OSLER

Canada Revenue Agency sets out new policy for GST/HST-related voluntary disclosure

NOVEMBER 11, 2025 4 MIN READ

Related Expertise

- Tax
- Tax Advisory Services

Authors: Alan Kenigsberg, Roger Smith

Key Takeaways

- The CRA's new policy on voluntary disclosures is more flexible, and moves away from the previous restrictive categories that limited taxpayer relief options.
- It introduces two types of disclosures: "unprompted" disclosures, allowing 75% interest relief, and "prompted" disclosures, allowing only 25% interest relief.
- Wash transactions will still qualify for full interest and penalty relief under the new policy.
- The revised guidelines may allow taxpayers to apply for voluntary disclosures more than once, subject to certain conditions.
- While the new policy is an improvement, taxpayers must navigate nuances and consider legal advice before proceeding.

The Canada Revenue Agency (CRA) recently released GST/HST Memorandum 16-5-1, which sets out its new policy for GST/HST-related voluntary disclosures.

The new policy appears to be less restrictive than the previous one and will likely expand the circumstances in which it is worthwhile for taxpayers to make voluntary disclosures.

Key changes from the previous policy

The most significant change in the new voluntary disclosure policy is that it does away with the restrictive categories of relief set out in the previous policy.

Under the previous policy, voluntary disclosures (other than wash transactions) were generally accepted into either the "general program" (which allowed 50% interest relief and 100% penalty relief) or the "limited program" (which allowed no interest relief and relief from gross negligence penalties but not other penalties). Wash transactions were generally eligible for full interest and penalty relief.

In determining which program applied under the previous policy, the CRA would consider "the sophistication of the taxpayer" and the "dollar amounts involved", which meant that there was a significant risk for many larger companies that they would only be entitled to

minimal relief if a disclosure was accepted.

Under the new policy, voluntary disclosures will be considered either "unprompted" or "prompted":

- An "unprompted" disclosure is generally one made where "there has been no communication (verbal or written) about an identified compliance issue related to the disclosure", or where an application is made following an "education letter or notice that offers general guidance and filing information related to a particular topic". Unprompted disclosures, if accepted into the program, will generally allow 75% interest relief and 100% penalty relief.
- A "prompted" disclosure is generally one made following a communication about "an identified compliance issue related to the disclosure", or where the CRA has already received information about the potential involvement of a specific person in tax non-compliance from third-party sources. Prompted disclosures, if accepted into the program, will generally allow 25% interest relief and 100% penalty relief.
- Similar to the previous policy, wash transactions, if accepted into the program, will continue to be eligible for full interest and penalty relief.

While the notion of a prompted disclosure appears, on its face, to significantly expand the availability of the voluntary disclosure program, the new policy also notes that a disclosure will not be considered "voluntary" if a person is under audit or investigation in respect of the information being disclosed. Thus, there would appear to be some nuance to the type of "prompting" that is acceptable, as there are limited circumstances where a taxpayer would receive a communication about an identified compliance issue while not being under audit. Taxpayers will need to consider their specific facts to determine if they are eligible for the program.

It should also be noted that, like the previous policy, the new policy states that the determination whether to accept a disclosure is always a discretionary one, and the CRA's written comments on the subject are no more than guidelines.

The new policy may also open the door to taxpayers using the program more than once. The previous policy stated that "a registrant is generally entitled to obtain the benefits of the VDP only once" and cautioned that the only circumstance in which the CRA would consider a second voluntary disclosure was if the circumstances surrounding the second application were both beyond the registrant's control *and* related to a different matter from the first application. In contrast, the new policy has removed the statement that registrants are generally only entitled to the benefit of the program once. Instead, it states that "the CRA may consider a subsequent application from the same person if the circumstances are beyond the person's control *or* related to a different matter than a previous application" (emphasis ours). While this does not clearly change the policy, it suggests that the CRA may be more willing to take a lenient approach to a second voluntary disclosure application under the new policy.

Takeaways

In our view, the new policy is a significant improvement on the previous one and will likely make a voluntary disclosure a more effective means of addressing non-compliance in many cases.

However, there remain important restrictions on when the CRA will grant relief, and there

are some nuances and “grey areas” in the application of the policy. It is therefore important to carefully consider the risks and benefits, and to seek legal advice, before deciding whether a voluntary disclosure is appropriate in any particular situation.