009 OECD report “Engaging with High Net Worth Individuals on Tax Compliance”. This chapter draws on extensive consultations with private client advisors and contains guidance to tax administration on practical aspects of the design of voluntary compliance initiatives with a particular focus on providing certainty in some key areas.

The third part compares the key features of offshore voluntary disclosure programmes in the 39 OECD and Non-OECD countries participating in the work of the OECD’s Committee on Fiscal Affairs including both general rules and specific programmes. It compares the consequences for a taxpayer who has committed tax evasion and is detected by the tax authorities without having made a timely and comprehensive voluntary disclosure with the situation of a taxpayer who has committed tax evasion but has made a timely and comprehensive voluntary disclosure before being detected.

I hope that this publication will be widely used by tax policy makers, tax administrators, other stakeholders and the public at large and that it will contribute to their discussions on designing systems that provide sufficient incentives for taxpayers engaged in non-compliance to come forward and permanently improve their compliance without encouraging or rewarding such conduct and thereby undermining the support for the tax system by the vast majority of compliant taxpayers.



Jeffrey Owens

- September 2010 -

## Part I. FRAMEWORK FOR SUCCESSFUL OFFSHORE VOLUNTARY COMPLIANCE PROGRAMMES<sup>1</sup>

1. Several countries are currently operating voluntary compliance programmes. Such rules or programmes provide an opportunity to facilitate compliance in a timely and cost effective manner, saving costly and contentious audits, litigation and criminal proceedings. Voluntary compliance initiatives must walk a fine line between providing sufficient incentives for those engaged in non-compliance to come forward and not rewarding or encouraging such conduct. For countries that have not yet done so, it would seem timely to consider whether to introduce any such programmes and, if so, how to design them.

2. It is against this backdrop that the OECD has developed a number of principles for successful offshore voluntary compliance programmes.

3. Offshore voluntary compliance programmes offer the opportunity to maximize the benefits of improvements in transparency and exchange of information for tax purposes, to increase short-term tax revenues and improve medium-term tax compliance. To succeed, they need to tread a fine line between encouraging non-compliant taxpayers to permanently improve their compliance (a balancing act in itself) and retaining the support and compliance of the vast majority of taxpayers who are already compliant. To do this, they need to form part of wider voluntary compliance and enforcement strategies. They also need to be consistent with relevant rules in the non-tax area such as anti-money laundering rules.

4. This section draws upon the experience of countries and identifies principles for reconciling those tensions in designing a successful offshore voluntary compliance programme as part of a wider tax compliance strategy. How these principles are implemented will be a matter for each country individually, taking into accounts its particular circumstances including its tax law and practice.

### A. A successful programme will be clear about its aims and its terms

5. The aims of an offshore voluntary compliance programme are usually to deliver cost-efficient improvements in short-term tax revenues as well as to improve longer-term tax compliance. Sometimes a programme also aims to encourage repatriation of capital invested abroad<sup>2</sup>, or uses a requirement for repatriation of capital as a means of achieving exchange of information to the OECD standard by requiring repatriation only where the assets concealed are held in a jurisdiction which does not exchange information<sup>3</sup>. Both to encourage take-up and to maintain existing levels of compliance, the aims of the programme should be clearly set out, both for those invited to participate and for the taxpaying population as a whole.

6. The terms of the programme usually involve a limited-time offer by the government to a specified group of taxpayers to settle undisclosed or unpaid tax liabilities for a previous period in return for defined concessions over civil or criminal penalties. In some cases there are also concessions over the amount of tax and/or interest payable, or over the period of back years for

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1 Excerpt from the OECD paper *A Framework for Successful Offshore Voluntary Compliance Programmes*. For full document see: [www.oecd.org/document/34/0,3343,en\\_2649\\_33767\\_44892962\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/34/0,3343,en_2649_33767_44892962_1_1_1_1,00.html)

2 For EU countries, conditions requiring repatriation of capital are subject to applicable rules on free movement of capital.

3 Countries are careful not to weaken the OECD information exchange standard by providing additional concessions simply for meeting the standard.

which unpaid tax will be demanded. The terms of the programme should be clearly set out in guidance accessible both to the eligible population and to others, to avoid both ambiguity and any charge of a lack of even-handedness on the part of the tax authority. It should also be clear how disclosures under the programme will be treated for anti money-laundering purposes<sup>4</sup>.

## **B. A successful programme will have a demonstrable and cost-effective increase in short-term revenues**

7. A short-term boost to revenues is often a primary goal of a voluntary compliance programme. That should be demonstrable in its own terms. This requires credible accounting for both the revenue gains and the related costs, which should include programme costs, plus the opportunity costs of revenues likely to have been secured (in the current and future years) without the programme.

8. Credible accounting for the net benefits of a programme does not necessarily involve detailed publication of all costs and benefits – the level of operational detail disclosed may vary from country to country, depending on the level of informed debate and transparency thought to be optimal for the country’s tax compliance strategy generally. In some countries used to high levels of transparency, detailed publication of the net benefits of a programme may help to reassure compliant taxpayers that the government is acting in their interests to spread the tax burden fairly. This recognises that 100% compliance is unlikely to be cost-effective or acceptable to the general population, in terms of the level of enforcement it would imply, even if it were at all feasible. In other countries, detailed disclosure of amounts raised from a particular programme may lead taxpayers to question their own compliance – learning that the government has allowed this level of non-compliance in the past may make them feel cheated rather than appreciated.

## **C. A successful programme will be consistent with the generally applicable compliance and enforcement regime.**

9. All compliance strategies aim to strike a balance between encouraging and supporting voluntary compliance and countering non-compliance, and taxpayers’ perception of and response to that balance is crucial to their success. Unless carefully planned to fit with the prevailing strategy, a new offshore compliance programme could upset that balance with damaging consequence for compliance overall. This means there is a fine line to be struck between presenting the programme as both “business as usual” and as a “special opportunity”. Ideally, there should be enough of a *perceived* incentive for the target population to take part, without so much of a *real* incentive as to alienate the majority who are already compliant.

10. Some programmes have addressed this by collecting the full amount of tax due on previously undisclosed income, and offering incentives to disclose only through either a clarification of, or a temporary reduction in, generally applicable levels of penalties, or interest and penalties. Similarly, arrangements for potential referral for criminal prosecution, or the number of years over which the revenue authority will look back, may be clarified, or temporarily alleviated, for the purpose of the programme. Other programmes have offered commitments to reduced audit (for past or future years) in return for defined increased in reported income.

11. Although evidence of long-term effects on compliance is not yet available, it is likely that the most successful programmes will be those which are able to link their terms with ongoing compliance and enforcement arrangements, while still appearing attractive in the short-term. A clarification of how existing discretion will be applied both in relation to penalties and in relation to a risk-based selection of cases for audit is more likely to support medium-term improvements in

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4 More generally, the terms of a voluntary tax compliance programme should not imply exemption from anti-money laundering obligations either on the part of persons subject to anti-money laundering disciplines (banks, financial institutions, certain intermediaries, etc.) or on the part of the tax authority.

compliance than an approach which is out of kilter with normal procedures. It is also less likely to be manipulated by taxpayers seeking to play the system by taking the benefits of the programme but remaining fundamentally non-compliant. This could happen for instance if a taxpayer is able to make only a partial disclosure of evaded income but still qualifies for a promise of reduced future audit.

#### **D. A successful programme needs specifically to improve levels of compliance among the population eligible for the programme**

12. A growing number of taxpayers who failed to report income and assets to their country of residence now recognize that the risk of detection has increased which in turn is leading to a greater willingness to disclose and correct their situation so as to become fully compliant. A successful voluntary compliance programme should complement and reinforce this trend. If those who have deliberately evaded tax in the past find they are able to ignore or manipulate a voluntary compliance programme with no increased risk of being detected, this will only serve to reinforce their decision to evade (quite apart from the impact on the remainder of the population who were compliant already).

13. A successful programme therefore needs to be designed and resourced so as:

- a) to create a substantially increased risk that those eligible for the programme but who choose not to participate are detected, and that - whether or not they participate - any tax previously evaded is substantially brought to light; and
- b) to provide a tangible, credible and time-limited incentive for the eligible population to participate.

14. This in turn presupposes that there are adequate and credible enforcement measures in place to detect and deter evaders, including those who might otherwise choose not to participate in the programme, and those who might otherwise be tempted to slip back into non-compliance in the future. Depending on the applicable legal framework and country circumstances, that might include exemplary prosecution of those who defraud the programme.

15. At the same time, it should be made as easy as possible for those eligible for the programme to take the first step to come forward and participate, without allowing them to assume that they can put off participation by waiting for a similar programme in future.

#### **E. A successful programme will place the short-term boost to revenues in the context of improving compliance across the taxpayer population as a whole by complementing it with measures that improve compliance in the medium term**

16. A short-term boost to revenues from settlement of previously undisclosed revenues (assuming it exceeds the costs of the programme) should not be at the expense of long-term compliance. Tax evaders need to be brought into compliance for good – not reinforced in the belief that they need only comply when special terms are on offer. If the programme is presented as a one-off opportunity, that presentation must be credible.

17. The majority of the compliant population also needs to be reassured that the revenue authority expects compliance, and will effectively pursue those who are not compliant. If they see the revenue authority as tolerating non-compliance, overall levels of compliance could fall. Demonstrating short-term revenue gains is important in securing medium-term compliance – signalling to the compliant majority that the revenue authority is acting in their best interest in securing wider compliance on a cost-effective basis rather than selling them short.

18. The risk of a temporary relaxation in the terms of tax enforcement doing damage to medium-term compliance can be avoided if the programme is used to reinforce other measures to ensure sustainable compliance (including measures to ensure a sustainable improvement in the

effectiveness of a revenue authority's enforcement measures). This has been a feature of a number of successful programmes in recent years.

- Recently, programmes have been introduced to accompany significant changes in the international tax environment in the area of information exchange including the dramatic increase in the number of TIEAs, changes to double tax conventions and rules on bank secrecy. A number of country programmes were also introduced in the 2000s in anticipation of the EU Savings Directive.
- Some country programmes have been triggered by new powers taken in legislation or confirmed by the courts for tax authorities to obtain information from banks on offshore accounts.
- Many programmes make clear that penalty (or in some cases interest) waivers as part of the programme will be matched by tougher penalties to be applied once the programme has ended, particularly for those who could have but chose not to take advantage of the programme. Or the programme could accompany an increase in tax penalties for evasion more generally.

19. There are benefits in this combined approach both for improving the compliance of the minority for whom the programme is designed and for maintaining compliance on the part of the majority. For the deliberately non-compliant, it establishes a credible expectation of compliance, rather than reinforcing the benefit of evasion. For those who may have inadvertently failed to disclose taxable income, it helps to build levels of awareness for the future in a supportive way. For the majority who already comply, it will stand a much better chance of reinforcing their compliant behaviour than programmes unaccompanied by other measures to improve medium-term compliance.

## Part II. Voluntary disclosure regarding past non-compliance<sup>1</sup>

1. Governments deal firmly with taxpayers who have committed tax evasion and who have failed to come forward before being found out by the tax authorities. At the same time, a number of countries have implemented initiatives to encourage taxpayers to disclose past non-compliance, including administrative measures such as the recent voluntary compliance initiatives in Ireland and the United Kingdom. Canada has had a voluntary disclosure program for many years. It allows taxpayers to come forward and correct inaccurate or incomplete information that they have not reported during previous dealings with the Canada Revenue Agency, without penalty or prosecution.<sup>2</sup> Countries in the focus group will continue to use the twin track approach of using the full force of the law against those unwilling to co-operate and, at the same time, trying to encourage the largest number of non-compliant taxpayers to come forward.

2. This section only deals with measures designed to improve voluntary compliance.<sup>3</sup> Such initiatives (or general rules) need to walk a fine line between providing sufficient incentives for those engaged in non-compliance to come forward and not rewarding or encouraging such conduct in the first instance.

3. The issue the consultation sought to explore was, given the backdrop of current events, what is stopping taxpayers from coming forward? It emerged that, at a high level, there were two categories of taxpayers: (i) those who continued to be unwilling to pay the tax due and (ii) those who would be prepared to pay the tax but had other reasons preventing them from coming forward.

4. For the first group, the resistance to compliance relates to particular aspects of the tax legislation, such as the rate of income tax. Administrative measures are thus unlikely to impact the compliance behaviour of such taxpayers. However, taxpayers in this group should be aware that tax co-operation between countries is increasing at a rapid pace. The focus group notes that more and more countries provide information to other countries upon request in cases of suspected tax evasion. Thus, such taxpayers run an ever increasing risk that they will be identified irrespective of where they may hold their assets. They have been put on notice and should not be surprised if, once detected, both the tax administration and the prosecution authorities apply the full force of the law.

5. Taxpayers in the second group (*i.e.* those in principle willing to pay the tax) may be receptive to measures within the control of a tax administration. There may be a range of reasons that discourage them from coming forward. The primary concern for taxpayers in this group appears to be a lack of certainty: what will happen where they make a full and accurate disclosure and whether criminal charges will be brought. Further concerns expressed included questions as to the confidentiality of the information that is provided, reputational damage through wider publicity of their tax offences, the inability to fund a settlement including interest and penalties and the risk that a disclosure would influence future risk assessments and trigger wider or future audit activity.

6. To assist taxpayers in the second category countries could issue clear guidance on the following issues:

- **Process for voluntary disclosure.** Guidance could outline the process, the person to contact and the documentation required. The information pack could also include a

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1 Excerpt from Chapter 5 of the report *Engaging with High Net Worth Individuals on Tax Compliance* (OECD) 2009.

2 For more information on voluntary compliance strategies see also *Improving Access to Bank Information for Tax Purposes: the 2007 Progress Report* (OECD) 2007, pages 26 ff.

3 For other measures see Annex B of the report *Engaging with High Net Worth Individuals on Tax Compliance* (OECD) 2009.



contact point where answers regarding procedural questions could be given on a no-name basis. This information (a how to guide) could be made available on the tax administration's website in a way that makes it easy to find for both advisers and taxpayers concerned. Additionally, tax administrations may consider media releases to draw attention to the existence of such information. Procedures will vary country by country with some countries, for instance, using a designated disclosure unit<sup>4</sup> while others may use a decentralised model.

- **Incomplete records.** The guidance could explain how the tax administration deals with incomplete records. In a number of cases, in particular those where assets were hidden abroad by a parent or grandparent, the taxpayer may not be in position to provide complete records. While much will depend on the facts in each individual case, guidance could include both examples and statements of principle.
- **Confidentiality of information disclosed.** Countries have developed different responses to such concerns and to varying degrees. These concerns may also be more pressing in some countries as compared to others. Such approaches range from limiting the information disclosed to designated tax officials, to protecting the information further via special legislative tax secrecy provisions applying to tax officials in the disclosure unit,<sup>5</sup> to operating a disclosure system via the banking system.<sup>6</sup>
- **Future compliance activities.** Taxpayers have concerns that a disclosure will give rise to further investigation of their affairs either as an immediate response to the disclosure or that it will affect their risk profile and thus future compliance monitoring and audits. Many tax authorities will already have internal guidance and procedures that stipulate how different degrees and types of non-compliance impact on further compliance monitoring. Where possible, these broad principles could be made public. Where information obtained from the disclosure is only made available to certain designated tax officials outside the assessment and audit function (or operated via third parties),<sup>7</sup> further compliance activity is unlikely to be affected.
- **Contacting third parties.** This concern extends to the tax authorities gathering and verifying information from third parties such as business partners, employers and banks. The guidance material could outline the circumstances in which tax administrations will contact third parties.
- **Penalties and Interest.** Guidance material could describe the circumstances in which penalties and interest will be sought and the basis on which they are calculated. It could also detail the circumstances in which these will be mitigated. In some countries, penalties can be 100% of the unpaid tax and interest can accrue over a period of more than a decade, sometimes without any statute of limitation. Taxpayers need to be aware of the potential costs of settlement.
- **Criminal Prosecution.** Guidance could set out the circumstances under which no criminal charges will be brought. This could include both statements of principles and examples including cases where the undisclosed assets were initially deposited abroad by a parent or grandparent of the taxpayer. In some countries information on policy for prosecution of tax crimes may have to be issued in a joint statement between the tax administration and public prosecutor, or solely by the public prosecutor.

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4 For example, Belgium.

5 For example, Belgium.

6 For example, Mexico.

7 See preceding bullet point.



- **No-name discussions.** Tax administrations could indicate whether there is a facility, such as a dedicated phone number, where taxpayers and/or advisers are able to have initial discussions without the requirement to disclose the identity of the taxpayer concerned.

7. This report is concerned with tax administration rather than tax policy. However, it is clear that certain tax policy choices impact on voluntary disclosure. The focus group reaches no conclusions on such choices but notes that comments received in response to the consultation paper highlighted the following two factors:

- where this is not already the case, consider financial mitigation for interest and/or penalties in circumstances where the liabilities result from an ancestor's non-compliance;<sup>8</sup> and
- where this is not already the case, consider giving certainty of no prosecution where a taxpayer makes an unprompted full and complete disclosure.

8. Finally, advisers have indicated that in some countries, individuals may be deterred from seeking professional advice where they consider that the adviser will be obliged to notify government bodies of the compliance failure under anti-money laundering rules. In such cases, the ability of the adviser to assist the tax administration in improving voluntary disclosure may be significantly curtailed and countries where this situation arises may wish to explore this issue further.

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<sup>8</sup> See Chapter 1, page 27 of the report *Engaging with High Net Worth Individuals on Tax Compliance* (OECD) 2009. In some instances, the settlement sought by the tax administration can equal the sum of the inheritance.

## References

Internal Revenue Service (n.d.), "Industry Issue Resolution Program", [www.irs.gov/businesses/article/0,,id=109645,00.html](http://www.irs.gov/businesses/article/0,,id=109645,00.html), sighted 1 March 2009.

OECD (2007), *Improving Access to Bank Information for Tax Purposes: the 2007 Progress Report*, OECD Publishing, Paris, pp. 26 ff.

OECD (2008), *Model Tax Convention on Income and on Capital*, OECD Publishing, Paris.

## Part III. Offshore Voluntary Disclosure programmes – Comparison of key features

### I. Introduction

1. Many countries have features in their general law or administrative practice that encourage voluntary disclosure and thus provide certain incentives to taxpayers who have not complied with their tax obligations to come forward. In addition several countries have put in place a temporary voluntary disclosure programme in order to take advantage of the momentum given by, for example, the availability of foreign savings data or increased cooperation between tax administrations. Those special programmes often involve additional incentives, like reduced penalties and interest charges as well as the possibility of protection from prosecution. Generally, such programmes run for a short defined duration. Voluntary disclosure programmes, whether part of general law or designed as special programmes, can offer tax administrations the chance of increased revenues at reduced cost, e.g. through fewer audits, litigation and criminal proceedings and increased voluntary compliance in future years by taxpayers that have come forward through the programme.

2. This note compares the key features of offshore voluntary disclosure programmes in 39 countries<sup>1</sup> and generally reflects the situation up until March 2010. It includes both general rules and specific programmes. Countries considering the introduction of measures in this area can use the information in this note to compare different strategies. They can also use the information to review their own measures with a view to redesigning or adapting them. The note complements the document setting out a framework for successful offshore voluntary compliance programmes, which can be found in part I of this publication.

### II. Overview of voluntary disclosure programmes and general rules

3. The analysis of the information shows that countries have different approaches to encourage non-compliant taxpayers to come forward on a voluntary basis, but that almost all countries have features in their general law (including their administrative practices) that in one form or another encourage voluntary disclosure. Thirteen countries reported that they have recently had or still have a special programme. The consequences of a voluntary disclosure differ from country to country.<sup>2</sup>

#### *Tax Due*

4. In the vast majority of countries the taxpayer must pay the amount of tax he or she would have owed in the absence of a voluntary disclosure. This situation is different under special programmes in a certain number of countries pursuant to which the tax is reduced and / or computed differently.<sup>3</sup>

#### *Interest on the tax outstanding*

5. In all of the 39 countries surveyed taxpayers have to pay interest on tax evaded if their tax evasion is detected by the tax authorities and they have not made a timely and comprehensive

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1 Thirty-nine countries participate in the work of the OECD's Committee on Fiscal Affairs, as either members or observers.

2 For information regarding the "Statute of limitations" please see the "Years covered" column in Annex 1.

3 For a summary see the tax column and associated footnotes in Table 1 below.

voluntary disclosure. Interest rates differ country by country. Some countries apply a fixed interest rate ranging from very low figures to almost 22% p.a. (Estonia). In other countries the interest rate varies depending on market rates or rates provided by Central Banks (e.g. Hungary – 200% of the Hungarian Central Bank prime rate). Furthermore some countries limit the maximum amount of interest that has to be paid, either by percent (e.g. maximum of 200% interest in Greece) or by time (e.g. maximum of 48 months of interest in Austria).

6. Interest charges are sometimes reduced in cases of voluntary disclosure. This is a common feature within the context of special voluntary disclosure programmes, where interest charges are reduced in the programmes of 8 countries. Interest charges are also reduced in the case of a voluntary disclosure based on the general law of some countries (Canada, Hungary and Poland).

### *Monetary penalties*

7. In all countries taxpayers face monetary penalties in cases of tax evasion if a timely and comprehensive voluntary disclosure has not been made. In all but two countries monetary penalties are provided for separately. Greece does not have such a separate penalty, but its interest rate of 18% p.a. can be viewed as containing a penalty element. Poland also does not impose a separate penalty but applies a 75% tax rate to the income.

8. Monetary penalties can be in the form of a flat rate (e.g. Czech Republic, 20%) or within a range (e.g. Belgium, between 10% and 200%) of the unpaid taxes. In some countries there are also fixed amounts of penalties (e.g. the USA, the greater of \$ 100,000 or 50% of the total balance of the foreign account, for wilful failure to file a complete and correct Report of Foreign Bank and Financial Accounts). It is also possible in some countries that the combined monetary penalties can exceed the amount of the original undeclared income. Thus, in some countries there are high stakes for non-compliant taxpayers if their tax evasion is detected by the tax authorities.<sup>4</sup>

9. About half of the countries (21 out of 39) reduce the monetary penalties to nil following a voluntary disclosure by the taxpayer. Sixteen out of those 21 do so by general law (including administrative practice) and 5 through a special programme. Even where penalties are not eliminated they are often substantially reduced in the case of a voluntary disclosure. Switzerland restricts the mitigation of penalties to the first voluntary disclosure and Ireland to the first two disclosures.

### *Imprisonment*

10. In all 39 countries taxpayers risk imprisonment if their tax evasion is detected by the tax authorities without them having made a timely and comprehensive voluntary disclosure. However, in most countries (28 out of 39) the non-compliant taxpayer can avoid imprisonment through a voluntary disclosure. Only in 11 countries does the taxpayer face the possibility of imprisonment. However, in most of those countries the voluntary disclosure is considered a mitigating circumstance. For example in Australia, the fact that a taxpayer had co-operated and made a voluntary disclosure would be a mitigating factor and would substantially lessen the likelihood of a prison sentence. In Estonia there is a possibility of a lesser punishment which would be expressed in the form of probation or less time of imprisonment and there is also a possibility of discontinuing criminal proceedings on the basis of a lack of public interest.

### *Other observations*

11. Ireland reported publishing the name, address and occupation of a taxpayer, if the taxpayer did not disclose on a voluntary basis and the penalty exceeded 15% of the amount of unpaid taxes or EUR 30,000. Similarly the United Kingdom reported having started publishing the names and details of individuals and companies caught evading taxes of more than £25,000 in total on the tax administration website from 1 April 2010.

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4 In this regard see also the report *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, (OECD) 2009.

### III. Summary table

12. The following summary table compares the consequences for a taxpayer who has committed tax evasion and is detected by the tax authorities without having made a timely and comprehensive voluntary disclosure with the situation of a taxpayer who has committed tax evasion but has made a timely and comprehensive voluntary disclosure before being detected by the tax authorities. In the latter case it further distinguishes between general rules and special programmes. A table with more detailed information by country can be found in Annex 1. Annex 2 includes examples of general law and/ or specific programmes which provide the taxpayer the opportunity to come forward on a no-name basis to receive an indication or binding decision on possible consequences resulting from the disclosure.

13. Explanation of the summary table:

- An “X” means that interest, penalties and tax (at regular rates and tax base) have to be paid and that a taxpayer is faced with the possibility of criminal prosecution and imprisonment. Depending on the applicable column, a “No” means that no penalties are imposed, no interest is charged, no tax is due or that there is no risk of imprisonment;
- An “↓” or “↑” shows a reduction or increase of tax, penalty or interest to be paid;
- N/A is used in cases where countries do not have special voluntary disclosure programmes (at the time of writing this paper) or do not have voluntary disclosure rules under their general law. Recent special voluntary disclosure programmes are included if they are still available or were introduced after 1.1.2008 even if they are no longer available.

Table 1. Overview on consequences through “No voluntary disclosure” and “Voluntary disclosure”

Country	No voluntary disclosure				Voluntary disclosure							
	Tax	Interest	Monetary Penalty	Imprisonment	General law				Special programme			
					Tax	Interest	Monetary Penalty	Imprisonment	Tax	Interest	Monetary Penalty	Imprisonment
Argentina <sup>1</sup>	X	X	X	X	N/A	N/A	N/A	N/A	X <sup>2</sup>	No or ↓	No	No
Australia	X	X	X	X	X	X	↓	X	X	↓	↓	An indication will be provided
Austria	X	X	X	X	X	X	No	No	N/A	N/A	N/A	N/A
Belgium	X	X	X	X	X	X	No <sup>3</sup>	No	N/A	N/A	N/A	N/A
Canada	X	X	X	X	X	↓	No	No	N/A	N/A	N/A	N/A
Chile <sup>4</sup>	X	X	X	X	X	X	X or ↓	X	N/A	N/A	N/A	N/A
China <sup>5</sup>	X	X	X	X	X	X	No	No	N/A	N/A	N/A	N/A
Czech Republic	X	X	X	X	X	X	No	No	N/A	N/A	N/A	N/A
Denmark	X	X	X	X	X	X	↓	X	N/A	N/A	N/A	N/A
Estonia	X	X	X	X	X	X	↓ <sup>6</sup>	↓ <sup>7</sup>	N/A	N/A	N/A	N/A
Finland <sup>8</sup>	X	X	X	X	X	X	X	X	N/A	N/A	N/A	N/A
France	X	X	X	X	N/A	N/A	N/A	N/A	X	↓	↓	No
Germany	X	X	X	X	X	X	No	No	N/A	N/A	N/A	N/A
Greece	X	X	No	X	N/A	N/A	N/A	N/A	X <sup>9</sup>	No	No	No
Hungary	X	X	X	X	X	↓	No	No	N/A	N/A	N/A	N/A
Iceland <sup>10</sup>	↑ <sup>11</sup>	X	X	X	↑ <sup>11</sup>	X	X	X	N/A	N/A	N/A	N/A
India <sup>12</sup>	X	X	X	X	X	X	X	X	N/A	N/A	N/A	N/A
Ireland	X	X	X	X	X	X	↓ <sup>13</sup>	No	N/A	N/A	N/A	N/A
Israel	X	X	X	X	N/A	N/A	N/A	N/A	X	X	X	No
Italy	X	X	X	X	X	X	↓	No	X <sup>14</sup>	See footnote 14		No
Japan	X	X	X	X	X	X or ↓	↓	X	N/A	N/A	N/A	N/A
Korea	X	X	X	X	X	X	↓	X	N/A	N/A	N/A	N/A
Luxembourg	X	X	X	X	X	X	X	No	N/A	N/A	N/A	N/A
Mexico	X	X	X	X	X	X	No	No <sup>15</sup>	X <sup>16</sup>	No	No	No <sup>15</sup>
Netherlands	X	X	X	X	X	X	↓	No	X	X	No	No
New Zealand	X	X	X	X	X	X	↓	No	N/A	N/A	N/A	N/A
Norway	X	X	X	X	X	X	No	No <sup>17</sup>	N/A	N/A	N/A	N/A
Poland	↑ <sup>18</sup>	X	No	X	X	↓	No	No	N/A	N/A	N/A	N/A
Portugal	X	X	X	X	X	X	↓	No	X <sup>19</sup>	No	No	No
The Russian Federation	X	X	X	X	X	X	No <sup>20</sup>	No <sup>20</sup>	N/A	N/A	N/A	N/A

Country	No voluntary disclosure				Voluntary disclosure							
	Tax	Interest	Monetary Penalty	Imprisonment	General law				Special programme			
					Tax	Interest	Monetary Penalty	Imprisonment	Tax	Interest	Monetary Penalty	Imprisonment
Slovak Republic	X	X	X	X	X	X	No	No	N/A	N/A	N/A	N/A
Slovenia	X	X	X	X	X	X	No	X <sup>21</sup>	N/A	N/A	N/A	N/A
South Africa	X	X	X	X	X <sup>22</sup>	X	↓	Not recommended	X	No or ↓	No	Not recommended
Spain	X	X	X	X	X	X	↓	No	N/A	N/A	N/A	N/A
Sweden	X	X	X	X	X	X	No	No	N/A	N/A	N/A	N/A
Switzerland	X	X	X	X	X	X	No <sup>23</sup>	No	N/A	N/A	N/A	N/A
Turkey	X	X	X <sup>24</sup>	X <sup>24</sup>	X	X	No	No	X <sup>25</sup>	No	No	No
United Kingdom	X	X	X	X	X	X	↓	No	X	X	↓	No
United States	X	X	X	X	X	X	↓	No	X	X	↓	Not recommended

- 1 Regarding voluntary disclosure / general law: article 113 of Law 11.683 (Fiscal Procedures) authorises the Government to introduce special voluntary disclosure schemes with total or partial exemption for interest and penalties. No special voluntary disclosure programme is in force at present under this article.
- 2 Argentina has one special programme under which the tax is computed by applying a 1%, 3%, 6% or 8% tax rate on the value of the disclosed assets. The tax rate depends on how the disclosed money was used following the disclosure.
- 3 No penalty for VAT transactions and professional income. Reduced penalty may apply for “other income”, e.g. interest.
- 4 Chile is not currently operating a special voluntary disclosure programme. General tax law does not contain rules that guarantee the application of special concessions over the tax or interest payable, over civil or criminal penalties or over the period of retroactive years for which unpaid tax will be demanded of taxpayers that have made a voluntary disclosure of a civil tax infraction or of a tax fraud (e.g. tax evasion) before being detected by the tax authorities. In the case of penalties due to tax payment delays detected by the tax authorities, Article 97 N°11 of the Tax Code provides for the application of civil penalties from 20 to 60% of the unpaid taxes (applicable on VAT and income taxes subject to withholding but not applicable on taxes subject to self assessment such as income tax on business profits). In the case of a voluntary disclosure, Article 97 N°11 reduces the rate to a civil penalty of 10 to 30% of the unpaid taxes. In the case of a tax fraud, the Commissioner may pursue through a criminal court proceeding monetary penalties and imprisonment or pursue solely the application of the monetary penalties through an administrative procedure through the tax authority. In the latter case, Article 106 of the Tax Code provides that the Regional Commissioner responsible for applying such monetary penalties can suspend, reduce or waive the penalties if the taxpayer has made a comprehensive voluntary disclosure of the breach before being detected by the tax authorities. Furthermore, Article 107 of the Tax Code requires the Regional Commissioner to take into account the cooperation provided by taxpayers in order to ascertain monetary penalties.
- 5 China is planning to update its general law with a view to providing for voluntary disclosures.

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- 6 Voluntary disclosure is a mitigating circumstance which is taken into consideration amongst mitigating and aggravating circumstances in the imposition of a punishment. Misdemeanour proceedings may be terminated for reasons of expediency, or if the person subject to proceedings has voluntarily compensated for the damage caused by the misdemeanour.
- 7 Voluntary disclosure is a mitigating circumstance which is taken into consideration amongst mitigating and aggravating circumstances in the imposition of a punishment. If the guilt of the person suspected or accused of the offence is negligible, and they have remedied or have commenced to remedy the damage caused by the criminal offence or have paid the expenses relating to the criminal proceedings, or assumed the obligation to pay such expenses, and there is no public interest in the continuation of the criminal proceedings, the Prosecutor's Office may request termination of the criminal proceedings by a court with the consent of the suspect or accused.
- 8 In Finland there are no special provisions directly targeted at voluntary disclosure and that allow for a different treatment. Therefore, the general rules for "no voluntary disclosure" regarding payment of tax and interest, monetary penalties and imprisonment also apply in case of a "voluntary disclosure". However, in practice tax authorities tend to apply lower penalties in cases of voluntary disclosure.
- 9 The tax is computed by applying a 5% tax rate on the value of the capital transferred back to Greece. If the capital is declared to the Greek Authorities but not transferred back to Greece an 8% tax rate applies.
- 10 Icelandic law contains no special provisions directly targeted at voluntary disclosure and that allow for a different treatment. Therefore, the general rules for "no voluntary disclosure" regarding payment of tax and interest, monetary penalties and imprisonment also apply in case of a "voluntary disclosure". However, the Penal Code has a general provision that allows the judge to take into consideration when deciding on a penalty the conduct of the taxpayer. In practice tax authorities tend to apply lower penalties in cases of voluntary disclosure.
- 11 The tax rate stays the same, but the income is increased by 25%. The effect is a higher amount of tax than normally due.
- 12 Indian law contains no special provisions directly targeted at voluntary disclosure and that allow for a different treatment. However, the Commissioner has powers to reduce, waive, or provide immunity from concealment penalties if the taxpayer meets all the conditions, including full and true disclosure of income before detection of the concealment by the tax officer.
- 13 No penalty if self correction of a return within 12 months after the due date of filing the return. This benefit does not apply if the taxpayer has already been notified of an audit. Once an audit has been initiated, penalties are charged with mitigation depending on the category of tax default.
- 14 Under the special programme the tax is computed by applying a tax rate of 50% on the return on the value of disclosed assets estimated at 2% per year for 5 years. For assets declared between Jan-Feb 2010 a tax rate of 60% applies and for assets declared between Mar-Apr 2010 a tax rate of 70% applies. Interest and monetary penalties are included in the one-off tax.
- 15 Voluntary disclosure excludes liability for tax evasion crimes, but not for others.
- 16 The tax is computed by applying a tax rate of 4% for natural persons and 7% for juridical persons on the capital returned to Mexico.
- 17 Formally it is a legal offence to give incorrect or incomplete information to the tax assessment authorities, even when this information is later corrected by a voluntary disclosure. However, in practice the authorities will not pursue prosecution where a taxpayer voluntarily discloses the correct and complete information.
- 18 The tax rate is raised to 75%, but at the same time no other monetary penalty will be charged.
- 19 The taxpayer is required to pay a tax equal to 5% of the value of the relevant investments as disclosed in the confidential statement.

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- 20 Depending on certain circumstances. The essence of these circumstances is that the taxpayer has to pay the unpaid amount of taxes, interest and to file with the tax authority an amended tax return for the previous tax period before the tax authority detects the inadequacy of the tax information in the return or begins a field tax audit.
- 21 Self-declaration (voluntary disclosure) does not automatically exclude liability for criminal offence.
- 22 No formal voluntary disclosure system in general law, but administrative policy.
- 23 Once-in-a-lifetime no penalty, every additional disclosure minimum penalty of 20% of unpaid taxes.
- 24 If it is established that a taxpayer evades tax with fraudulent acts mentioned in the tax evasion section of the law, he/she shall be subject to a penalty in an amount of three times the tax evaded (administrative fine). Besides the monetary penalty the information is passed on to the prosecution authorities and the courts may impose criminal sanctions including imprisonment.
- 25 The tax is computed by applying a tax rate of either 2% or 5% on the tax base.



## Annexes

**Annex 1:** Overview on country specific offshore voluntary disclosure programmes and general rules

**Annex 2:** Provision of elements of certainty on a no-name basis

## Annex 1: Overview on country specific offshore voluntary disclosure programmes and general rules

The table in Annex 1 is divided into two sections and compares the consequences for a taxpayer who has committed tax evasion and is detected by the tax authorities without having made a timely and comprehensive voluntary disclosure with a taxpayer who has committed tax evasion but has made a timely and comprehensive voluntary disclosure before being detected by the tax authorities. The table looks at the years covered<sup>1</sup>, tax, interest as well as penalties (monetary<sup>2</sup> and imprisonment) thus making it easy to compare possible outcomes. Unless otherwise stated the table reflects the situation up until March 2010.

The section on “Voluntary disclosure” is subdivided into general law and special programmes (see column “Legal basis”). General law also includes administrative practices or policies based on general law. Where voluntary disclosure programmes exist (whether as part of general law or as special programmes) it also shows whether they require asset repatriation and / or have particular due dates<sup>3</sup>. If the consequences in the case of a voluntary disclosure do not differ from the results in absence of a voluntary disclosure, it is referred to the “No voluntary disclosure” side of the table (“Same as ①”).

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- 1 “Years covered” shows the number of years that a tax administration will go back in case of tax evasion committed in past tax years. In cases of special programmes the years might be reduced or extended.
  - 2 Monetary penalties may be of a civil or criminal nature.
  - 3 “Due date” indicates at what point in time the taxpayer has to pay the amount of taxes, interest and monetary penalties in order to qualify for the voluntary disclosure regime. This can be at the time of making the voluntary disclosure or at a future date.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Argentina	5 years  10 years for unregistered taxpayers	Full amount of tax has to be paid.  Interest has to be paid.	General penalty 50% to 100% of the unpaid tax  In case of fraud through deceitful tax returns, the fine is 2 to 10 times the evaded tax.	Yes, depending on the amount of unpaid tax, facts and circumstances	Law 26.476 Title I (special programme)	For tax obligations due up to 31 December 2007	Full amount of tax has to be paid.  Interest is reduced depending on the application date.	N/A	31 August 2009	No, if the fine is not definitive on 12/24/2008	Criminal prosecution suspended since the application date (in case of default the criminal action continues)
					Law 26.476 Title III (special programme)  The disclosure programme is not available in cases of money laundering.	For individuals: taxable years 2002 up to 2007  For companies: taxable years closed since August 2002 up to 31 December 2007	A special tax on the disclosed assets was introduced at the rate of: 1%, 3%, 6% and 8%. The rate is depending on how the disclosed money was used following the disclosure. <sup>4</sup>	Yes, but not compulsory. If assets are repatriated, a lower amount of tax is levied.	31 August 2009	No	No

<sup>4</sup> A special tax on the disclosed assets was introduced at the rate of: 1% in the case of money held abroad or in the country, destined to buy new dwellings and/or invested in new buildings, provided that the owner keeps those investments for two years or more; 3% in the case of money held abroad or in the country destined to subscribe public securities, provided that the holder keeps the securities for two years; 6% in the case of assets within the country and local or foreign currency held within the country and with no special allocation of purpose. 8% in the case of assets and foreign currency held abroad and not transferred to Argentina. Other taxes on income, on capital and VAT are not applied.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Australia	In general 4 years  Unlimited in cases of fraud or evasion	Full amount of tax has to be paid.  Interest has to be paid; interest rate varies.	Base penalty between 25% and 90% of shortfall amount	Yes, in cases of fraud or conspiracy to defraud; penalties up to 10 years imprisonment apply	Voluntary disclosure <b>before</b> notification that a tax audit is to be conducted (general law)	Same as ①	Same as ①	Not covered	Open dated arrangement	Base penalty is reduced: • by 80% if the shortfall amount is AU\$ 1,000 or more • to nil if the shortfall amount is below AU\$ 1,000.	Possible in cases of fraud or conspiracy to defraud but disclosure would substantially lessen the likelihood of imprisonment.
					Voluntary disclosure <b>after</b> notification that a tax audit is to be conducted (general law)	Same as ①	Same as ①	Not covered	Open dated arrangement	The base penalty is reduced by 20%.	Possible in cases of fraud or conspiracy to defraud but a disclosure would substantially lessen the likelihood of imprisonment.
					Offshore voluntary disclosure initiative (OVDI) for foreign income or capital gains (special programme)  Until 30 June 2010	Same as ①	Same as ①	Not covered	30 June 2010	If the additional taxable income: • is AU\$ 20,000 or less in a tax year, no penalty • exceeds AU\$ 20,000 in any tax year, the penalty will be 10% of the additional tax for that year.	An indication will be provided whether the case at hand is likely or not to be referred for criminal investigation.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Austria	In general 5 years  7 years for tax evasion	Full amount of tax has to be paid.  Interest has to be paid for max. 48 months; 2.38% interest rate (2%-points over base lending rate; 0.38% since May 2009).	Up to 200% of the unpaid taxes  In case of tax evasion on a repetitive basis up to 300% of unpaid taxes	Up to 2 years  In case of tax evasion on a repetitive basis up to: • 3 years • 5 years if evaded amount exceeds EUR 500,000 • 7 years if evaded amount exceeds EUR 3 Mio.	Voluntary disclosure (general law)	Same as ①	Same as ①	No	After assessment of the disclosed income by the tax authorities  Immediately in case of taxes where self-assessment applies	No	No

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Belgium	In general 3 years  7 years in case of fraud	Full amount of tax has to be paid.  Interest has to be paid; interest rate 7%.	Between 10% and 200% of the unpaid taxes  Administrative penalties between EUR 50 and 1,250 (this penalty is not levied when sufficient tax increase has been imposed)	Up to 2 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	Full payment is required within 15 days after the date when a letter indicating the amount to be paid is sent to the taxpayer.	No penalty for VAT transactions and professional income.  For “other income” (e.g. interest) • no penalty if income is declared within 6 months after entry into force of voluntary disclosure programme (entry into force of voluntary disclosure programme: 9 January 2006) • 5% penalty if income is declared after 6 months of entry into force of voluntary disclosure programme and within 12 months after entry into force • 10% penalty if income is declared afterwards.	No

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Canada	In general 3 years  Unlimited in case of neglect, carelessness, wilful default or fraud	Full amount of tax has to be paid.  Interest has to be paid.	Various penalties, e.g. late filing penalty (up to 17% of unpaid taxes), a discretionary penalty, such as an omission penalty or a gross negligence penalty (up to 50% of unpaid taxes)	Up to 5 years	Voluntary Disclosures Program (VDP; general law) <sup>5</sup>  Ongoing program  In general the taxpayer can utilize the benefits of the VDP only once. However, in cases where the disclosures are not related / similar, we may accept a second disclosure.	Same as ①	Same as ①  Partial relief in the application of interest may be granted in respect of assessments for years or reporting periods preceding the three most recent years of returns required to be filed <sup>6</sup> .	N/A	N/A	No	No

5 Under the program taxpayers have the possibility to participate in a preliminary discussion on a “no name” basis. If all the required information for a complete disclosure, except for the identity of the taxpayer, has been submitted, the CRA can review, upon request, this preliminary information and advise, without prejudice, on the possible tax implications of the disclosure. If there is any discrepancy between the information that is provided and the information that is verified once the taxpayer is identified, this preliminary advice may be invalidated (see also Annex 2).

6 Relief for interest and penalty is limited to any taxation year (or fiscal period in the case of a partnership) that ended within the previous 10 years before the calendar year in which the submission is filed.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Chile	In general 3 years  6 years in case of taxes subject to self-assessment, when the tax return has not been filed or the return has been deliberately filed with false information	Full amount of tax has to be paid.  Interest has to be paid; interest rate: 1.5% per month.	Civil penalties: • from 10% to 30% of unpaid taxes for late filing or non-filing of tax returns • from 20% to 60% for failure to remit withholding taxes, VAT and stamp duty  Criminal penalties: • from 50% and up to 300% of unpaid taxes	Up to 5 years, however in case of obtaining a tax refund due to fraudulent pretences, up to 15 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	At the time of making the voluntary disclosure	Civil penalties: • from 10% to 30% of unpaid taxes for late filing or non-filing of tax returns • from 10% to 30% for failure to remit withholding taxes, VAT and stamp duty  Criminal penalties: • from 50% and up to 300% of unpaid taxes  Penalties can be suspended, reduced or waived through an administrative procedure, if the taxpayer has made a comprehensive voluntary disclosure (unless the case is subject to a criminal court proceeding).	Same as ①  Mitigating circumstances may be taken into account.



Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
China	In general 3-5 years  Unlimited in cases of fraud or evasion	Full amount of tax has to be paid.  Interest has to be paid at rates higher than market rates. <sup>7</sup>	Penalties vary and may be determined on a case-by-case basis.	Up to 7 years	No general law, but administrative practices <sup>8</sup>	N/A	Same as ①	N/A	N/A	No	No
Czech Republic	At least 3 years. The time limit can be prolonged for up to 10 years if the respective Tax Authority conducts specific acts aiming at assessment or reassessment of the tax in question prior to the expiry of the three-year's time limit.	Full amount of tax has to be paid.  Interest has to be paid for max. 60 months; interest rate is 14 percentage points over repo rate of the Czech National Bank.	20% of unpaid taxes	Up to 10 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	There are no specific rules in the Czech Republic for voluntary tax disclosure given by the tax or any other law. Generally, the tax liability is due by the same deadline as the tax return.	No	No

7 The interest (0.05 percent per day of shortfall tax) has a factor of penalty in it as it is higher than the market interest rate.

8 China is planning to update its general law with a view to providing for voluntary disclosures.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Denmark	In general 3 years  10 years in case of tax evasion	Full amount of tax has to be paid.  Interest has to be paid; interest rate varies.	Between 50% and 200% of unpaid taxes.	Up to 8 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	Excess tax as a result of an alteration of the tax assessment is payable in three instalments on the 1st of the first, second and third months following the new tax assessment. Monetary penalties (fine) must be paid within 14 days from day of the taxpayer's acceptance of the fine.	50% of unpaid taxes	Yes; if tax fraud exceeds DKK 500,000.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Estonia	In general 3 years  6 years in case of intentional failure to fulfil tax obligation	Full amount of tax has to be paid.  Interest has to be paid; interest rate 0.06% per day.	Administrative penalty up to EEK 18,000 (EUR 1,150) in case of physical person and up to EEK 500,000 (EUR 31,956) in case of legal entity  In case of criminal offense when the offender will not be imprisoned, a pecuniary punishment of 30 to 500 times the daily rate. Daily rate is calculated on the basis of average daily income of the offender; can't be less than EEK 50 (EUR 3.2).  In case of legal entity the criminal pecuniary punishment is between EEK 50,000 to 250 million (EUR 3,196 to 15.98 million).	Up to 5 years.  In serious cases between 1 and 7 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	Is not explicitly stated. In general it can be understood that before the audit report is completed.	Same as ①  Mitigating circumstances are taken into consideration.	Same as ①  Mitigating circumstances are taken into consideration.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Finland	In general 5 years after the year of assessment	Full amount of tax has to be paid.  Interest has to be paid.	30 % of the unpaid tax	Up to 4 years	General law <sup>9</sup>	Same as ①	Same as ①	No	No specific rules for voluntary tax disclosure in any law. Same due dates as in the case of tax return.	Same as ①	Same as ①
France	3 years for income tax and 6 years for inheritance tax and wealth tax	Full amount of tax has to be paid.  Interest has to be paid; interest rate 0.4% per month	Between 10% and 80% of unpaid taxes	Up to 5 years	Regularization unit (La cellule de régularisation des avoirs non déclarés dans les paradis fiscaux; special programme)  Until 31 December 2009	Same as ①	Full amount of tax has to be paid.  The amount of interest will be determined case by case.	No	Due date is the same as in general law.  Wealth tax is due when the taxpayer discloses.  Income tax, interest and penalties are due when the administration sends the notification (regular due date).	Penalty will be determined case by case.	No

9 In Finland there are no special provisions directly targeted at voluntary disclosure and that allow for a different treatment. Therefore, the general rules for “no voluntary disclosure” regarding payment of tax and interest, monetary penalties and imprisonment also apply in case of a “voluntary disclosure”. However, in practice tax authorities tend to apply lower penalties in cases of voluntary disclosure.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Germany	In general 4 years  10 years in case of tax evasion	Full amount of tax has to be paid.  Interest has to be paid; interest rate 6%.	Penalty will be determined case by case.	Up to 5 years  In serious cases between 6 months and 10 years.  No probation in cases of tax evasion above EUR 1 Mio.	Voluntary disclosure (general law)	Same as ①	Same as ①	No	The taxpayer is required to pay all under-reported taxes and interest within a reasonable period of time allowed to him for that purpose by the tax office.	No	No
Greece	5 years	Full amount of tax has to be paid.  Interest has to be paid; interest rate is 1.5% per month (max. 200%) of unpaid taxes.	The law does not provide for monetary penalties.	1 to 10 years	Voluntary disclosure for 6 months after entry into force (special programme) <sup>10</sup>		5% rate on the value of the capital transferred back to Greece. If the capital is declared to the Greek Authorities but not transferred back to Greece an 8% rate applies.	Yes, in order to qualify for the 5% rate		No	No

10 Natural and legal persons that are subject to income tax in Greece can transfer within six months from the entry into force of the new law, capital from abroad which otherwise should have been declared or were subject to tax according to the provisions of the Greek tax Law.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Hungary	5 years	Full amount of tax has to be paid.  Interest has to be paid for max. 3 years; interest rate is 200% of the prime rate of the Hungarian Central Bank.	Up to 75% of the unpaid taxes	2 to 8 years	Voluntary disclosure (general law)	Same as ①	Full amount of tax has to be paid.  Interest: see column "Monetary penalties"	No	The same as in general law	Special penalty called "self correction surcharge": • 50% of the proper interest payment for the first "self correction surcharge" • 75% of the proper interest payment for every subsequent "self correction surcharge"  After paying the "self correction surcharge" no other interest or penalty can be levied.	No

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Iceland	6 years	Full amount of tax has to be paid on the income plus a 25% penalty charge is added to the income.  Interest has to be paid for all years; normal penalty interests according to the Central Bank of Iceland	Lowest penalty is double the amount of the income not disclosed earlier.	Up to 2 years	General law <sup>11</sup>	Same as ①	Same as ①	-	-	Same as ①	Same as ①

11 Icelandic law contains no special provisions directly targeted at voluntary disclosure and that allow for a different treatment. Therefore, the general rules for “no voluntary disclosure” regarding payment of tax and interest, monetary penalties and imprisonment also apply in case of a “voluntary disclosure”. However, the Penal Code has a general provision that allows the judge to take into consideration when deciding on a penalty the conduct of the taxpayer. In practice tax authorities tend to apply lower penalties in cases of voluntary disclosure.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
India	6 years	Full amount of tax has to be paid.  Interest has to be paid; interest rate is 1% per month.	Between 100% and 300% of unpaid taxes.	If the tax sought to be evaded is more than 100,000 Rupees then rigorous imprisonment for a term of six months to seven years with a fine and in other cases the rigorous imprisonment of a term six months to three years with a fine	There are no provisions for voluntary disclosure of income. <sup>12</sup>	Same as ①	Same as ①	-	-	Same as ①	Same as ①

12 Indian law contains no special provisions directly targeted at voluntary disclosure and that allow for a different treatment. However, the Commissioner has powers to reduce, waive, or provide immunity from concealment penalties if the taxpayer meets all the conditions, including full and true disclosure of income before detection of the concealment by the tax officer.



Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Ireland	4 years	Full amount of tax has to be paid.  Interest has to be paid.	Between 15% and 100% of unpaid taxes <sup>13</sup>  Publication of name, address and occupation of a taxpayer, unless the penalty does not exceed 15% of the amount of unpaid taxes or EUR 30,000	Up to 5 years	Self-correction of a return within 12 months after the due date of filing the return and before notification of an audit or an investigation (general law)	Same as ①	Same as ①	No	Payment of tax and interest must accompany the submission.	No	No
					Voluntary disclosure <b>before</b> notification of an audit or an investigation (unprompted disclosure; general law)	Same as ①	Same as ①	No	In general full payment is required at the point of disclosure. <sup>14</sup>	Between 3% and 10% of unpaid taxes <sup>15</sup>  No publication	No
					Voluntary disclosure <b>after</b> notification of an audit, but before examination has begun (prompted disclosure; general law)	Same as ①	Same as ①	No	As above	Between 10% and 50% of unpaid taxes <sup>16</sup>  No publication	No

13 For all subsequent disclosures, penalties are charged at 30% to 100% of regular penalties.

14 Exceptions may apply if the taxpayer provides evidence of inability to pay together with a proposed payment schedule at the point of the disclosure.

15 For the second disclosure, penalties are charged at 20% to 55% of regular penalties. For 3rd and subsequent disclosures, penalties are charged at 40% to 100%.

16 For the second disclosure, penalties are charged at 30% to 75% of regular penalties. For 3rd and subsequent disclosures, penalties are charged at 40% to 100%.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Israel	<p><u>Civil</u>: 4 years (statute of limitations covers 3 years from the date of the submission of the tax return)</p> <p><u>Criminal</u>: 10 years since the tax year the evaded income was derived</p>	<p>Full amount of tax has to be paid.</p> <p>Interest has to be paid; interest rate 4%.</p>	15% of the tax or 30% of the tax if there is an intention to avoid paying the tax	7 years or a fine in the sum of double the income evaded or both	<p>Voluntary disclosure</p> <p>Circular published by Israel Tax Authority on 10/4/2005 (Currently the Israeli Tax Authority is working on a new circular; special programme)</p>	Same as ①	Same as ①	No	At the time of making the voluntary disclosure.	Same as ①	No

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Italy	5 years if no tax return has been filed  4 years if tax return has been filed  The years covered double in case of tax crimes.	Full amount of tax has to be paid.  Interest has to be paid.	<ul style="list-style-type: none"> <li>• 30% of unpaid taxes for failure to remit taxes</li> <li>• between 120% and 240% of unpaid taxes for failure to file a tax return</li> <li>• between 100% and 200% of unpaid taxes for the filing of an unfaithful tax return</li> <li>• 10-50% of undeclared amounts for failure to report assets held abroad or cross-border transfers of assets<sup>17</sup></li> </ul>	Yes  Severe penalties (up to 6 years) only in case of behaviours really dangerous for tax revenue, committed with fraudulent intention <sup>18</sup>	Voluntary disclosure before notification of an audit or an investigation: <ul style="list-style-type: none"> <li>• tax remittance within 30 days of due date or</li> <li>• settlement of mistakes within the deadline for filing a tax return or</li> <li>• filing of a tax return within 90 days from the deadline (general law)</li> </ul>	Same as ①	Same as ①	No	Yes  For details see next column.	Tax payment within 30 days from deadline or settlement of tax return within 90 days from deadline: reduction of minimum penalty applicable to 1/12  Self-correction within the deadline for filing tax return: reduction of minimum penalty applicable to 1/10	No

<sup>17</sup> Such penalties are due for failure to report assets held abroad or transfers of assets in the RW Section of the tax return. Seizure of domestic assets whose value is comparable to the value of undeclared offshore assets is also possible. For infringements committed up to 5 August 2009, applicable penalties range between 5-25% of undeclared amounts (seizure of assets of corresponding value was also possible). Penalties for failure to file the RW Section have been increased in connection with the “tax shield” programme.

<sup>18</sup> In several cases a minimum threshold of evaded tax is required for imprisonment.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
					“Tax shield” programme for patrimony and financial assets held abroad up to 31 December 2008 (special programme)	5 years	50% on return on disclosed assets, estimated as 2% per year, for 5 years <sup>19</sup>  Interest is included in the one off tax.	Yes  Except in cases where the taxpayer chooses the regularization <sup>20</sup>	Until 30 April 2010	Included in the one off tax	No

19 60% tax for assets declared between Jan-Feb 2010 and 70% tax for assets declared between Mar-Apr 2010.

20 According to national legislation the disclosure of the assets held abroad can be done through their repatriation or regularization. The regularization, which allows the taxpayer to keep assets abroad, is only permitted when the assets are kept in an EU Member State or in countries which provide for an effective exchange of information.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Japan	In general 5 years  7 years in case of tax evasion	Full amount of tax has to be paid.  Interest has to be paid. <sup>21</sup>	<u>Administrative penalty</u> • 10% (or 15%) of unpaid taxes for a deficient return • 15% (or 20%) of unpaid taxes for non-filing of a return <sup>22</sup>  <u>Criminal penalty</u> <sup>23</sup> • Up to JPY 500,000 for non-filing of a return • Up to JPY 10 million (or up to the amount of unpaid taxes) for tax evasion	<u>Criminal penalty</u> <sup>24</sup> • Up to 1 year for non-filing of a return • Up to 10 years for tax evasion	Voluntary disclosure (general law)	Same as ①	Tax: Same as ①  Interest: The interest rate is same as ①, however, under certain circumstances, the base period on which the interest is calculated may be shortened.	No	General rules apply <sup>25</sup>	<u>Administrative penalty</u> • No penalty for a deficient return • 5% unpaid taxes for non-filing of a return  <u>Criminal penalty</u> <sup>26</sup> • Up to JPY 500,000 for non-filing of a return • Up to JPY 10 million (or up to the amount of unpaid taxes) for tax evasion	Same as ①

21 Until the date when two months have elapsed from the date following the specific due date for tax payment, either 7.3% per annum or official discount rate on November 30 of the preceding year plus 4%, whichever is lower. After the date, when two months have elapsed from the date following the specific due date of tax payment, 14.6% per annum.

22 In case of taxpayers' act of disguise or concealment: 35% of unpaid taxes for a deficient return or 40% of unpaid taxes for non-filing of a return.

23 FY2010 Tax Reform includes the increase of the upper limit of monetary penalties for non-filing of a return from JPY 200,000 to JPY 500,000, and that for tax evasion from JPY 5 million (or up to the amount of unpaid taxes) to JPY 10 million (or up to the amount of unpaid taxes).

24 FY2010 Tax Reform includes the increase of the upper limit of imprisonment for tax evasion from 5 years to 10 years.

25 No special due date of payment is required in order for taxpayers to receive mitigation of administrative monetary penalty. In general, when an amended return or a return after the due date is filed, tax must be paid along with interest by the date of filing, and administrative monetary penalty must be paid within one month after the issuance of the relevant notice.

26 See footnote 23

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Korea	In general 5 years  7 years if no tax return has been filed  10 years in case of tax evasion	Full amount of tax has to be paid.  Interest has to be paid; interest rate 0.03% per day.	Between 10% and 40% of unpaid taxes (civil)  In case of fraud (criminal): up to 3 times of evaded tax amount, refunded or deducted amount, as the case may be	Up to 3 years (criminal)	Voluntary disclosure (general law)	Same as ①	Same as ①	No	The taxpayer is required to fully pay tax, interest and penalties at the time of disclosure.	Civil: • In case of no tax return: The base penalty is reduced by 50% if the taxpayer files a tax return within 1 month after the statutory filing date. • In case of underreporting: The base penalty is reduced: (1) by 50% if the taxpayer files an amended tax return for additional liability within 6 months after the statutory filing date; (2) by 20% if an amended tax return is filed after 6 months and within 1 year from the statutory filing date; (3) by 10% if such return is filed after 1 year and within 2 years from the statutory filing date.	Criminal: Where the person who committed fraud files a tax return within 6 months after the statutory filing date or files an amended return for additional liability within 2 years after the statutory filing date, the imprisonment period may be reduced.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Luxembourg	5 years  10 years in case of tax evasion and tax fraud	Full amount of tax has to be paid.  Interest has to be paid; interest rate 0.6% per month.	Up to 10% of unpaid taxes; 4 times the unpaid taxes in case of tax evasion; 10 times the unpaid taxes in case of tax fraud	1 month to 5 years in case of tax fraud	Voluntary disclosure (general law)	Same as ①	Same as ①			Up to 10% of unpaid taxes.	No
Mexico	5 years	Full amount of tax has to be paid; inflation is taken into account.  Interest has to be paid.	Between 20% and 75% of unpaid taxes  Reduction of 20% if taxpayer complies within 45 days  Penalties might be increased in case of a repeated offence.	From 3 months to 3 years	Voluntary disclosure before any notice from the Tax Service is received (general law)	Same as ①	Same as ①	N/A	N/A	No	No, except where taxpayer has shifted income to a tax haven and failed to meet the applicable reporting requirements
					Tax Amnesty Repatriation Programme 2009 (special programme) <sup>27</sup>	Special programme applicable only during 2009, but benefits applicable to income earned in 2009 and preceding years	The programme allowed returning capital to Mexico at the tax rates of 4% for natural persons and 7% for juridical persons.	Yes	The taxpayer has to pay the amount of taxes at the moment of voluntary disclosure.	No	No

27

At the moment of the voluntary disclosure, the identity of the taxpayer is protected.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Netherlands	5 years and 12 years for foreign source income	Full amount of tax has to be paid.  Interest has to be paid; interest rate varies.	Up to 100% of unpaid taxes  300% of unpaid taxes in case of unreported foreign savings accounts	Up to 6 years	Voluntary disclosure (general law)	Same as ①	Same as ①	N/A	Normal rules for payment apply.	Voluntary disclosure later than two years after the incorrect tax declaration: 15% of unpaid taxes and from 1 July 2010 on probably 30% of unpaid taxes	No
					Voluntary own-up scheme for capital in foreign accounts (special programme)  Until 1 January 2010	Same as ①	Same as ①	N/A	Normal rules for payment apply.	No	No
New Zealand	Generally 4 years but may be extended in cases of evasion or fraud or similar act	Full amount of tax has to be paid.  Interest has to be paid; interest rate based on market rates.	Base penalty of: • 20% for lack of reasonable care • 20% for an unacceptable tax position <sup>28</sup> • 40% for gross carelessness • 100% for an abusive tax position and • 150% for tax evasion of the shortfall amount	Up to 5 years	Voluntary disclosure <b>before</b> notification of tax audit (pre-notification disclosure; general law)	Same as ①	Same as ①	No	Normal rules for payment apply.	Reduction of base penalty by 75% (100% if the tax shortfall was due to not taking reasonable care or taking an unacceptable tax position)	No
					Voluntary disclosure <b>after</b> notification of tax audit, but before it begins (post-notification disclosure; general law)	Same as ①	Same as ①	No	Normal rules for payment apply.	Reduction of base penalty by 40%	Only considered in cases of evasion or fraud or similar act
					Disclosure at the time of filing the return (general law) <sup>29</sup>	Same as ①	Same as ①	No	Normal rules for payment apply.	The base penalty will be reduced by 75%.	No

28 New Zealand has a penalty for taking an “unacceptable tax position”, i.e. “a tax position that fails to meet the standard of being about as likely as not to be correct”, meaning that the tax position must be one to which a court gives serious consideration, but not necessarily agrees with.

29 If an unacceptable tax position or abusive tax position is disclosed at the time of filing the return, the penalty can be reduced.



Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Norway	10 years	Full amount of tax has to be paid.  Interest has to be paid.	Normally 30% of the unpaid tax - if the taxpayer has acted intentionally or with culpable negligence up to 60% of the unpaid tax	Up to 6 years	Voluntary disclosure (general law)	Same as ①	Same as ①	N/A	Normal rules for payment apply.	No <sup>30</sup>	No <sup>31</sup>
Poland	5 years	Full amount of tax has to be paid at a 75% tax rate.  Interest has to be paid; interest rate 200% of the basic interest rate on pawn credits of National Bank of Poland	No, as the tax rate is increased	Up to 5 years	Voluntary disclosure (general law)	Same as ①	Full amount of tax has to be paid at regular tax rates.  Interest has to be paid on the reduced interest rate, i.e. 75% of the regular interest rate. <sup>32</sup>	No	7 days from the day of submission of the correction of tax return	No	No

30 Before 1 January 2010, 1% monetary penalty – after this date, no monetary penalty.

31 Formally it is a legal offence to give incorrect or incomplete information to the tax assessment authorities, even when this information is later corrected by a voluntary disclosure. However, in practice the authorities will not pursue prosecution where a taxpayer voluntarily discloses the correct and complete information.

32 Reduced interest rate is applied only in case of submission of a legally effective correction of tax return together with the reasons of the correction, and full payment of the tax arrears within 7 days from the date of submission of the correction.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Portugal	4 years <sup>33</sup>	Full amount of tax has to be paid.	Yes. Fines will be determined case by case respecting the maximum and minimum limits imposed by law.	In case of tax evasion - up to 5 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	The payment is made with the notice of assessment.	Yes, reduction of monetary penalties	No
		Interest has to be paid: Late assessment interest at 4% per year  Late payment interest at 1% per month			Exceptional Regime of Tax Regularization of Assets (special programme) <sup>34</sup>		The taxpayer is required to pay a tax equal to 5% of the value of the relevant investments as disclosed in the confidential statement.  No interest has to be paid.	Yes <sup>35</sup>			

33 This period is extended whenever criminal investigations have been initiated.

34 This regime applies to individuals and legal persons to allow disclosure and regularization of assets (deposits, securities and other financial instruments, including investment fund units and life insurance policies held abroad, except those held in countries or territories deemed non-cooperative by the Financial Action Task Force) by 31 December 2009.

35 The tax amnesty program requires the repatriation of assets when they are located outside the EU Member States or outside the European Economic Area.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
The Russian Federation	3 years	Full amount of tax has to be paid.  Full amount of interest has to be paid. Interest rate varies, because it is taken equal to 1/300 of refinancing rate of the Central Bank of the Russian Federation per day.	Civil penalties: Between 20% and 40% of unpaid taxes, depending on circumstances  Criminal penalties: up to 500,000 Roubles	Up to 6 years	Voluntary disclosure (general law) <sup>36</sup>	Same as ①	Same as ①	No	The taxpayer has to pay the amount of taxes and interest at the moment of voluntary disclosure.	No	No

<sup>36</sup> Depending on certain circumstances. The essence of these circumstances is that the taxpayer has to pay the unpaid amount of taxes, interest and to file with the tax authority an amended tax return for the previous tax period before the tax authority detects the inadequacy of the tax information in the return or begins a field tax audit.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Slovak Republic	5 years	Full amount of tax has to be paid.  Interest has to be paid.	If the taxpayer files the tax return after the due date penalty is: 333.19 EUR (natural person) or 66.38 to 16,596.95 EUR (company).  If the taxpayer fails to file a tax return by the date specified in the reminder, penalty is 331.93 EUR (natural person) 1,659.69 to 49,790.87 EUR (company).	Up to 12 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	As a general matter, the taxpayer is required to submit a tax return and pay tax and penalties until the end of the month following after the month the taxpayer has found information about taxable income.	No	No

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Slovenia	5 - 10 years	Full amount of tax has to be paid.  Interest has to be paid. <sup>37</sup>	Yes, a fine ranging between: • 200 EUR and 1,200 EUR for individuals; • 800 EUR and 30,000 EUR for persons performing commercial activity; • for particularly serious tax offences - in case where the amount of underpaid tax exceeds EUR 5,000 - fine is imposed in the amount of 20 to 45% of unpaid or underpaid tax, but not less than 1,200 EUR and not more than 300,000 EUR	Up to 12 years	Voluntary disclosure (rules on self-declaration in Tax Procedure Act; general law)	Same as ①	Full amount of tax has to be paid.  Interest has to be paid; Interest rate is European interbank interest rate increased by certain percentage (1-4%) depending on the time of the expiry of the deadline for tax return (tax information return) submission.	No	Commencement of the tax inspection procedure or the commencement of the violation procedure or criminal proceedings	No	Possible <sup>38</sup>

37 In general taxes which are not paid by taxpayers within the period required are subject to default interest at the daily interest rate of 0.0247 percent but when tax liability is identified by the tax authority in the course of a tax control procedure, interest for the period between the expiration of the time limit for payment of tax and the issue of the decision (made in tax control procedure) is calculated according to the European interbank interest rate for one-year maturity in the amount effective on the date of expiration of the time limit for tax payment.

38 Self-declaration (voluntary disclosure) does not automatically exclude liability for criminal offence.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
South Africa	In general 3 years (5 years in case of VAT) provided there has been full disclosure in the tax return  Unlimited in cases of fraud, misrepresentation or non-disclosure	Full amount of tax payable;  Full interest normally payable but SARS (South African Revenue Service) has discretion re: interest charged where taxpayer had reasonable grounds in respect of the tax position taken.	Additional tax (penalty) could vary from 200% down to 0% depending on circumstances and mitigating factors.	Persons guilty of tax evasion or assisting in tax evasion can be liable on conviction to a fine or imprisonment not exceeding five years.	No formal voluntary disclosure system in general law but SARS has an administrative policy that encourages voluntary disclosure.	Same as ①	Same as ①	N/A	Due date for payment of tax and interest would be once voluntary disclosure has been accepted and additional assessments have been issued to implement the outcome of the disclosure made.	Voluntary disclosure regarded as a favourable circumstance for purposes of setting additional tax (penalty)	Not recommended i.e. SARS would not pursue criminal charges in respect of tax default in respect of which voluntary disclosure had been made.
					A limited period Voluntary Disclosure Program (VDP) is in the process of being implemented as of 1 Nov 2010. (This will be done in conjunction with Central Bank that oversees Foreign Exchange system; special programme.)	Same as ①	Full amount of tax payable;  Differentiated interest relief: where no audit / investigation is pending or has commenced, 100% relief; where an audit / investigation is pending or has already commenced, only 50% relief	N/A	As above	Total relief in respect of additional tax (penalty)	As above

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Spain	4 years	Full amount of tax has to be paid.  Interest has to be paid.	Between 50% and 150% of the unpaid tax (Between 100% and 600% of the unpaid tax if the tax benefits exceed EUR 120,000 as referred to a specific tax and, if it is a periodic tax, in one calendar year)  The penalty is reduced by 50 % in case of an agreed assessment (Acta con Acuerdo) and by 30 % if the taxpayer agrees to the penalty (Acta de Conformidad). In this case, there is another 25% reduction if the payment is made in due time.	From 1 to 4 years if the tax benefits exceed EUR 120,000 as referred to a specific tax and, if it is a periodic tax, in one calendar year	Voluntary disclosure before notification of an audit (general law)	Same as ①	Same as ①	No	The payment of the taxes has to be made at the moment of the voluntary disclosure.  The rest of the debt (interest and penalties) at the date established by the tax administration in its communication, which is sent to the taxpayer once the self-assessment has been processed	Depends on time when the tax is declared: • 5%, if up to 3 months late, • 10%, if between 3 and 6 months late, • 15%, if between 6 and 12 months late, • 20% + interest, if over 12 months late	No
Sweden	5 years in general, 10 years in case of grave tax fraud	Full amount of tax has to be paid.  Interest has to be paid.	Up to 40% of the unpaid tax	Up to 2 years (in serious cases up to 6 years)	Voluntary disclosure (general law)	Same as ①	Same as ①	No	No connection with the voluntary disclosure, but follows general rules	No	No

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
Switzerland	10 years in case of tax evasion	Full amount of tax has to be paid.  Interest has to be paid.	Between 33% and 300% of unpaid taxes, but in general 100%	Up to 3 years	Voluntary disclosure since 1 January 2010 (general law)	Same as ①	Same as ① <sup>39</sup>	No	No	<ul style="list-style-type: none"> <li>• Once-in-a-lifetime no penalty</li> <li>• Every additional disclosure minimum of 20% of unpaid taxes</li> </ul>	No
Turkey	5 years	Full amount of tax has to be paid.  Interest has to be paid.	Between 100% and 300% of unpaid taxes	Up to 5 years	Voluntary disclosure (general law)	Same as ①	Same as ①	No	15 days after disclosure	No	No
					Voluntary disclosure special program applied between the dates of 22.11.2008 and 31.12.2009	Same as ①	Reduced tax has to be paid (either 2% or 5% of tax base).	Yes	1 month after disclosure	No	No

<sup>39</sup> Heirs can make a voluntary disclosure in case of tax evasion by the decedent. In this case they have to pay taxes for the last 3 years before the death of the decedent.



Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
United Kingdom	20 years	Full amount of tax has to be paid.  Interest has to be paid; interest rate varies.	Up to 100% <sup>40</sup> of unpaid taxes; unlikely less than 30%  From 1 April 2010: Publication of the names and details of individuals and companies caught evading taxes of more than £25,000 in total on the tax administration website	Up to 6 months	Voluntary disclosure (general law)	Same as ①	Same as ①	No	In general full payment is required at the point of disclosure. Exceptions may apply if the taxpayer provides evidence of inability to pay together with a proposed payment schedule at the point of disclosure.	Reduced penalty	No
					New Disclosure Opportunity (NDO; special programme)  Disclosure relating to an offshore account or asset until 4 January 2010	Same as ①	Same as ①	No		<ul style="list-style-type: none"> <li>• 10% of unpaid taxes and no penalty where unpaid taxes under £ 1,000</li> <li>• 20% for anyone informed by HMRC in 2007 about the Offshore Disclosure Facility (ODF)</li> </ul>	No
					Liechtenstein Disclosure Facility (LDF; special programme)  Disclosure linked to investments or assets in Liechtenstein until 31 March 2015	Limited to accounting periods / tax years starting on or after 1 April 1999 <sup>41</sup>	Full amount at the normal rate or at the rate of 40% <sup>42</sup>  Interest same as ①	No		<ul style="list-style-type: none"> <li>• Normally 10% of unpaid taxes, but in some cases 20% or higher</li> <li>• No penalty where an innocent error has been made</li> </ul>	No

40 The UK government has announced that evading tax offshore could result in combined penalties of up to 200% of the unpaid tax.

41 In certain cases exceptions may apply.

42 The taxpayer can choose whether to use a single composite rate of 40% or to calculate actual liability on an annual basis. The composite rate is a single rate of 40% which can be used as a means of calculating an amount which HMRC will accept in satisfaction of past tax liabilities. The amount will cover all UK taxes. The rate will be applied to all income, profits, gains and other sums chargeable with no relief or other deductions to be allowed.

Country	① No voluntary disclosure				② Voluntary disclosure						
	Years covered	Tax and interest	Monetary penalties	Imprisonment	Legal basis (general law, special programme)	Years covered	Tax and interest	Asset repatriation	Due date	Monetary penalties	Imprisonment
United States	In general 3 years  Unlimited for fraud or tax evasion	Full amount of tax has to be paid.  Interest has to be paid; interest rate varies.	Civil penalties which can be combined, e.g. • Accuracy-related penalty (up to 40% of unpaid taxes) • Penalty (the greater of \$ 100,000 or 50% of the total balance of the foreign account) for wilful failure to file a complete and correct FBAR (Report of Foreign Bank and Financial Accounts) • Fraud penalty (75% of unpaid taxes)  Criminal penalties up to \$ 500,000.	<ul style="list-style-type: none"> <li>• Up to 5 years for tax evasion</li> <li>• Up to 3 years for filing a false return</li> <li>• Up to 1 year for failure to file an income tax return</li> <li>• Up to 10 years for failure to file an FBAR</li> </ul>	Voluntary disclosure program (VDP; special programme) for unreported income from undisclosed offshore accounts, as well as for reporting offshore accounts not previously reported, for the years 2003 to 2008  Prolonged until 15 October 2009 (original date 23 September 2009)	There are 6 years covered by the VDP with some years barred. The signing of a closing agreement by the taxpayer allows for assessment of tax for barred years. The actual statute for barred years is not extended.	Same as ①	No	As a general matter, the taxpayer is required to fully pay all taxes, interest and penalties, as well as all other unpaid, previously assessed liabilities, at the time that the signed closing agreement is returned to the Internal Revenue Service.	<ul style="list-style-type: none"> <li>• Accuracy-related (20%) or delinquency (up to 25%) penalty on unpaid taxes and</li> <li>• 20% penalty on the amount in the foreign bank accounts in the year with the highest aggregate account / asset value in the last 6 years</li> </ul>	Criminal prosecution will not be recommended.

## Annex 2: Provision of elements of certainty on a no-name basis

The table gives examples of general law and/ or specific programmes which provide the taxpayer the opportunity to come forward on a no-name basis to receive an indication or binding decision on possible consequences resulting from the disclosure.

Country	Legal basis (general law, specific programme)	Description	Binding decision
Australia	Offshore voluntary disclosure initiative (OVDI) for foreign income or capital gains	<p>Taxpayers can approach the Australian Taxation Office (ATO) anonymously (on a no-name basis) for an indication as to whether ATO would undertake an investigation to determine whether there is any potential breach of the criminal law.</p> <p>To maintain eligibility under this initiative, any indication provided for a no-name disclosure will be provided with the following conditions: (i) the taxpayer must provide their identity and all names that have been withheld from the disclosure, (ii) the information provided is true and complete, (iii) the indication relies on the information provided in the disclosure form and (iv) the taxpayer is not in an excluded category.</p> <p>The ATO's indication that it will not initiate a criminal investigation will not bind any other investigative agency or the Commonwealth Director of Public Prosecutions.</p>	Yes for ATO, but not for other agencies.
Canada	Voluntary Disclosure Program (VDP)	The Canada Revenue Agency (CRA) can review, upon request, information given on a no-name basis and advise, without prejudice, on the possible tax implications of the disclosure. This advice is based on the facts as submitted on a no-name basis. If there is any discrepancy between the information that is provided and the information that is verified once the taxpayer is identified, this preliminary advice may be invalidated.	Yes
Poland	General law	<p>It is possible to anonymously obtain information on current tax law and procedures used by the Polish fiscal authorities by calling the telephone line of the National Tax Information. Such information shall not be binding for the tax authority, and for taxpayers. Adherence to the opinion expressed by the consultant does not have an impact on the protection of the taxpayer.</p> <p>If the taxpayer is interested in obtaining a written response to the query on the current tax law and its application in an individual case, he/she may apply for an individual interpretation of tax law. In this case, it is necessary to provide data concerning the applicant (name, address). Written interpretation of tax law does not bind the tax authorities or the taxpayer for which it was issued since the competent tax authority can issue a decision which would be in conflict with the content of the interpretation.</p>	No

Country	Legal basis (general law, specific programme)	Description	Binding decision
		<p>However, compliance by the taxpayer with the individual interpretation cannot harm him. This means that in case of failure to comply with the interpretation by the tax authority, the taxpayer will not bear the consequences of misinterpretation, namely:</p> <ul style="list-style-type: none"> <li>- he/she cannot be brought to justice for fiscal crime,</li> <li>- interest for late payment will not be charged.</li> </ul>	
South Africa	Voluntary Disclosure Program (VDP)	<p>A qualifying person (i.e. a taxpayer) can approach the South African Revenue Service (SARS) on a no-name basis for a nonbinding private opinion re: the taxpayer's potential eligibility for VDP relief. This is conditional upon the person providing sufficient information to enable SARS to do so. Such information need not include the identity of any party to the default in respect of which no-name disclosure is made.</p> <p>In the event that, subsequent to a conclusion of a voluntary disclosure agreement, it is established that the taxpayer failed to disclose a matter that was material for purposes of making a valid voluntary disclosure, the Commissioner has discretion to: 1) withdraw any relief granted; 2) any amount paid in terms of the voluntary disclosure agreement will be regarded as constituting part payment of any further outstanding tax in respect of the relevant default; and 3) criminal prosecution for any statutory offence under a tax act or related common law offence may be pursued.</p>	SARS may issue a nonbinding private opinion as to a person's eligibility for relief in terms of the VDP.
United Kingdom	Liechtenstein Disclosure Facility (LDF) – a voluntary programme operated by HM Revenue & Customs (HMRC)	HMRC has undertaken to provide a bespoke service to individuals within the LDF programme and will deal with enquires on a no-name basis to facilitate the making of a voluntary disclosure under that programme. However, HMRC does not encourage the submission of anonymous voluntary disclosures for prior approval. It would only be bound by information given once it has been provided with the identity of the disclosing taxpayer and would seek to verify the information disclosed against any notes taken of the original call.	No



# Offshore Voluntary Disclosure

## Comparative analysis, guidance and policy advice

Improved information exchange and use of voluntary disclosure initiatives reflect longstanding OECD policies. For years the OECD has advocated a policy of improved international tax co-operation including better information exchange and transparency to counter offshore tax evasion. At the same time the OECD has been encouraging countries to examine voluntary compliance strategies to enable non-compliant taxpayers to declare income and wealth that they have in the past concealed by means of taking advantage of strict bank secrecy jurisdictions (see e.g., OECD (2000), *Improving Access to Bank Information for Tax Purposes*, OECD, Paris).

While the OECD's work on exchange of information is widely documented, less may be known about its work on voluntary compliance or disclosure initiatives. This publication brings together the OECD's work in this area which has been led by the Committee on Fiscal Affairs' Working Party on Tax Avoidance and Evasion and the Forum of Tax Administration.

Centre for Tax Policy and Administration

