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Newsletter

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The changes to the Voluntary Disclosure Program

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As of March 1, 2018, a revised *Voluntary Disclosure Program* ("**VDP**") will come into force in Canada.

The new VDP is much narrower than its predecessor, making it more difficult for Canadian taxpayers to benefit from the program. Below is a brief summary of the most significant changes to the VDP.

Scope of application

The following changes apply to voluntary disclosures submitted to the Canada Revenue Agency ("**CRA**") on or after March 1, 2018. Therefore, the actual (and more advantageous) rules apply to the applications submitted before March 1, 2018.

Under the actual program, CRA would generally require the disclosure of unreported income for the years for which the records/statements are available, for a maximum of ten (10) years. As of March 1, 2018, Canadian taxpayers will have to make all reasonable efforts to estimate the unreported income they earned from their foreign assets/portfolio, **even in cases where records/statements no longer exist**.

This will result in significantly higher tax bills for Canadian taxpayers who intend to file for a VD under the new rules.

Statistically, under the current rules, CRA's tax bill generally equals between 5% and 10% of the value of the taxpayer's foreign assets/portfolio. In light of the new VDP, CRA's tax bill could represent as much as 60% of that value.

Creation of a two-track VDP

As of March 1, 2018 a two-track system will be created for income tax voluntary disclosures: the Limited Program or the General Program.

The disclosures subject to the Limited Program are those where the facts suggest that there is an element of intentional conduct on the part of the taxpayer. Under the Limited Program, the taxpayer will be charged interest and certain penalties but will not be subject to criminal prosecution.

The General Program will apply to the disclosures that do not fall within the scope of the Limited Program. In such cases, no penalties will be charged and taxpayers will not be subject to criminal prosecution. CRA will also provide partial interest relief for the years preceding the three most recent years of returns required to be filed.

No-name applications

Under the new VDP, it will no longer be possible for Canadian taxpayers to submit a VD on a *no-name* basis. Taxpayers will have to disclose their identity as soon as they submit their applications to the CRA. Canadian taxpayers who have submitted their applications before March 1, 2018, will also have to disclose their identity before this deadline although their files will continue to be governed under the current rules for all other aspects.

Payment of income taxes (timing)

Under the actual program, taxpayers are not required to pay the additional income tax until their files are finalized and accepted by CRA. According to the new VDP, Canadian taxpayers will be required to pay the estimated income taxes as soon as they submit their applications for a VD.

Should you have any questions regarding the VDP in Canada, you can contact us at:

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