

Material Changes to CRA's Voluntary Disclosures Program

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On September 10, 2025, the CRA released new circular IC00-1R7 and updated its GST/HST Memorandum 16-5-1 for its Voluntary Disclosures Program (VDP) that will apply to VDP applications received on or after October 1, 2025. The changes between new circular IC00-1R7 and updated GST/HST Memorandum 16-5-1 are largely consistent. The previous circular IC00-1R6 and the previous version of the GST/HST Memorandum 16-5-1 will continue to govern until September 30, 2025.

The following are several significant changes to the VDP guidelines that tax advisors should be aware of:

- 1. The new guidelines confirm the application of the VDP program to disclosures related to recently introduced taxes** under the *Greenhouse Gas Pollution Pricing Act*, *Select Luxury Items Tax Act*, *Underused Housing Tax Act*, *Digital Services Tax Act*, and the *Global Minimum Tax Act*.
- 2. The new guidelines replace the concept of "General" and "Limited" programs with the regime of "Unprompted" and "Prompted" applications.**

The CRA will generally consider an application to be "Unprompted" where there has been no communication about an identified compliance issue related to the disclosure. Importantly, a disclosure will not be considered a "Prompted" disclosure solely by reason of any education letter or notice for general guidance or information.

"Unprompted" applications are eligible for 100% relief of the applicable penalties and 75% relief of the applicable interest (in each case, subject to statutory limitation periods for accessing relief – the CRA is generally unable grant relief for any period that ended more than 10 years before the calendar year in which an application is submitted). The new interest relief is materially more generous than what is currently provided (50% of interest for years preceding the three most recent years of returns required to be filed).

The CRA will generally consider an application to be "Prompted" where the application is made:

- after verbal or written communication about an identified compliance issue related to the disclosure, including letters or notices (excluding education letters or notices for general guidance or information) identifying a specific error or omission found on the taxpayer's account or noting a deadline to correct an error or omission, where there is an expectation for the taxpayer to file or comply.
- after the CRA has already received information from third parties regarding the potential involvement of a specific taxpayer (or of a related taxpayer) in tax non-compliance.

"Prompted" applications are eligible for 25% relief of the applicable interest and up to 100% relief of the applicable penalties. The great unknown at this stage is the extent to which the CRA will exercise its discretion to allow "Prompted" applications but provide

less than 100% relief. Unless and until the CRA releases some guidance in that regard or there becomes historical norms, there will be significant uncertainty of outcomes when making a “Prompted” application.

Under the regime currently in force, corporations with gross revenue in excess of \$250 million in at least two of their last five taxation years, and any related entities, would generally only be considered under the Limited Program. There is no similar exclusion provided in the new guidelines restricting any such corporation (or any other taxpayer) from making an “Unprompted” application and obtaining the same relief as other taxpayers.

3. The new guidelines provide instructions on the number of years for which to provide supporting documents (such as returns, forms, statements, and schedules), which for GST/HST disclosures is the most recent four years, and for income tax disclosures is the most recent six years for disclosures relating to Canadian-sourced income and assets and ten years for disclosures relating to foreign-sourced income or assets.

Nevertheless, taxpayers must disclose all known errors and omissions with respect to their taxes (i.e., including periods that go beyond the above timeframes) and additional documentation for tax years beyond the above timeframes may be requested by the CRA at its discretion. Completeness remains one of the criteria of a valid voluntary disclosure.

This revision to the VDP guidelines might represent a reversion to an older administrative practice of generally only reviewing the last six tax years of income tax returns subject to certain considerations such as the materiality of the error or omission, whether a significant amount of the taxes owing relates to years prior to the above timeframes, compliance history of the applicant, and the duration of the non-compliance. However, unless and until the CRA releases some guidance on when they will assess periods beyond the timeframes or there becomes historical norms, there will be material uncertainty for applications that include periods beyond the timeframes.

4. Under the new guidelines, the CRA appears to be much more receptive to considering subsequent applications. The older guidelines stated that taxpayers were generally entitled to obtain the benefits of the VDP only once and that a second application will normally only be considered by the CRA if the circumstances surrounding the second application are both beyond the taxpayer's control and related to a different matter than the first application. The new guidelines state that the CRA may consider a subsequent application (not just a second application) from the same taxpayer if the circumstances are beyond the taxpayer's control or related to a different matter than a previous application.

There are a number of items that remain the same in the new guidelines. These include the requirement for the VDP application to include information that relates to a tax year that is at least one year past the due date for filing, the inability to use the VDP application to change previously assessed interest and penalties, the continued ability to request a pre-disclosure discussion, the requirement for payment or payment arrangement request to be included with the application, and the same rights of redress apply including the availability of a second administrative review and judicial review before the Federal Court apply. Taxpayers will also continue to be required to file the application using Form RC199. However, a contemporaneously released communication from the CRA indicates that the form will be simplified.

With tax rules becoming increasingly complex, it is inevitable that taxpayers may overlook certain obligations or make errors in compliance. This makes it all the more critical for tax advisors to be well-versed in the relief available under the VDP as a means of addressing and correcting non-compliance.

You can find the new and updated VDP circulars on the CRA's website at the links below:

New IC00-1R7: <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic00-1/ic00-1r7-voluntary-disclosures-program.html#toc4>

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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