

NO.: **IC00-1R**

DATE: September 30, 2002

SUBJECT: ***Voluntary Disclosures Program***

This document cancels and replaces Information Circular 00-1, dated June 12, 2000.

Purpose of the Voluntary Disclosures Program

1. The purpose of the Canada Customs and Revenue Agency's (CCRA) Voluntary Disclosures Program (VDP) is to promote voluntary compliance with the accounting and payment of duty and tax provisions under the *Customs Act*, *Customs Tariff*, *Income Tax Act*, and *Excise Tax Act*. The VDP encourages clients to come forward and correct deficiencies to comply with their legal obligations. It is a fairness program that is aimed at providing clients with an opportunity to correct past omissions, thus rendering themselves compliant. By offering this opportunity for clients to self-correct, the program provides a greater level of fairness to all clients and stakeholders.

Legislative references

2. The CCRA has the legislative authority to waive or cancel penalties, in whole or in part, on a voluntary disclosure. The pertinent legislative provisions can be found in:

- subsection 220(3.1) of the *Income Tax Act*
- section 88 of the *Excise Tax Act*
- section 281.1 of the *Excise Tax Act*
- subsection 3.3(1) of the *Customs Act*
- subsection 126(1) of the *Customs Tariff*

Principles of the Program

3. Clients can make disclosures to correct inaccurate or incomplete information, or to disclose information not previously reported. For example, clients may not have met their tax or duty obligations if they claimed ineligible expenses, failed to remit source deductions or the GST, or did not file the correct customs accounting information. Relief is determined on a case-by-case basis if the disclosure meets the validity conditions listed below. Clients who make a **valid** voluntary disclosure will have to pay the taxes and duties owing, plus interest. In this situation, the CCRA can provide relief from penalties and prosecution that would otherwise be imposed under the acts listed above, and from specified interest in the case of the *Customs Tariff*.

4. Certain goods subject to forfeiture and/or seizure under the *Customs Act*, or actions resulting from the CCRA's administration or enforcement of other legislation or agreements, are not covered by this policy.

Related CCRA Policies

5. The CCRA provides clients with relief from penalties when the conditions noted in this document are met. Separate CCRA policies exist to provide relief from both interest and penalties in circumstances beyond a client's control. Details of these policies are available in Information Circular 92-2, *Guidelines for the Cancellation and Waiver of Interest and Penalties*, GST memorandum 500-3-2-1, *Cancellation or Waiver of Penalties and Interest*, and in memorandum D17-1-5, *Importing Commercial Goods* (paragraphs 177 and 188 to 190). The CCRA also provides non-residents with the opportunity to late-file section 216 returns when certain conditions are met. A separate CCRA policy exists to provide an extension to late-file a section 216 return. Additional information can be obtained by contacting the International Tax Services Office at 1-800-267-5177. These documents are available from any CCRA office and from the CCRA's Web site at: www.ccra.gc.ca.

Conditions for a valid disclosure

6. A valid voluntary disclosure is defined by the following four conditions:

- (a) The CCRA determines that the disclosure is **voluntary**.
The disclosure must be voluntary. The client has to initiate the voluntary disclosure. A disclosure may not qualify as a voluntary disclosure under the above policy if it is found to have been made with the knowledge of an audit, investigation, or other enforcement action that has been initiated by the CCRA, or other authorities or administrations with which the CCRA has information exchange agreements.
 - (b) The CCRA determines that the disclosure is **complete**.
The disclosing client is expected to provide full and accurate reporting of all previously inaccurate, incomplete, or unreported information. After initial discussions with the client, the VDP officer may request certain documentation to verify the amounts to be disclosed. The disclosing client is expected to comply with such requests and to provide enough
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detail to allow the facts of the case to be verified. The CCRA will determine whether a disclosure is complete according to the terms of the disclosure originally presented to the client by the CCRA. While the information provided in a disclosure must be substantially complete, a disclosure will not be disqualified simply because it contains minor errors or omissions. However, if a disclosure is found to contain material errors or omissions, the disclosure will not qualify as a voluntary disclosure, with the result that the disclosed information would be processed and interest and penalties can be applied to the entire amount.

(c) The disclosure involves a **penalty**.

A disclosure must involve at least one penalty. If no penalties apply to the information being disclosed, the client does not need to seek penalty relief through the VDP. This information should still be provided to the CCRA and will be processed, as would any other request for adjustment.

(d) The disclosure must include information that is:

- (i) at least one year past due, or
- (ii) if less than one year past due, not initiated simply to avoid the late filing or instalment penalties.
(*Income Tax Act* and *Excise Tax Act*)

The VDP is not intended to act as a vehicle for clients to intentionally avoid their legal obligations under the acts administered by the CCRA. For example, a client cannot use the VDP to disclose a current year income tax return simply to avoid paying the late-filing penalty.

For purposes of the Customs program, the disclosure must affect the accounting and payment of duty and/or tax.
(*Customs Act* and *Customs Tariff*)

Making a voluntary disclosure

7. A person who wants to make a voluntary disclosure should contact the CCRA in person or in writing, provide the details of the disclosure, and show the above four conditions have been met. The person may make an interim submission. The final and complete submission must be filed within a period of time specified by the CCRA (normally 90 days from the date of the initial disclosure).

8. Each voluntary disclosure shall include enough detail to allow the facts to be verified. Clients are expected to make all books of account, records, documents and any other required information available upon request.

9. Clients are expected to pay the total of all amounts owing. In some cases, it is possible for clients to make arrangements to pay these amounts. However, when amounts in respect of GST/HST disclosures are not paid upon notification by the CCRA of the amount owing, the 6% penalty under section 280 of the *Excise Tax Act* will be applied to any outstanding balance.

10. The identity of anyone making a voluntary disclosure will be protected according to the confidentiality provisions of the above-mentioned acts.

11. Clients, representatives, and agents who are unsure they want to make a voluntary disclosure are entitled to discuss their situation on a no-name (hypothetical) basis with an officer responsible for handling voluntary disclosures.

Need more information?

12. More information on the Voluntary Disclosures Program is available at CCRA offices and on the “Fairness and Client Rights” page of the CCRA’s Web site at: www.ccra.gc.ca.

13. For addresses and telephone numbers of CCRA offices, see the listings in the government section of telephone books and on the “Contact us” page on the CCRA’s Web site. You can either contact the Appeals Division or ask to speak to one of its Voluntary Disclosures Program officers.

About this document

14. This document provides an overview of the Voluntary Disclosures Program. It is not intended to be exhaustive, nor is it intended to restrict the spirit or intent of the legislation.

15. In this document, the term “client” refers to importers, exporters, travellers, taxpayers, employers, GST/HST registrants, and benefit recipients, as well as client representatives and agents.

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