The main objective of a co-operative compliance programme is to modify the relationship between Tax Administrations and taxpayers in a win-win situation. A co-operative compliance programme should be built on good faith, trust, transparency and cooperation in business practice principles. Also, the perspective of implementing a co-operative compliance programme could be the explanation of adopting a VDCP as a transitional opportunity for those taxpayers who want to comply but are stuck in the past. In this context, a VDCP could represent a chance to restart the Tax Administration - taxpayers relationship by applying the new principles on which it will be held in the future.

It will depend on the terms established when determining the eligible population of cooperative compliance programmes. For example, in Canada, it is established that only lower-risk taxpayers are invited to join the Horizontal Monitoring, whereas in the Australian Annual Compliance Arrangements, higher-risk taxpayers are also suitable if the ATO considers the taxpayer took active steps to reduce his risk profile.

Action 12 BEPS Project: Mandatory disclosure rules will have a better outcome when they are established in a co-operative compliance framework.

The design of a VDCP needs to assure a difficult balance because they are not only focused on improving the compliance of a minority group of taxpayers who have failed to comply with their tax obligations but also, they must keep the trust of the majority who have fulfilled their tax obligations.

Therefore, the legislator must consider the interaction of European and domestic principles, which can influence the effectiveness of a VDCP.

Conclusions

In the current context, VDCP should be considered as an opportunity to improve the generality and fairness of our tax systems and not as a threat to compliant taxpayers. When done correctly, VDCP should be designed taking into account that these mechanisms can only be attractive in order to achieve an improvement in tax compliance by integrating non-compliance taxpayers into the system but, at the same time, VDCP must be designed considering the position of compliant taxpayers and their rights in the purpose of maintaining their compliant behavior.

Although the relationship between Tax Administrations and taxpayers tends to be co-operative, Tax Administrations should not refuse using some coercive measures. The reason why Tax Administrations need to keep the “stick” in the third three categories of taxpayers indicated above. VDCP is aimed to improve the compliance of double taxpayers but, probably, these measures do not impact on determined non-compliant taxpayers to whom coercive and punitive measures are intended.

Legal certainty is a most relevant issue when dealing with VDCP. In this respect, the terms and conditions of the VDCP should be clearly established in the relevant tax provisions and clearly explained to the taxpayers by the tax authorities in the relevant procedures.

In order to assure the tax just principle, the better conditions of VDCP should not include the tax due. The different position of double taxpayers legitimizes the legislator to establish favourable conditions for regularising a past non-compliant behaviour with the aim of improving voluntary tax compliance in long term.

EU and national legal constraints

VDCP should be considered as a mechanism to develop and improve the cooperation and exchange of information between tax administrations. VDCP should be considered as an opportunity to take advantage of the progress made in terms of transparency and exchange of information.

For the OECD perspective, a successful VDCP must...

- Be clear about aims and its terms
- Explain and prove its short-term effects
- Be consistent with the general compliance strategy
- Seek to improve long-term compliance and to deter non-compliance

Conclusions to date

- In the current context, VDCP should be considered as an opportunity to improve the generality and fairness of our tax systems and not as a threat to compliant taxpayers.
- Although the relationship between Tax Administrations and taxpayers tends to be co-operative, Tax Administrations should not refuse using some coercive measures.
- Legal certainty is a most relevant issue when dealing with VDCP.
- In order to assure the tax just principle, the better conditions of VDCP should not include the tax due.

The author can be contacted at: laura.soto@ua.es