



Canadian tax alert

Sweeping proposed changes to the Voluntary Disclosures Program

September 27, 2017

Under the Canada Revenue Agency's existing Voluntary Disclosures Program (VDP), relief from penalties (and interest in some cases) may be granted to eligible taxpayers who voluntarily come forward to correct past non-compliance with their tax obligations. A preliminary no-names option is available for taxpayers who are not certain as to whether their circumstances fall within the VDP.

On June 9, 2017, the Honourable Diane LeBouthillier, Minister of National Revenue, released a discussion draft of Information Circular IC-001R6,

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Voluntary Disclosures Program, setting out proposed changes to the program to be made effective January 1, 2018. These changes would substantially limit the relief available under the program and restrict circumstances under which voluntary disclosure applications can be made.

As the proposed changes would not take effect until January 1, 2018, a limited window of opportunity for taxpayers to take advantage of the current, much broader disclosure program before December 31, 2017.

Some of the significant changes to the VDP, if implemented as proposed, are noted below

No relief:

- Where gross revenue exceeds \$250m in last two of five years;
- Where the relief sought is in respect of a transfer pricing adjustment, the application of an advance pricing arrangement or a penalty under section 247 of the Income Tax Act; and
- Where the relief relates to a tax election.

Limited relief:

- Cases of major non-compliance (e.g., large dollars, multiple/repeat years of non-compliance, sophisticated taxpayers) will be eligible for what is called reduced relief, which is limited to no criminal prosecution and no gross negligence penalties. However, regular penalties and interest will now be assessed.
- For almost every taxpayer, reduced relief is the same as no relief.

No-names voluntary disclosure:

- Voluntary disclosure applications are proposed to be treated as informal and non-binding discussions.
- Essentially, it is the end of the no-names VDP.

Other requirements:

- It will be mandatory to pay the estimated tax at time of making the VDP application.
- A taxpayer will no longer be able to file a notice of objection to an assessment resulting from the voluntary disclosure.

How we can help

While it is possible that the proposed changes to the VDP described above could be modified or postponed, the current information is that they will be in effect as of January 1, 2018. The proposed changes would restrict access to the VDP for certain taxpayers and would prescribe stringent requirements for making an application under the program. It is therefore advisable to assess whether it would be beneficial to make a VDP application under the current more lenient program before January 1, 2018.

Deloitte Canada can assist you with the drafting of an application under the VDP. For taxpayers who are not certain of potential compliance errors or

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omissions, we can carry out a review of your tax compliance to identify whether there are any areas of concern.

Do not hesitate to contact your Deloitte advisor or any of the individuals listed on this alert to discuss this matter further.

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