

## Volunteering to pay taxes could save you money

The Canada Revenue Agency's Voluntary Disclosures Program gives taxpayers a way to come forward to put their tax affairs in order and correct past non-compliance. Taxpayers who use this program must pay any taxes owing, but they can avoid costly penalties and prosecution, and may also be entitled to partial interest relief.

Taxpayers can disclose unreported income, non filed returns, and can correct errors or omissions on previously filed returns. A voluntary disclosure can relate to, among other things, income tax, goods and services tax/harmonized sales tax, Canada Pension Plan and Employment Insurance, and excise taxes and duties.

In its 2013/14 annual report to Parliament, the CRA indicated that it processed 14,624 voluntary disclosures reporting more than \$813 million in unreported income. Of these, 5,248 voluntary disclosures disclosed \$303 million related to offshore income and assets.



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- 1** Is it true that there have been a number of recent developments that may increase the chances of the CRA detecting past non-compliance with Canadian tax laws before it is voluntarily disclosed?

(A) True  
(B) False  
(C) It depends
- 2** The CRA can provide relief under VDP regardless of when the non-compliance occurred.

(A) True  
(B) False  
(C) It depends
- 3** At a certain point, the CRA can no longer assess a taxpayer for the non-compliance because the applicable taxation year becomes statute barred.

(A) True  
(B) False  
(C) It depends
- 4** Is it true there is no way of obtaining comfort that a voluntary disclosure will be accepted before taking the plunge and making full disclosure?

(A) True  
(B) False  
(C) It depends

**1 True.** Recent developments include: (1) the Offshore Tax Informant Program, which was launched in January 2014, which allows the CRA to make financial awards to individuals who provide information related to international tax non-compliance that leads to the collection of at least \$100,000 of federal taxes; (2) an initiative between Canada and the U.S. to share information about border crossings that commenced on June 30, 2014 (among other things, the CRA could use the information to target (a) non-resident employees and service providers who do not comply with their Canadian tax filing obligations, and (b) persons who do not comply with their obligations to withhold and remit tax on payments to such employees and services providers); (3) the continued negotiation with foreign countries of Tax Information Exchange Agreements and tax treaties with exchange-of-information provisions (these agreements permit, and in some cases require, the sharing of information between Canada and foreign jurisdictions for purposes of verifying tax compliance); and (4) starting in 2015, certain entities (generally financial intermediaries) will be required to report to the CRA certain electronic transfers of funds of \$10,000 or more into, or out of, Canada.

**2 False.** First, the disclosure must relate to information that is at least one year overdue (unless the information that is less than one year overdue is included with other information that is more than one year overdue). Second, the CRA is only permitted to provide relief for taxation years that ended in the last 10 years. Notably, however, the CRA may be precluded from collecting any tax debts (including penalties and interest) that arose prior to March 4, 2004. In this regard, tax debts that should be considered have arisen by operation of the tax laws, not from an assessment. For example, taxes on unreported foreign source income earned in 1984 should be considered to have arisen as at the end of 1984 (regardless of whether that the income was not disclosed to the CRA).

**3 It depends.** In certain circumstances, there is no limitation period and the CRA can reassess at any time; for example, with respect to failures to deduct or remit sufficient non-resident withholding tax. In most cases, however, the CRA must issue a reassessment within the “normal reassessment period,” which is generally three or four years from the date of the original assessment, depending on the type of taxpayer. Under certain circumstances the normal reassessment period is extended (generally for three additional years); for example, where the taxpayer was required, but failed, to file an information return related to ownership of foreign property. However, the CRA can always reassess beyond the normal reassessment period where the reassessment relates to a misrepresentation that is attributable to neglect, carelessness, or wilful default and in the case of fraud.

**4 False.** A taxpayer can make a disclosure under the VDP on either a “named” or “no-name” basis. Under the “no-name” process, a taxpayer’s representative is able to have preliminary discussions with the CRA without identifying the taxpayer. This process may be particularly attractive where a taxpayer has incomplete information or is otherwise unsure whether a named disclosure will ultimately meet the validity requirements. Provided the identity of the taxpayer and all other information and documentation that is required to complete the disclosure is submitted to the CRA within 90 days of the initial disclosure, the protection afforded by the VDP is effective from the date of the initial disclosure.

### YOUR RANKING?

- **One correct:** *might be time to brush up*
- **Two correct:** *not bad, but some further work needed*
- **Three correct:** *very well done, but not perfect*
- **Four correct:** *perfect*

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