

New permanent scheme for fiscal and social regularisation in place

It was long awaited: a new and permanent scheme for fiscal and social regularisation. Since 1 August 2016 it is effectively applicable. Tax payers receive (again) the possibility to regularise their fiscal and social position. This can be done by spontaneously declaring non-declare income.

Again a new regularisation?

In the past, several tax regularisation rounds were organised: from the one-off liberating declaration in 2004 to a scheme of 'fiscal correction' in 2015. All the time the government had plans to introduce a new permanent tax regularisation. This was announced for January 2016, but it was delayed.

Who?

Regularisation can be applied for by every tax payer, by a private person, as well as by a corporation (corporate tax or legal entities tax).

Also those who filed a regularisation declaration earlier, still have a chance to do so.

What?

A tax payer can regularise his position by declaring all sums, income, capital and transactions which he previously did not declare with the tax authorities (fiscal regularisation) or the social security authorities (social regularisation).

The declarant should pay a regularisation tax. The rate differs depending whether he declares sums, income and VAT transactions (normal rate increased with 20%) or prescribed capital (36%). These percentages will be increased the coming years until they reach 25% (sums, income) or 40% (capital) in 2020.

By paying this regularisation tax the declarant obtains fiscal and criminal immunity. No other tax is due on the regularised sums (income tax, VAT, stamp duties, other levies or taxes). Neither can the tax authorities impose tax increases, fines or late payment interest.

In two cases no regularisation is possible: (i) if a public body has informed the declarant before his regularisation declaration was filed that a file was opened against him in which specific audit actions were started and (ii) for income received from certain defined criminal activities such as (financing or) terrorism, organised crime, trafficking, etc. Criminal proceedings still remain possible.

How?

The regularisation notification should be applied for with the 'Contactpunt Regularisaties'.

The declarant should (i) prove that the income, sums, VAT transactions and prescribed capital have been subject to their normal tax regime, (ii) or when this proof is not possible, explain under which tax regime and in which tax period the sums and capital fall. Proof can be given in writing, whether or not completed with other evidence of common law, except for the oath and evidence by witnesses.

Amounts which were not subject to their normal tax regime or for which the nature cannot be determined, cannot be regularised.

When?

The new regularisation is possible as from 1 August 2016.