

Capital  
amnesty

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# Capital amnesty campaign

On 4 March 2022, amendments were approved to Law No. 140-FZ “On Voluntary Declaration by Individuals of Assets and Accounts (Deposits) with Banks, and on Amendments to Certain Legislative Acts of the Russian Federation” (hereinafter, the “law”), to grant individuals the right to submit a special declaration in the fourth phase of a campaign for voluntary declaration of assets and accounts/deposits with banks (“capital amnesty”).

opportunity for individuals to voluntarily report on their financial assets, property, bank accounts and controlled foreign companies (CFC) as well as stocks and shareholdings in Russian and foreign corporations by filing a special declaration with the Russian tax authorities.

In the fourth phase of capital amnesty, individuals have the right to submit a declaration that includes, along with the previously established list of assets, information on cash and motor vehicles.

Individuals are guaranteed that they will not be held liable under tax, administrative or criminal law in connection with property, assets, foreign accounts and CFC shareholdings declared in a special declaration or in connection with any earnings thereon, except CFC profits. Guarantees are limited to the value of declared items.

**The fourth phase of capital amnesty runs from 14 March 2022 to 28 February 2023.**

**Guarantees cover acts committed before 1 January 2022 (or before the date of submission of the declaration as far as currency legislation is concerned).**

A special declaration may be submitted by an individual only once in a given phase and may not be modified throughout its duration. Submitting a declaration during the first, second and/or third phase does not preclude the declarant from participating in the fourth phase.

# Declarable assets

Assets expressly designated by law for disclosure in a special declaration during the fourth phase of amnesty

**Property** owned or effectively owned by the declarant as of the date of submission of the declaration (“declaration date”):

- ▶ Land plots and other real estate, and motor vehicles
- ▶ Financial assets, including:
  - Cash
  - Securities and derivatives
  - Claims arising from an insurance agreement
  - Other assets that are the subject of a financial services agreement between the declarant and a financial market organization, with the exception of precious metals (other than those held in precious metal accounts/deposits or placed for custody in unallocated accounts), and valuables placed for custody with a bank in a personal safe deposit box
- ▶ Shareholdings in Russian and foreign companies
- ▶ Participating interests in unincorporated foreign structure

**Controlled foreign companies**, which the declarant controls as of the declaration date

**Accounts/deposits with foreign banks** whether opened\* or closed by the individual as of the declaration date

*\* Prior to 1 January 2022*

**Bank accounts/deposits** owned by the declarant as a beneficial owner (e.g., accounts in the name of a CFC)

**Cash** to be paid by the declarant into accounts/deposits with Russian credit institutions

*A **beneficial owner** is an individual who ultimately, whether directly or indirectly, owns or has a dominant interest of more than 25% in the capital of a corporate customer or who has the ability to control that customer. This also applies to individual customers unless there are reasons to believe that another person is the beneficial owner.*

# Liability covered by capital amnesty



## Criminal liability

- ▶ Evasion of repatriation of funds in foreign currency or Russian rubles (Article 193 of the Criminal Code)
- ▶ Evasion of customs duties charged to companies or individuals (Parts 1 and 2, Article 194 of the Criminal Code)
- ▶ Evasion of taxes and/or levies by individuals and/or companies (Articles 198 and 199 of the Criminal Code)
- ▶ Failure to perform the duties of a tax agent (Article 199.1 of the Criminal Code)
- ▶ Concealment of cash or property of a company or a sole proprietor to avoid taxes, levies or insurance contributions (Article 199.2 of the Criminal Code)



## Administrative liability, including in connection with foreign currency transactions (Articles 14.1, 15.1, 15.3-15.6, 15.11 and 15.25 of the Administrative Offenses Code)

- ▶ Executing foreign currency transactions, including cash transactions, on foreign accounts, which are not expressly indicated in Federal Law No. 173-FZ "On Currency Regulation and Currency Control," prior to submitting a special declaration
- ▶ Failure to notify of the opening/closing/modification of a bank account within the set deadlines and in accordance with the established procedure



## Tax liability

- ▶ If the above acts (offenses) have to do with the acquisition (sourcing of funds for the acquisition), use or disposal of property, or with CFC and/or cash reported in a special declaration, and/or with the opening of bank accounts/deposits disclosed in a special declaration and/or the crediting of funds thereto
- ▶ Engaging in unregistered or unlicensed business activities
- ▶ Fines for failure to notify/late notification of a participating interest in a CFC, provided that the same has been reported in a special declaration and notifications to that effect have been submitted

*\* If the declarant and/or another person incurred the relevant tax liability before 1 January 2022.*

*\* Not applicable to taxes payable on CFC profits and/or property.*

# Liability not covered by capital amnesty



Sanctions imposed for legalization (laundering) of proceeds of crime or other property obtained from criminal activity or failure to comply with AML requirements



Illegal incorporation, creation or reorganization of a legal entity (Article 173.1 of the Criminal Code regarding persons used as proxies)



Liability for falsifying the Unified State Register of Legal Entities, register of securities holders or depository accounting system (Article 170.1 of the Criminal Code)



Payment of tax on CFC profits



Liability for using falsified documents in foreign currency transactions involving transfers of foreign currency or Russian rubles to non-residents' accounts

# Qualifying conditions

During the first two phases of the campaign, declarants were only supposed to report on their assets and accounts rather than repatriate assets to Russia. The third phase envisaged the repatriation of capital and redomiciliation of CFCs.

In the fourth phase, individuals can seek amnesty for certain assets, such as cash, foreign bank accounts opened before 1 January 2022 (including accounts/deposits closed when the declaration was submitted) and foreign companies, provided that the following conditions are met:

- ▶ All funds or financial assets must be transferred from declared accounts/deposits with banks or financial market organizations outside Russia to accounts in Russia before the declaration is submitted.
- ▶ Motor vehicles reported in the declaration must be registered in the appropriate state registers of the Russian Federation.
- ▶ Declared amounts of cash must be paid into the declarant's accounts/deposits with Russian credit institutions no later than 30 days after the declaration is submitted.

Property transfers from **a nominal holder to the beneficial owner** are not taxable, provided that the property and its nominal holder are reported in the declaration.

**Foreign accounts used for illegal foreign currency transactions** (until the date of submission of the declaration) **are declarable** only if they were opened as of 1 **January 2022**.

**Exemption from liability** is granted on condition that a special declaration has been submitted.

A special declaration may be submitted **only once and may not be modified thereafter**.

**No tax is collected** for prior periods\* (Article 45 of the Tax Code), **except tax on CFC profits**.

\* *Before 1 January 2022.*

# EY's standard proposal on voluntary declaration



## Kick-off meeting

We will discuss with the client its corporate ownership structure and asset history as well as the way it uses its accounts and participates in CFCs in order to identify potential risks and decide whether the client should engage in a voluntary declaration campaign (the “campaign”).

FEES:

**US\$200**

(net of VAT and overheads)



## Collecting and systematizing essential data

During the second stage, we will provide the following services:

- ▶ Preparing a request for information designed to collect required documents and inputs for analyzing assets/accounts/CFCs
- ▶ Determining the range of declarable assets that will benefit from guarantees established by law as a safeguard against criminal, administrative and tax liability
- ▶ Making a list of assets and accounts to be declared during the campaign

At the end of this stage, we will prepare a list of assets for inclusion in a special declaration and determine the time frame for drafting the relevant paperwork and filing it with the tax authorities.

FEES:

**From US\$4,000 to US\$10,000**

(net of VAT and overheads)

The final amount will be determined after the kick-off meeting and does not include EY's role as a coordinator in relation to asset restructuring. Our fees for coordinating the input of third parties will be calculated based on our hourly rates.





## Drafting and filing paperwork

We will prepare a package consisting of a completed special declaration, a set of supporting documents (statements of transactions on accounts, including deposit accounts, confirming the receipt of cash or financial assets, etc.) and all applicable reports (notifications of the opening of bank accounts, notifications of participation in a foreign company, notifications of controlled foreign companies and cash flow statements). After the client signs the original documents, we will submit them to the Russian tax authorities.

### FEES:

**No less than US\$7,000 per special declaration**  
(net of VAT and overheads)

This amount includes preparing one special declaration that covers no more than five accounts (w/o assets, except cash) and no more than five notifications/cash flow statements.

We may agree with the client to raise our fees if these limits are exceeded or if the client needs to report its participation in CFCs, complete a personal income tax return (3-NDFL), etc.



# Contact information



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