

**Commission of Inquiry into Certain Allegations Respecting Business  
and Financial Dealings Between Karlheinz Schreiber and the Right  
Honourable Brian Mulroney**

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**REPORT BY THE CANADA REVENUE AGENCY  
PERTAINING TO THE VOLUNTARY DISCLOSURES PROGRAM FOR THE  
PERIOD BETWEEN 1993-2000**

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**Report on the  
Canada Revenue Agency's  
Voluntary Disclosures Program  
for the period 1993 to 2000.**

Enforcement and Disclosures Directorate  
Compliance Programs Branch  
Canada Revenue Agency

January 9, 2009

## **Introduction**

Voluntary compliance is an important element of any self-assessment system of taxation and the Voluntary Disclosures Program (VDP) is designed to support that principle of self-assessment. The purpose of the VDP is to encourage non-compliant taxpayers to come forward and voluntarily correct previous omissions in their dealings with the CRA, without penalty or prosecution that could otherwise be imposed. It also reflects the CRA's commitment to voluntary compliance as the best, most cost – effective way to administer the tax system, as well as the CRA's commitment to treating taxpayers with respect and fairness. By encouraging taxpayers to come forward, the VDP results in taxes being collected that may otherwise not be recovered, or be recovered at greater expense through enforcement actions.

## **Legislative Provisions**

Between 1993 and 2000 the legislative authority to provide relief for a valid disclosure involving income was subsection 220(3.1) of the Income Tax Act.

## **Conditions for a Valid Disclosure**

Disclosures filed between the period 1993 and 2000 were administered under two policies; IC85-1R2 - Voluntary Disclosures (attachment 1) and IC00-1 - Voluntary Disclosures Program (attachment 2).

In accordance with policy IC85-1R2, effective October 23, 1992 to June 11, 2000, the following five conditions applied to determine if the disclosure would qualify as a valid disclosure:

- (a) Voluntary disclosure — The taxpayer has to initiate the voluntary disclosure. A disclosure is not considered to be voluntary if it arises when Revenue Canada, Taxation has begun audit or enforcement action.
- (b) Verification — Each voluntary disclosure should include enough details to allow the facts to be verified.

- (c) Incomplete disclosure — If a disclosure is voluntary but incomplete, the disclosed information will be considered voluntary. However, the taxpayer will be subject to penalties, prosecution, or both, relating to any substantial undisclosed amounts.
- (d) Payment — The taxpayer must pay the total amount of any taxes and interest owing, or make acceptable arrangements for paying such amounts.
- (e) Procedure — A person can make a voluntary disclosure by contacting Revenue Canada, Taxation. That person will not need to make a detailed submission at the first contact. However, the taxpayer must do so within a period of time that is mutually agreed upon. The initial contact will be considered to be the date of the voluntary disclosure.

In accordance with IC00-01, effective June 12, 2000, a valid voluntary disclosure was 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 a related administration, such as other federal and provincial departments.
- (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. 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 may be processed, and interest and penalties can be applied to the entire amount.
- (c) The disclosure involves a monetary penalty  
A disclosure must involve at least one monetary penalty. If no monetary penalties apply to the information being disclosed, the client does not need to seek penalty relief through the VDP. This information must still be provided to the CCRA and will be processed, as would any other request for adjustment.

- (d) The disclosure involves information one year or more overdue (Income Tax Act and Excise Tax Act) or a prior accounting period (Customs Act and Customs Tariff)

The information being disclosed must include information that is at least one year past due or, in the case of customs disclosures, must involve a prior accounting period.

In addition paragraph 8 of IC00-1 states: "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." And paragraph 9 of IC00-1 states: "Clients are expected to pay the total of all amounts owing, including interest. In some cases, it is possible for clients to make special arrangements to pay these amounts."

### **Attachments**

1. IC85-1R2 - Voluntary Disclosures effective October 23, 1992 until June 11, 2000.
2. IC00-1 - Voluntary Disclosures Program effective June 12, 2000 until October 21, 2002.
3. May 17, 1999 internal VDP Guidelines.
4. June 12, 2000 internal VDP Guidelines.

**TAB 1**

IC 85-1R2 [CANCELLED] — October 23, 1992

Information Circular 85-1R2 entitled "Voluntary Disclosures (1992/10/23)" has been cancelled by Information Circular 00-1.

Subject: Voluntary Disclosures

This circular revises and cancels Information Circular 85-1R, dated May 8, 1987.

1. To promote voluntary compliance with Canada's tax laws, the Department encourages taxpayers, both individuals and corporations, to come forward and correct deficiencies in their past tax affairs.

#### Policy

2. If a taxpayer has never filed tax returns, and the returns are then voluntarily filed, the taxpayer will be required to pay only the tax owing on the reported incomes, with interest.

If a taxpayer has given incomplete information in a return and subsequently submits the missing information, the taxpayer will be required to pay only the tax owing on the adjusted income, with interest.

No prosecution will be undertaken, nor will any civil penalties, including late filing penalties, be imposed, on any amounts included in such voluntary disclosures. The identity of anyone making a voluntary disclosure will be held in confidence, as is the case with all taxpayer information.

3. This policy applies to corporations and individuals making voluntary disclosures if the following conditions are met:

(a) Voluntary disclosure — The taxpayer has to initiate the voluntary disclosure. A disclosure is not considered to be voluntary if it arises when Revenue Canada, Taxation has begun audit or enforcement action.

(b) Verification — Each voluntary disclosure should include enough details to allow the facts to be verified.

(c) Incomplete disclosure — If a disclosure is voluntary but incomplete, the disclosed information will be considered voluntary. However, the taxpayer will be subject to penalties, prosecution, or both, relating to any substantial undisclosed amounts.

(d) Payment — The taxpayer must pay the total amount of any taxes and interest owing, or make acceptable arrangements for paying such amounts.

(e) Procedure — A person can make a voluntary disclosure by contacting Revenue Canada, Taxation. That person will not need to make a detailed submission at the first contact. However, the taxpayer must do so within a period of time that is mutually agreed upon. The initial contact will be considered to be the date of the voluntary disclosure.

**TAB 2**



IC 00-1 [Cancelled] — Voluntary Disclosures Program (2000/06/12)  
IC 00-1 [CANCELLED] — June 12, 2000

### Subject Voluntary Disclosures Program

This document cancels and replaces Information Circular 85-1R2, Voluntary Disclosures, dated October 23, 1992, concerning income tax voluntary disclosures.

### Purpose of the Voluntary Disclosures Program

1. The purpose of the Canada Customs and Revenue Agency's 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.

### Legislative references

2. The Canada Customs and Revenue Agency (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
- subsection 281.1(2) 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 they never 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. 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 monetary penalties and prosecution that would otherwise be imposed under the acts noted above, and from specified interest in the case of the Customs Tariff. Relief is determined on a case-by-case basis, providing the disclosure is voluntary, complete, and involves a monetary penalty and a prior year or period as detailed below.

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 VDP 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,

and in GST Memorandum 500-3-2-1, Cancellation or Waiver of Penalties and Interest. Both of these documents are available from any CCRA office, and from the CCRA's Web site at: [www.ccra-adrc.gc.ca](http://www.ccra-adrc.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 a related administration, such as other federal and provincial departments.

(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. 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 may be processed, and interest and penalties can be applied to the entire amount.

(c) The disclosure involves a monetary penalty

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

(d) The disclosure involves information one year or more overdue (Income Tax Act and Excise Tax Act) or a prior accounting period (Customs Act and Customs Tariff)

The information being disclosed must include information that is at least one year past due or, in the case of customs disclosures, must involve a prior accounting period.

#### 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 that 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, including interest. In some cases, it is possible for clients to make special arrangements to pay these amounts.

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 whether they want to make a voluntary disclosure are entitled to discuss their situation on a no-name or hypothetical basis with an officer responsible for handling voluntary disclosures.

Need more information?

12. More information on the VDP is available at CCRA offices and on the "Fairness" page of the CCRA's Web site at: [www.ccra-adrc.gc.ca](http://www.ccra-adrc.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.

About this document

14. This document provides an overview of the Voluntary Disclosures Program. It is not intended to be exhaustive, nor is it meant 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.

**TAB 3**

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

#### ***What is the Voluntary Disclosures Program?***

To promote voluntary compliance with Canada's tax, duty, and tariff laws, Revenue Canada encourages all clients to come forward in good faith and correct any deficiencies in their reporting to the Department. The Department's Voluntary Disclosures Program (VDP) serves this purpose. Clients that come forward to make a voluntary disclosure that Revenue Canada deems to be in accordance with the program will be required to pay only the amounts owing plus interest. Revenue Canada will not prosecute or impose penalties on amounts included in the disclosure.

For a voluntary disclosure to be considered valid, the disclosure must be:

1. PAID IN FULL, either immediately, or within terms acceptable to Revenue Canada;
2. VOLUNTARY, meaning it must be made before Revenue Canada and/or its partners initiate an audit, investigation, or other enforcement action; and
3. COMPLETE (GST/HST only), meaning that a full disclosure of past deficiencies is being made.

Each of these three principal components of voluntary disclosures is described in more detail later in this document.

Prior to April 6, 1999, the VECR Branch's Investigations Directorate was responsible for the application of the voluntary disclosures policy. For the year ended March 31, 1998, Investigations processed approximately 1200 voluntary disclosures resulting in an estimated GST and federal tax increase of \$59 million (details for each office are attached for your information). An additional 900 GST and income tax voluntary disclosures were processed in other areas of the Department, resulting in an estimated tax increase of \$14 million. Individuals submit the majority of voluntary disclosures.

#### ***Why was the VDP transferred to Appeals?***

As part of the Minister's Fairness Initiative, a wide range of Canadians were consulted on what Revenue Canada can do to enhance its fairness. One of the messages from the consultations was the public's concern about voluntarily approaching the Investigations area to make a disclosure. This concern was related not to the quality of the work done in Investigations, but to a wariness of approaching an area of an investigative nature. Because of the nature of the work in Appeals, clients said they would be more likely to approach Appeals to make a voluntary disclosure.

The end result of the Fairness Initiative consultations was the Minister's February 9, 1999 announcement of the document *Setting a New Standard: A 7-Point Plan for Fairness*. Point 6 of the plan outlines three steps to addressing the public's concerns about the VDP:

1. To transfer authority for the program from Investigations to Appeals.
2. To consult with internal and external stakeholders to clarify and enhance the rules and the process.
3. To announce the newly developed policy.

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

Step one has been addressed with the April 6, 1999 transfer of the VDP from Investigations to Appeals within each TSO. The transfer was given priority for three reasons:

- to address the public's concerns;
- to give Appeals an opportunity to conduct a hands-on review of the benefits and shortcomings of the current policies and processes; and
- to allow Appeals to build a base of expertise in the program before beginning the consultations.

Step two will be addressed in the fall of 1999 as we begin our formal consultations on the program. Step three will be addressed no later than March 31, 2000, through a public announcement of our new voluntary disclosures policy.

#### ***Impartiality of Appeals***

In taking on the responsibility for the Voluntary Disclosures Program, the Appeals Branch must continue to remain impartial. This will be especially important in the event that an objection or appeal is filed on an assessment or an audit that resulted from a voluntary disclosure. Therefore, the responsibility for related audits and assessments must remain with the audit and assessing functions. This will also allow the Department to continue to benefit from the expertise already residing in audit and assessing. Similarly, it is important that VDP officers not get involved in any objections filed on assessments related to voluntary disclosure cases.

#### ***Where will Voluntary Disclosures be Handled?***

Voluntary disclosures that originated prior to April 6, 1999, that are in progress will be completed by Investigations.

Voluntary disclosures that originate on or after April 6, 1999, will be handled by Appeals. Please see the attached chart for a complete listing of VDP offices and contacts. Please refer to the March 31, 1999 memorandum "Division of Workload for the Voluntary Disclosures Program," which was sent jointly by Appeals and Investigations to all affected offices.

**Note:** There will be no change to the way voluntary disclosures are handled in the Tax Centres and by Customs and Trade at this time.

#### ***Naming a VDP Officer in Appeals***

Our goal is to create a VDP centre of expertise in each Appeals office. Clients need the assurance that they are dealing with experts when they disclose. In almost all offices, one individual plus a backup should be able to handle voluntary disclosures, although this is a guideline and will not apply in all cases. Ideally, that person should be client service oriented, be a good communicator, be a decision-maker, have a good knowledge of the enforcement activities that take place in the Department, and have a good overall understanding of the operation of the Department. It is suggested that, at the outset, the VDP officer seek advice from the Investigations officer that previously handled voluntary disclosures.

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

For the time being, the Chiefs of Appeals will be responsible for naming and determining the appropriate level of the VDP officer for their office. Please advise Mark Lalonde of the name of the VDP officer in your office. Both the Chief of Appeals and the VDP officer will be asked to participate in the consultations that will be conducted in the fall of 1999 in accordance with Point 6 of the 7-Point Plan. In preparation for these consultations, the VDP officer should keep track of best practices and areas for improvement.

#### ***Policy and Guidelines***

The policies outlined in IC85-1R2 for income tax and GST 500-3-4 for GST remain valid for the time being. These are public documents and should form the basis of any decisions made in handling voluntary disclosures.

On receipt of a voluntary disclosure request, Appeals will, through a combination of systems checks and contacts with other areas within the Department, verify whether any enforcement action has commenced. Appeals will also need to consult with Revenue Collections on the necessary terms of payment. The disclosure will, in some cases, need to be forwarded to V&E to determine whether it is complete. Once Audit's work is done, the file will be forwarded for processing of the assessments.

The VDP officer is responsible to follow up (e.g. with Revenue Collections, V&E) on all aspects of a disclosure for as long as it remains active. The VDP officer is also responsible to keep clients informed throughout the process.

The following VDP guidelines are intended to provide assistance to VDP officers in handling disclosure requests. Judgment and discretion will be important elements in dealing with clients and in rendering decisions, especially during this period of transition.

In the guidelines, reference to "client" includes "client representative".

#### **VDP Guideline #1: Communicate a Common Understanding**

The VDP officer, as an employee of Revenue Canada and the Government of Canada, has a statutory obligation to enforce the law. Once a client provides the details of a disclosure, the VDP officer must act on that information. As a result, one of the most important steps in the voluntary disclosures process is to educate clients on the implications of making a voluntary disclosure before details of a disclosure are shared.

The VDP officer should ensure that the client clearly understands the voluntary disclosures policy, and that a full determination cannot be made until after the name of the client is given and all of the facts are verified. The client should be made aware that, in order for the disclosure to be considered acceptable, it must be:

1. PAID IN FULL, either immediately, or within terms acceptable to Revenue Collections;

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

2. VOLUNTARY, meaning it must be made before an audit, investigation, or other enforcement action is initiated by Revenue Canada, or by certain other organizations that administer related taxes, such as the Ministère du Revenu du Québec for the GST and provincial taxes, and the provincial departments that administer corporate taxes; and
3. COMPLETE (GST/HST only), meaning that a full disclosure of past deficiencies is required and that nothing substantial is lacking in the client's disclosure.

Guideline 3 below deals with the above three points in detail.

The client should be advised that, if at any point in the process we determine that

- the disclosure is not voluntary (that is, it resulted from enforcement activity),
- the disclosure is not complete (GST/HST only), or
- acceptable payment terms have not been satisfied,

the assessment must proceed and the client may become subject to penalties and/or prosecution.

At the same time, the VDP officer should answer any general questions the client may have, as well as discuss the client's disclosure situation in general terms so that the client is fully aware of penalty and other implications.

#### **VDP Guideline #2: Accept Information**

Once the process has been clarified in general terms, the client can then submit complete documentation of the disclosure. The disclosure should include sufficient information to allow the facts to be verified.

If a client formally expresses an intent to disclose by giving his or her name but is unable to provide the details immediately, the client should be advised that the details must be received within 60 calendar days in order for the voluntary disclosures policy to apply. However, if discussions with the client suggest that 60 days is not reasonable, the VDP officer may choose to extend this timeframe. The client should be advised that, if the details are not received by the agreed upon date, the Department may commence enforcement action and penalties will apply.

The VDP officer should verify that the file is being handled in the office of jurisdiction of the client, although operational needs may vary, and requests to handle disclosures elsewhere should be given full consideration. In this regard, the Appeals Branch issued a formal File Transfer Policy in April 1999. This new policy applies to the VDP.

The client should be advised that step 1 of the three-step process is that the terms of payment need to be resolved immediately. As step 2 of this process, the VDP officer will make a determination within ten working days of whether or not the disclosure can be considered voluntary. In some circumstances, this ten-day timeframe may not be possible, but the client should be made aware of any extensions. In step 3, the disclosure will be verified to determine whether it is complete. If it is not complete and relates to GST/HST, the disclosure will be invalidated and penalties may apply to all amounts. If it is not complete and relates to income tax, penalties may apply to any undisclosed amounts.



## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

The client should be provided with the full name, address, phone number, and fax number of the VDP officer.

#### **VDP Guideline #3: The Three-Step Process**

The following explains in more detail the three-step process to validating a voluntary disclosure.

##### **Step 1: Arrange Terms of Payment (Revenue Collections)**

The client should be asked to provide full payment at the time the disclosure is made. In order to do this, the VDP officer should set up a meeting with a Revenue Collections officer so that acceptable payment terms can be established. The client should be advised that, if the terms of the arrangement are broken, the disclosure will become invalidated and any waived penalties will be charged.

##### **Step 2: Determine Whether Disclosure is Voluntary (Appeals)**

The VDP officer must determine whether the disclosure can be considered voluntary. The VDP officer must research and investigate all possible sources of outstanding enforcement action. The VDP officer should access SUDS, AIMS, ACSES, GST, RAPI, ERA, and other applicable systems to determine the following information:

- Has a request to file been issued? (TX11, TX14, TX14D)
- Have returns or permanent documents been charged out?
- Have there been recent (re)assessments?
- Has there been any audit or collection activity?

The VDP officer should also ensure, when appropriate, that there are no other actions outstanding in the following areas:

- Audit and/or Collections.
- Areas of Revenue Canada not related to income tax and GST/HST, such as Customs.
- Organizations that administer related taxes, such as the Ministère du Revenu du Québec for the GST and provincial taxes, and the provincial departments that administer corporate taxes.

In some cases, it may also be appropriate to determine whether or not there has been enforcement activity on partners of the client or corporations related to the client.

The VDP officer will need to ensure that the necessary system profiles and accesses are obtained.

If any of the above research suggests that the Department has taken enforcement action against the client, the VDP officer will need to consider whether the disclosure can still be considered voluntary. Not all enforcement action is automatic cause to invalidate the disclosure. Therefore, when a VDP officer discovers that enforcement actions have begun against a client, the following judgments should be made against the action:

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

- Was any direct contact made with the client or is the client likely to have been aware of the enforcement action?
- Is it likely that Revenue Canada would have uncovered the income being disclosed based on this enforcement?

If the answer to either of these questions is "NO", the disclosure may be considered voluntary. Clients should be given the benefit of any doubt.

The client should be notified, within ten (10) working days of the date the client provided the required information, of whether or not we will consider the disclosure to be voluntary (step 2 only). When a disclosure needs to be referred to V&E for completeness, the client should be made aware that the current acceptance is conditional based on a further determination of the completeness of the disclosure. The client should be notified of the expected timeframes of any remaining steps.

It is important to ensure that the research is thorough prior to notifying a client of our decision. If, after notifying a client that the disclosure will be treated as voluntary, new information arises, we should be very sensitive about revisiting our decision. For example, if our own research was incomplete, we should not change our decision.

The above suggestions for research are preliminary. We encourage VDP officers to develop checklists. We will use this information in the fall to develop more complete guidelines.

#### **Step 3: Determine Whether Disclosure is Complete (V&E and Appeals)**

In keeping with IC85-1R2, the public policy for income tax voluntary disclosures, if a disclosure is voluntary but incomplete, the disclosed portion can be considered voluntary. Therefore, for income tax purposes only, we will allow partial disclosures, provided all other conditions are met. Clients will only be subject to penalties and/or prosecution relating to any undisclosed amounts.

In keeping with GST 500-3-4, the public policy for GST voluntary disclosures, a disclosure must be complete for it to be valid.

Generally, a disclosure should be considered complete if it is substantially complete. For example, if a client discloses \$100,000 and V&E determines that it was in fact \$108,000, the disclosure could be judged complete. The judgment of whether or not a disclosure should be accepted as complete should be based on indications that the client made every attempt to provide correct and complete information. If there is a significant discrepancy between the figures provided and the audited figures, the disclosure can be considered incomplete, and penalties can be assessed on the entire assessment for GST/HST, and on the undisclosed portions for income tax.

In some cases, the VDP officer may be able to determine, without the assistance of V&E, that the disclosure is complete. However, if there is any question as to the completeness of the

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

disclosure, it should be provided to V&E to conduct any audit work and to recommend whether or not the disclosure should be considered complete. In some situations, the VDP officer and the auditor may wish to discuss a case. In all cases, V&E should advise the VDP officer of the outcome by providing the audit report. The final decision on completeness rests with Appeals.

The Appeals Branch will be working with the VECR Branch to ensure that V&E gives these files priority.

The VDP officer should make the necessary arrangements for the assessment to be processed.

#### **VDP Guideline #4: Communicate the Result**

The VDP officer should notify the client whether the disclosure has been accepted as complete when the disclosure has been forwarded for processing. If the disclosure is considered incomplete, the client should be given the reasons, which will be found in the audit report when applicable. The client should be advised that, in the case of GST/HST, the disclosure will be rejected and they may be subject to penalties (and prosecution, if applicable). In the case of income tax the client may be subject to penalties (and prosecution, if applicable) on the undisclosed amounts.

#### **Right of Redress**

Clients are entitled to file a Notice of Objection against an assessment resulting from a voluntary disclosure. A VDP officer should not handle these objections.

Currently, there is no formal policy on a client's right of redress pertaining to the decision not to accept a voluntary disclosure. Investigations has advised us that they have never had a client object to the discretionary decisions related to a voluntary disclosure. Nevertheless, we are seeking a legal opinion on this matter and will provide a formal written policy at a later date.

#### **Reporting**

Within two weeks of the end of each quarter, Chiefs of Appeals will be responsible to electronically submit a listing of completed disclosures to HQ Appeals, to the attention of Mark Lalonde. This quarterly report should provide the following information:

- Client name
- Client account number (SIN, BN, etc.)
- Name of Representative (if applicable)
- Business line (T1, T2, T3, GST, etc.)
- Date of disclosure
- Date of voluntary determination
- Audit required? (Y or N)
- Date of completion
- Total hours (Appeals only)

## **Appeals Branch**

### **Voluntary Disclosures Program (VDP) Guidelines**

- Decision
- Federal Tax Increase
- GST Increase
- Type of disclosure
- Reason for disclosure

A report is attached.

Currently, there is no distinct time code for the VDP. Until such time as a specific time code is developed, please use time codes 160, "Fairness requests – Appeals - income tax" and 161, "Fairness requests – Appeals – Excise/GST," and ensure the number of hours spent on voluntary disclosures is registered on the Quarterly Report.

Ideally, voluntary disclosure cases should be entered into ACMS. We are currently looking into the feasibility of this.

#### ***Appeals Branch Contacts***

For additional information, please contact:

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**TAB 4**

**VOLUNTARY DISCLOSURES PROGRAM**

**GUIDELINES**

**FOR**

**INCOME TAX**

**GOODS AND SERVICES TAX**

**HARMONIZED SALES TAX**

APPEALS DEVELOPMENT AND FAIRNESS  
· DIRECTORATE  
APPEALS BRANCH  
CANADA CUSTOMS AND REVENUE AGENCY

JUNE 12, 2000

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## **1. Background**

### 1.1 The Fairness Initiative

As part of the Minister's Fairness Initiative, many clients and stakeholders were consulted on what the CCRA can do to enhance its fairness. One of the messages from the consultations was that the public wanted the CCRA's Voluntary Disclosures Program to be clarified, made more accessible, and promoted.

### 1.2 Point 6 of the Fairness 7-Point Plan

The end result of the Fairness Initiative consultations was the Minister's February 9, 1999 announcement of the document *Setting a New Standard: A 7-Point Plan for Fairness*. Point 6 of the plan outlines three steps to addressing the public's concerns about the CCRA's Voluntary Disclosures Program (VDP):

1. To transfer authority for the program from Investigations to Appeals.
2. To consult with internal and external stakeholders to clarify and enhance the rules and the process.
3. To announce the newly developed policy.

### 1.3 VDP Development

Step one was addressed with the April 6, 1999 transfer of the VDP from Investigations to Appeals functionally within Headquarters and operationally within each TSO. The transfer was given priority for three reasons:

1. to address the public's concerns;
2. to give Appeals an opportunity to conduct a hands-on review of the benefits and shortcomings of the previous policies and processes; and
3. to allow Appeals to build a base of expertise in the program before beginning the consultations.

Step two was accomplished through formal consultations on the program in late 1999 and early 2000. Many groups were consulted including:

- all Assistant Commissioners
- the Appeals Advisory Committee
- the Chiefs of Appeals
- Appeals VDP officers
- the Appeals regional coordinators
- all affected HQ Branches
- Legal Services

As well, a special advisory group of external stakeholders was set up to help develop the policy. They participated in an all-day conference in November 1999 and have provided additional advice on the resulting draft policy.

Step three was addressed in June 2000 with an announcement of the new voluntary disclosures policy.

These guidelines have been updated to reflect the new public policy.

## **2. Purpose of the Voluntary Disclosures Program**

The purpose of the 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 in order to be in compliance with their legal obligations.

The VDP is not an enforcement program. It is a fairness program that is aimed at providing clients with an opportunity to correct past omissions, thus rendering themselves compliant. In some cases, the VDP also brings new clients on board. By offering this opportunity for clients to self-correct, the program provides a greater level of fairness to all clients and stakeholders.

## **3. Legislative References: The Fairness Provisions**

The CCRA has the legislative authority to waive or cancel penalties on a voluntary disclosure through the fairness provisions. The fairness provisions related to penalties can be found in the: *Income Tax Act* in subsection 220(3.1), and the *Excise Tax Act* in subsection 281.1(2).

While a VDP officer can recommend that a disclosure be accepted and penalties be waived or cancelled, a team leader or above must authorize the decision to cancel or waive penalties under the fairness provisions in accordance with current delegation instruments.

The fairness provisions also give the CCRA the legislative authority to waive or cancel interest. Under the new VDP policy effective June 2000, interest can be waived or cancelled in specific circumstances. It is the punitive element that we are relieving under the VDP because clients are coming forward to correct past omissions. Interest is not intended to be punitive; rather, it is a charge for the use of money. However, interest can become punitive in nature after extended periods. See section 11.2.6 on how interest is to be applied in VDP cases.

Guidelines exist for handling fairness provisions requests to waive or cancel interest and penalties under separate CCRA policies concerning 'extraordinary circumstances.' In particular:

- Information Circular IC 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,"
- a March 1996 document entitled "Application of the Fairness Provisions to Interest and Penalty."

These documents are available on *InfoZone*.

## **4. Principles of the Program**

The VDP policy is available to the public in income tax Information Circular 00-1 and GST/HST Memorandum 16.5. A copy of the public policy is available on *InfoZone*. The public policy states:

*Clients can make disclosures to correct inaccurate or incomplete information, or to disclose information they never 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.*

*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 monetary penalties and prosecution that would otherwise be imposed under the acts noted above, and from specified interest in the case of the Customs Tariff. Relief is determined on a case-by-case basis, providing the disclosure is voluntary, complete, and involves a monetary penalty and a prior year or period as detailed below.*

**5. Transitional Guidelines**

The previous policies outlined in IC85-1R2 for income tax and G500-3-4 for GST are no longer valid as of June 2000. However, requests that have an “Effective Date of Disclosure” (see definition on page 11) that is prior to June 2000, are to be processed in accordance with IC85-1R2, GST 500-3-4, and the previous guidelines dated May 1999. See section 7 below for the principal differences between the May 1999 and June 2000 guidelines.

**6. Purpose of these Guidelines**

These guidelines elaborate on the June 2000 public policy document. They outline how income tax and GST/HST voluntary disclosures are to be handled. They are intended to assist TSO Appeals VDP officers, team leaders, and Chiefs of Appeals in making decisions on the validity of voluntary disclosures. They are also intended to assist Directors or designates in approving second reviews of VDP decisions.

In these guidelines, reference to “client” includes taxpayers, employers, GST/HST registrants, and benefit recipients, as well as client representatives and agents.

The Customs Branch is preparing guidelines for customs and trade voluntary disclosures.

**7. New in these Guidelines**

The following is a list of the main differences between the May 1999 and June 2000 guidelines.

June 2000 Guidelines	May 1999 Guidelines
Both income tax and GST/HST disclosures must be <u>complete</u> to be considered valid.	Per IC85-1R2, income tax disclosures did not have to be complete to be valid whereas, per GST 500-3-4, GST disclosures had to be complete.
A formal policy is now in place for clients and their representatives to make “no-name” or hypothetical disclosures.	No formal policy was in place to accept disclosures on a “no-name” basis.
While full payment or an acceptable arrangement will need to be made at the time of the disclosure, later problems with collecting a balance will not invalidate a disclosure.	A broken payment arrangement was cause for invalidating a disclosure.
The new policy permits the discretion to waive or cancel interest.	Interest could only be waived or cancelled in extraordinary circumstances.

<b>June 2000 Guidelines</b>	<b>May 1999 Guidelines</b>
The rights of redress have been expanded beyond the Notice of Objection to include a formal second review and judicial review (the same available for fairness provisions requests).	No formal policy beyond the Notice of Objection for VDP assessments.
The Fairness Registry has been modified for use as a tracking system for voluntary disclosures. This will improve communication between offices and avoid "shopping around."	No tracking system was available.

### **8. Responsibilities of the VDP Officer**

A VDP centre of expertise exists within each Appeals office. Due to the sensitive nature of voluntary disclosures, it is important for clients to be able to deal directly with an officer who is experienced in handling voluntary disclosures. VDP officers are required to be client service oriented, good communicators, decision-makers, have a good knowledge of the enforcement activities that take place in the CCRA, and have a good overall understanding of the operation of the CCRA. A list of principal Appeals VDP officers is attached in Appendix C and is available on *InfoZone*.

Throughout the entire process, the VDP officer is responsible for all facets of the files. The VDP officer is also responsible to keep clients informed throughout the process.

### **9. Impartiality of Appeals**

In light of the Appeals Branch's responsibility for the Voluntary Disclosures Program, all Appeals staff need to ensure that impartiality is maintained. This is especially important when an objection or appeal is filed on an assessment that resulted from a voluntary disclosure. Therefore, the responsibility for related audits and assessments must remain with the audit and assessing functions. This will allow the CCRA to continue to benefit from the expertise already residing in audit and assessing.

It is important that VDP officers not get directly involved in either objections filed on VDP assessments or second reviews of VDP determinations. However, there will be occasions when the VDP officer must be consulted when objections and second reviews are being conducted. The VDP officer will have all the background on and understanding of the file. Those reviewing the file should have access to this information in order to obtain a good understanding of the situation. This is for information gathering purposes only; the VDP officer should not be involved in making any final decisions on objections or second reviews.

The above also applies to the team leader or other person who approves a voluntary disclosure decision. In offices that have only one team leader, or in a case when a Chief of Appeals had to get formally involved in a voluntary disclosures decision, another office should be called upon to handle any resulting objections.

**10. Where Voluntary Disclosures are Handled**

All disclosures that involve penalties should be forwarded to the appropriate TSO Appeals office for determination of the validity of the disclosure. All disclosures, with the exception of those involving customs/trade matters (see section 10.1), TC Client Services (see section 10.2), or information returns (see section 10.3) will be handled by Appeals in the TSOs. Please see Appendix C for a listing of VDP offices and contacts.

Normally, disclosures will be handled by the TSO that has jurisdiction over the disclosing client's place of business or residence (once the client's name is known). Clients will, from time to time, request that their file be handled in another office. In such cases, the Appeals Branch's April 1999 File Transfer Policy applies. It is important that this policy be respected to minimize cases of 'shopping around.'

Disclosures that do not involve penalties (for example, ordinary amended returns) should be processed in accordance with the CCRA's other processing guidelines and should not be referred to Appeals as voluntary disclosures.

**10.1 Customs/Trade**

Disclosures that involve customs or trade matters should be forwarded to the local Customs or Trade office for handling. The Customs Branch has prepared separate guidelines for these disclosures.

**10.2 TC Client Services**

Income Tax disclosures not received by Appeals that involve less than \$25,000 in upward income adjustments are to be handled by Client Services in the TC, according to the instructions in TOM 1982, "Voluntary Disclosures".

**10.3 Information Returns**

Voluntary disclosures that are made in relation to information returns should be forwarded to the appropriate area that processes the type of information return in question. The forwarding addresses can be found on the appropriate form or guide, all of which are available on the CCRA Internet site.

<b>Information Returns (list not all-inclusive)</b>	
<b>Number</b>	<b>Type</b>
T4	All types
T5	Return of Investment Income
T5003	Tax Shelter Information return
T5006	Summary of Registered Labour-Sponsored Venture Capital Corporation Class A Shares
T5007	Return of Benefits (LFP exempt)
T5008	Return of Securities Transactions
T5013	Partnership Information return
T1044	Non-Profit Organization Information return
AGR-1	Return of Farm Support Payments
T101	Summary of Renunciation of CEE, CDE...

<b>Information Returns (list not all-inclusive)</b>	
<b>Number</b>	<b>Type</b>
T102	Summary of Renounced Resource Expense & Assistance Attributable to Members of a Partnership
T106	Information Return of Non-Arm's Length Transactions with Non-Residents
T1135	Foreign Income Verification Statement
T1-CP	Summary in Respect of Certified Productions
T600	Ownership Certificate

#### 10.4 Agency Guidelines with VDP References

References to the VDP can be found in the following program specific guidelines:

- TOM 1982
- TOM 40(10)5.3(10)4
- TOM 19(15)4.3(5)
- GST General Accounting and Processing Procedures (GAPP)
- T2 Processing Guidelines.

#### 10.5 Other Documents of Significance to the VDP

VDP officers should be familiar with the following references, all of which are available on *InfoZone*:

- Appeals Branch's April 1999 File Transfer Policy
- Information Circular IC 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"
- March 1996 policy paper entitled "Application of the Fairness Provisions to Interest and Penalty"
- Fairness Registry User Guide
- Fairness Reports User Guide
- Delegation instruments related to Fairness decisions under the *Income Tax Act* and *Excise Tax Act*.
- Information Circular IC78-10R3, *Books and Records Retention / Destruction*
- GST Memorandum 15-1, *General Requirements for Books and Records*

### **11. VDP Processing Guidelines**

#### 11.1 Communicate a Common Understanding

##### **11.1.1 General**

The VDP officer, like all employees of the CCRA and the Government of Canada, has a statutory obligation to enforce the law. Once a client provides the details of a disclosure, the VDP officer must act on that information. As a result, one of the most important steps in the voluntary disclosures process is to educate clients on the implications of making a voluntary disclosure before details of a disclosure are shared. This step is not only to maintain good client relations and to avoid unpleasant surprises, it is also a client's right to understand the possible implications of making a voluntary disclosure. The "Client Agreement Form" in Appendix B is designed to assist in this process and should be used with all disclosures.

### **11.1.2 Conditions for a Valid Voluntary Disclosure**

The VDP officer should ensure that the client clearly understands the voluntary disclosures policy, and that a full determination of whether we can accept the voluntary disclosure as valid cannot be confirmed until after the name of the client is given and all of the facts are verified. The client should be advised that, if any conditions that would invalidate a disclosure come to light, the client might become subject to penalties on the entire amount, and to prosecution, if applicable. A disclosure can be considered valid only if it:

- involves information that is at least one year overdue;
- involves at least one penalty;
- is voluntary (that is, the client did not initiate the disclosure based on knowledge of current enforcement activities); and
- is substantially complete.

These four conditions constitute a definition of a voluntary disclosure and should assist in distinguishing between voluntary disclosures and taxpayer requests (TPRs).

A disclosure should not be considered valid if it is solely for the purpose of making a late-filed election or obtaining a statute-barred refund. If appropriate, these situations may be considered under the fairness provisions policies outlined in Information Circulars 92-1 and 92-3.

### **11.1.3 “No-name” Disclosures**

In order to mitigate some of the nervousness clients can experience in coming forward with a disclosure, clients and their representatives are entitled to make “no-name” disclosures. “No-name” disclosures provide clients with insight into the implications of making a disclosure before any identification information is exchanged (a VDP ID# is used to maintain both a record of the facts and the client’s anonymity. See section 11.2.3). The VDP officer can make a complete determination of whether such a hypothetical disclosure would be valid as presented. In all cases, such determinations can be provided in writing, but should always include a statement to the effect that the determination is based on the facts as presented and could change if any new details come to light during the handling of the actual disclosure.

The decision to accept a no-name disclosure should be approved by the proper delegated authority under the fairness provisions. If the information provided by a client during an actual disclosure meets the four conditions for a valid VDP, the CCRA is obliged to honour any previous commitment during a “no-name” process. This means that it is imperative that the delegated authority approve the conditional, “no-name” determination.

To minimize ‘shopping around,’ it is particularly important with “no-name” disclosures that VDP officers carefully respect the File Transfer Policy. “No-name” determinations should make reference to the fact that, if an actual disclosure is made, it will normally be handled in the office of jurisdiction of the client.

### **11.1.4 Other Questions**

The VDP officer should answer any general questions the client may have, as well as discuss the client’s disclosure situation in general terms so that the client is fully aware of penalty and other implications.

**11.2 Accept Information**

**11.2.1 General**

Once the process has been clarified in general terms, the client can then provide details concerning the disclosure. This can be done in one of two ways:

1. A client or representative can provide the necessary identification information and proceed with the disclosure; or
2. A representative can provide details of an un-named client's situation in order to determine whether the client would want to make the disclosure.

Form VDP-1, Client Agreement Form, is available for both these purposes and is provided in Appendix B. The client or representative must sign the form to acknowledge that they understand the VDP policy, as well as the implications of making a disclosure. In the case of a named disclosure (situation 1 above), the case should be registered on the Fairness Registry.

**11.2.2 Effective Date of Disclosure**

Whether the disclosure is named or un-named, the date the client or representative signs the Client Agreement Form is the date the client can be considered to have made a disclosure, which becomes the *effective date of disclosure*. The client or representative can be given 90 days from this date to provide any missing details that may be required (whether financial or identification). If discussions with the client suggest that 90 days is not reasonable due to the complexity of the disclosure or other extenuating circumstances, the VDP officer may extend this timeframe. In all cases, the date should be clearly indicated on form VDP-1. The client should be advised that, if the details are not received by the agreed upon date:

1. In the case of an identified client, the CCRA may commence enforcement action and penalties may apply.
2. In the case of an un-named client, the *effective date of disclosure* will be invalidated and the case will be dropped.

**11.2.3 Un-named Client ID#**

To be able to subsequently associate an un-named client to a case and still maintain the client's anonymity in the interim, un-named clients should be given a VDP ID#. This number is in the format VDP-OFFC-YR-CASE (e.g. VDP-EDMO-00-0001), where:

Item	Definition	In Above Example
VDP	Voluntary Disclosure Program	Always constant
EDMO	4 characters to identify the processing office.	Edmonton TSO
00	2 digits to identify the year the request was made	The year 2000
0001	4 sequential digits to distinguish cases	The first case being handled in the year

**11.2.4 Office of Jurisdiction**

The VDP officer should verify that the file is being handled in the office of jurisdiction of the client once the client's name is known. In this regard, the Appeals Branch's April 1999 File Transfer Policy applies to the VDP. It is important that this policy be respected in all cases to avoid the problems associated with 'shopping around.'



The client should be provided with the full name, address, phone number, and fax number of the VDP officer.

#### **11.2.5 Penalty/Prior Year Involved**

The policy requires that the disclosure involve at least one penalty and that it involve information that is at least one year past due. The VDP officer should ensure that this is the case before proceeding with the disclosure.

#### **11.2.6 Cancelling or Waiving Interest under the VDP**

The VDP officer may, at his or her discretion and under approval of a delegated officer (e.g. team leader), waive or cancel interest on a disclosure when the interest becomes punitive in nature, such as when there is a substantial amount to be assessed in a considerably prior year. Interest should only be forgiven during periods of time that are more than three years prior to the effective date of disclosure. Interest should be charged on all debits within three years of the effective date unless the separate policies governing extraordinary circumstances apply.

As an example, a client files a valid disclosure for tax years 1994 to 1998 on January 31, 2000. The VDP officer determines that the interest charges would be punitive and would prevent the client from filing the disclosure. The VDP officer decides that only the minimum amount of interest should be charged as permitted by the VDP policy. Thus, interest would only begin to accrue on debits related to the disclosure as of January 31, 1997.

#### **11.2.7 Assessing years beyond the statutory record-keeping period**

In order to assess years beyond the statutory record-keeping period, the CCRA must have enough information to justify its assessment, which may mean relying heavily on what the client supplies with the disclosure. The VDP officer may deem an audit necessary in order to provide sufficient information to support the assessment. Whether or not an audit is necessary should be determined on a case-by-case basis.

For more information on client requirements for keeping records, refer to IC78-10R3, *Books and Records Retention / Destruction*, for income tax, or GST/HST Memorandum 15-1, *General Requirements for Books and Records*. Both documents are available on the CCRA Internet site.

#### **11.2.8 Terms of Payments**

Once sufficient details of the disclosure are provided, processing of the disclosure can proceed, as outlined below. The VDP officer should involve a Revenue Collections officer to negotiate the terms of payment with the client. While the VDP officer may wish to be present during these negotiations, it is up to the Revenue Collections officer to make any decisions on what are acceptable terms of payment based on an expectation of the resulting liability. The subsequent payment actions by the client become the full responsibility of Revenue Collections.

#### **11.2.9 Insufficient Details Provided**

If the details are not provided by the agreed upon date:

1. In the case of an identified client, the VDP officer should refer the available details to Assessing or V&E for appropriate action. Refer to Section 12, "Finalizing the Disclosure".
2. In the case of an un-named client, the *effective date of disclosure* becomes invalidated and the case is dropped.

### 11.3 Determine Whether Disclosure is Voluntary

#### **11.3.1 General**

A disclosure is considered voluntary if a client has wholly initiated the disclosure in order to ensure his or her tax records are complete. A disclosure must meet this definition of voluntary in order to be considered as a valid voluntary disclosure. The following suggestions for research are guidelines only. VDP officers are encouraged to develop their own checklists and share them as part of our Best Practices initiative (see section 17).

#### **11.3.2 Enforcement Activity**

In order to determine whether a disclosure can be considered voluntary, the VDP officer must research and investigate all possible sources of enforcement action. The VDP officer should access SUDS, AIMS, ACSES, GST, RAPI, ERA, and other applicable systems, or make the necessary contacts, to determine the following information:

- Have returns or permanent documents been charged out?
- Have there been recent (re)assessments?
- Have computer-generated notices to file (e.g. TX11, TX14, RC80) been issued?
- Has there been any audit, investigation, or collection activity within the CCRA?
- If warranted, has there been any audit, investigation, or collection activity in related tax administrations, including other government departments, the Ministère du Revenu du Québec for the GST and provincial taxes, and the other provincial departments that administer corporate and retail sales taxes?

The VDP officer will need to ensure that the necessary system profiles and accesses are obtained.

#### **11.3.3 Related Enforcement Activity**

In some cases, it may also be appropriate to determine whether or not there has been enforcement activity on related program lines, partners of the client, or corporations related to the client. In all cases, discretion should be applied in determining whether these activities should invalidate a disclosure based on how closely these activities relate to the disclosure. See sections 11.3.4 and 11.3.5 for more information.

#### **11.3.4 Computer-generated Notices**

Computer-generated notices requesting a client to file, remit, or register in respect of income tax or the GST/HST are considered to be an enforcement action by the CCRA. However, if the client can satisfy the CCRA that the notice was not received, the disclosure will not be disqualified because of the computer-generated notice. As well, if a significant amount of time has elapsed between the date of the last notice and the date of the disclosure (for example, the CCRA has abandoned the action), then the notice may be considered not to be an enforcement action.

If the client files more returns than requested in the computer-generated notice (GST/HST notices may note returns for more than one filing period), the VDP officer may choose to accept the additional returns under the VDP.

#### **11.3.5 Impact of Enforcement Activity on Determination**

Not all enforcement action is automatic cause to invalidate a disclosure. If any of the above research suggests that the CCRA or a related administration has taken enforcement action against

a disclosing client, partner, or related corporation, the VDP officer will need to consider whether the disclosure can still be considered voluntary. For example:

- a source deduction audit may have no relation at all to a GST disclosure that is being made;
- the CCRA may have established an audit protocol with a large file client and the client may have disclosed a matter unrelated to the audit.

Therefore, when a VDP officer discovers that enforcement actions have begun against a client, the following judgments should be made:

- Was any direct contact made with the client or is the client likely to have been aware of the enforcement action?
- Is it likely that the CCRA would have uncovered the information being disclosed based on this enforcement action?

If the answer to either of these questions is “NO”, the disclosure may be considered voluntary. Clients should be given the benefit of the doubt.

#### **11.3.6 Audit/Investigation Just Underway**

If an audit or investigation is in the preliminary stage and, according to Audit or Investigations, the client is not yet aware of this activity, the disclosure can normally be considered voluntary. The facts of the particular situation should be discussed with the Audit or Investigations officer responsible for the case before the disclosure is considered voluntary. Whether or not the audit or investigation is terminated because of the disclosure, the auditor or investigator should be kept thoroughly apprised throughout the lifespan of the disclosure.

#### **11.3.7 Audit/Investigation Completed**

If an audit, investigation, or other enforcement action has been completed at the time the disclosure is made, the disclosure can be considered voluntary.

#### **11.3.8 Interim Notification**

Within 30 calendar days of the date the client provided all disclosure information, the client should be notified whether or not we will consider the disclosure to be “voluntary”. If this decision cannot be made within 30 days, the client should be provided with the expected timeframes. If the voluntary decision is being communicated and the disclosure needs to be referred to V&E for completeness, the client should be made aware that the current acceptance is conditional based on a further determination of the completeness of the disclosure. The client should also be notified of the expected timeframes of any remaining steps, which may need to be confirmed with V&E beforehand. The Fairness Registry should also be updated with any pertinent information.

#### **11.3.9 Late Information Received**

It is important to ensure that the research is thorough prior to notifying a client of a decision. If new information arises after notifying a client that a disclosure will be treated as voluntary, care should be taken before revisiting the decision. For example, if our own research was incomplete, the decision should not be changed.

#### **11.3.10 Overall Credit Returns**

On occasion, clients may make a disclosure for a number of years or periods and, upon reassessment, no tax is owing and the client is entitled to a refund or credit. As long as all four VDP conditions are met, the VDP officer should accept the disclosure and process all returns accordingly.

Had the client made a valid voluntary disclosure on only the year(s) or period(s) involving the penalties, then the VDP officer would naturally accept the disclosure. The client should not be disadvantaged simply because he chose to make one submission. Since the goal of the CCRA is to provide fair treatment and better service to clients, the VDP officer should avoid sending clients to another area of the Agency to have the credit returns processed.

For quarterly and year-end reporting purposes, VDP officers should only record the information relevant to the year(s) or period(s) involving penalties.

#### 11.4 Determine Whether Disclosure is Complete

##### **11.4.1 General**

A disclosure is considered complete if the client provides full and accurate reporting of all previously inaccurate, incomplete, or unreported information, and a review of the file shows no substantial omissions that would be subject to penalties or prosecution in any program line (e.g. income tax, GST, payroll, customs). A disclosure must meet this definition of complete in order to be considered as a valid voluntary disclosure.

##### **11.4.2 Substantially Complete**

Generally, a disclosure should be considered complete if it is substantially complete. For example, if a client discloses income of \$100,000 and it is determined that the income was in fact \$108,000, the disclosure could be judged complete. If there is a significant discrepancy between the figures provided and the verified figures, the disclosure can be considered incomplete, and penalties can be assessed on the entire assessment, and prosecution may proceed, if applicable (see section 12 regarding finalizing a disclosure). Clients should be made aware of this possibility prior to making a disclosure. The judgment as to whether or not a disclosure should be accepted as complete should be based on indications that the client made every attempt to provide correct and complete information.

##### **11.4.3 Who Determines Completeness?**

In many cases, the VDP officer will be able to determine whether or not the disclosure is complete. However, if there are questions as to the completeness of the disclosure, it should be forwarded to V&E to conduct further verification or audit work and to recommend a position as to whether or not the disclosure should be considered complete. In some situations, the VDP officer and the auditor may wish to discuss a case. In all cases, V&E should advise the VDP officer of the outcome by providing the audit report. While the recommendation from V&E should be carefully considered, the final decision on completeness rests with Appeals.

V&E should give VDP files a high priority. This should be arranged at the local level between the Assistant Director of V&E and the Chief of Appeals.

##### **11.4.4 Disclosure is Complete**

If the disclosure is considered complete, the client should be advised of this. See section 12.3.

##### **11.4.5 Disclosure is Incomplete**

If the disclosure is considered incomplete, the client should be given the reasons, which can be taken from the audit report when applicable. The client should be advised that the disclosure will be denied, that the file may be referred to Audit or Investigations, that the information will result in an assessment or reassessment, that penalties may be levied on the entire amount, and that

prosecution may result, if applicable. See section 12 for further instructions on completing the file.

## **12. Finalizing the Disclosure**

### 12.1 Disclosure is Accepted or Denied

At this point, the VDP officer will have determined whether or not all four conditions of a valid voluntary disclosure have been met. If they have, the VDP officer has established the basis for the assessment including the penalties and interest to be waived or cancelled. A delegated officer must approve the decision whether or not to waive or cancel penalties and interest in accordance with the fairness provisions delegation instruments.

### 12.2 Processing the Disclosure

Once a final decision has been approved by a delegated officer, the VDP officer should forward accepted disclosures for the assessments to be processed and denied disclosures to Audit or Investigations.

### 12.3 Communicate Decision to Client

Once the disclosure has been forwarded for processing, or the decision to deny the disclosure has been approved, the VDP officer should notify the client in writing of the decision. The letter must be signed by a team leader or above. In the case of acceptance of a disclosure, the letter should include an explanation that the CCRA still has the discretion to open other years/periods not included in the disclosure to verification. In the case of a denial, the reasons should be clearly spelled out in the letter, not only as a client service, but also for the purpose of any subsequent objection or second review. Sample acceptance and denial letters are attached in Appendix D.

### 12.4 Retention of Information

As with all fairness decisions, VDP decisions related to the waiver or cancellation of penalties should be properly recorded and stored for future reviews. It is important to keep careful track of all steps taken during the life of the file to assist the team leader in approving the decision and to provide background information in cases that result in a subsequent objection or second review.

The Fairness Registry and its scratch pad should be updated to reflect the decision, and the entry should be closed when the case is finalized.

All relevant VDP documentation should be attached to the related returns or in the permanent document file, as appropriate. Provided the documentation is properly filed with the returns, and the Fairness Registry is properly updated, VDP officers will not need to store case documents on site, unless local procedures dictate otherwise. However, VDP officers may choose to retain documents or request that (re)assessment documents be returned until the appropriate redress periods have expired.

## **13. Right of Redress**

### **13.1 Notice of Objection**

Clients are entitled to file a *Notice of Objection* against an assessment resulting from a voluntary disclosure. A VDP officer should not handle these objections.

The *Notice of Objection* process does not apply to the discretionary decision to accept a voluntary disclosure and waive penalties and interest. Such decisions are made under the authority of the fairness provisions. As a result, redress on VDP decisions is identical to that for fairness requests where clients are entitled to a formal second review as well as a judicial review through the Federal Court.

### **13.2 Second Review**

Clients can request a second review of a VDP decision in the same manner as procedures direct for fairness second reviews. That is, if a client believes that the CCRA has not exercised its discretion in a reasonable and fair manner, then they may request, in writing, that the Director of the appropriate local office review the situation.

### **13.3 Judicial Review**

If a second review request is denied or only partially allowed, the client should be advised that he or she can request a judicial review of a VDP decision. A judicial review of any discretionary decision made by the federal government from which there is no right of appeal, may be applied for pursuant to Section 18.1 of the Federal Court Act, within 30 days from the date notification of the discretionary decision is communicated. Clients seeking information on the judicial review process should be directed to the Registrar of the Federal Court for information.

Caution will need to be exercised when communicating information on the judicial review process for the following two reasons:

- The scope of the Federal Court review is restricted to the exercise of discretion, it does not rule on the result of voluntary disclosure decisions. Clients should not be misled to think that the Federal Court could reverse or modify a fairness decision.
- Agency employees are precluded from providing legal advice to clients in their communications with them. Accordingly, the information should be communicated in a way that does not imply that the Agency encourages clients to apply for a judicial review.

The National Fairness Committee is addressing this caution by proposing standard wording that can be used in all cases to communicate the judicial review process to clients after a second review decision has been rendered. These guidelines will be revised once the NFC has provided approved wording.

For more information on the fairness provisions and the fairness redress policy, please refer to IC 92-2, GST memorandum 500-3-2-1, and the March 1996 fairness policy paper entitled "Application of the Fairness Provisions to Interest and Penalty."

## **14. Reporting**

Within two weeks following the end of each quarter, Chiefs of Appeals will be responsible to electronically submit a report on their voluntary disclosure workload to one of the Appeals

Branch contacts listed in Section 18. The report provides information on completed disclosures and inventory on hand. A report template, including a sample report, was made available to all Chiefs of Appeals and VDP officers in April 2000.

This information supports resourcing for the VDP, and facilitates the development of CCRA reports to senior management, Parliament, and the public.

## **15. Recording VDP Cases on the Fairness Registry**

### 15.1 Overview

While most voluntary disclosures involve waivers of penalties (and interest), some involve cancellations. Both waivers and cancellations of penalties and interest are now to be reported in the Fairness Registry.

The Fairness Registry is a mainframe application that is used to record requests for relief granted under the fairness provisions. It is a widely used system that is available in all TSOs and TCs but it is not available to Customs. The Fairness Registry has recently been upgraded to permit VDP officers to track VDP cases. Information can also be logged into the scratchpad to ensure that details of cases are recorded.

VDP officers are required to register all VDP cases on the Fairness Registry and record the specifics on the scratch pad. This will result in the following enhancements to the VDP:

- it will allow for enhanced tracking and reporting of VDP cases
- it will reduce 'shopping around'
- it will track repeated users of the program

The Fairness Registry User Guide (rev. 96) contains complete information on how to use the Fairness Registry. It is available on *InfoZone*, or can be obtained through the following Headquarters Fairness Registry contacts:

#### English enquiries

Bill Rowe  
Individual Returns and Payments  
Processing Directorate  
tel: (613) 957-8995  
fax: (613) 990-5250

#### French enquiries

François Brière  
Individual Returns and Payments  
Processing Directorate  
tel: (613) 941-2251  
fax: (613) 990-5250

### 15.2 Fairness Registry Instructions Specific to the VDP

A separate registry entry is required for each tax year that is affected by a VDP request. Entries should be made as soon as the account number of a file is known.

#### **15.2.1 Account Number**

Mandatory field. The Fairness Registry can accommodate most account numbers, including: SIN, BN, T3, GST, Subledger, and NON-RES.

### **15.2.2 Revenue Type**

Mandatory field. All 8 revenue types are available for the VDP.

### **15.2.3 Reason Type**

Mandatory field. Use reason type 9 for all VDP cases (reason type 9 is for the use of VDP files only).

### **15.2.4 Relief Type**

Mandatory field. Use relief type 31 for all files that result in waivers of penalties and interest (relief type 31 is a new relief type for the use of the VDP only). For files that result in cancellations of penalties or interest, choose the applicable relief type from the list appearing on the relief type screen.

### **15.2.5 Result Type**

Mandatory field. Enter one of the three values available on the screen.

### **15.2.6 The Scratch Pad**

The use of the scratch pad is strongly recommended for all VDP cases. The purpose of the scratch pad is to provide an area where any relevant details about a case can be recorded for the benefit of all subsequent users and viewers. A scratch pad record can be created by pressing (F10) from the "Modify Entry", "Entry Information", and "Entry Tracking Information" screens, except when accessed via "view" mode. The user's userid, and the date and time are automatically stored as part of the record. Information recorded on the scratch pad is subject to access by clients under the *Access to Information Act* and must be treated accordingly.

The use of the Fairness Registry does not alter in any way the VDP quarterly reports requirements noted in section 14 above, until such time as the Fairness Registry can record waiver amounts.

## **16. VDP Activity Code**

Activity codes 217, "Voluntary Disclosures Program – Income Tax" and 218, "Voluntary Disclosures Program – GST/HST" are used to record time spent on all activities pertaining to voluntary disclosures. These time codes are available to all Responsibility Centres and Work Sections.

## **17. Best Practices (*Case Studies*)**

Decisions about whether or not disclosures can be accepted and penalties and interest waived or cancelled are discretionary. To maintain this discretion, we have tried to make the above guidelines as non-prescriptive as possible. However, national consistency is equally important. Therefore, we encourage all offices to share, as much as possible, information on cases and the reasons for making decisions. A database of *Case Studies* is being set up on the Fairness Web pages on *InfoZone* for the purposes of sharing best practices. These *Case Studies* are intended to cover a wide variety of issues, such as wash transactions, double taxation, and elections and designations. One example is attached in Appendix A.

To share *Case Studies*, please contact one of the Headquarters Appeals Branch contacts below.

## **18. Appeals Branch Contacts**

English enquiries

French enquiries



Wayne Hood  
Appeals Development and  
Fairness Directorate  
tel: (613) 954-4810  
fax: (613) 952-0197

Lynn Thériault  
Appeals Development and  
Fairness Directorate  
tel: (613) 941-4660  
fax: (613) 952-0197

Peter Armstrong  
Manager  
Appeals Development and  
Fairness Directorate  
tel: (613) 952-7401

<b>Current Year Disclosure</b>
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**Issue:**

A GST/HST registrant, who has a quarterly filing period, has not remitted two GST/HST returns for reporting periods ending March 31, 1999, and June 30, 1999. The registrant contacts the Agency on September 15, 1999, and requests that the late filing penalties be waived under the Voluntary Disclosures Program.

Can the disclosure be accepted and the penalties waived?

**Facts:**

Disclosure was made on September 15, 1999.

The VDP officer confirms that the GST/HST returns were due on April 30, 1999, and July 31, 1999, respectively.

The VDP officer has verified that neither an audit nor an enforcement action has been initiated.

**Decision:**

The VDP officer did not accept this as a voluntary disclosure.

**Rationale:**

As outlined in the VDP policy, a disclosure must involve information one year or more overdue or be combined with another return that is a year or more overdue. The VDP is not intended to provide penalty relief in those situations where a client does not fulfil a recent obligation or requirement.

Please note that, if the VDP officer is aware of circumstances beyond the registrant's control that prevented him from filing the returns on time, the registrant should be directed to the appropriate fairness representative.

**Appendix B: VDP-1 Client Agreement Form**

Effective date of disclosure: \_\_\_\_\_

Client's account number: \_\_\_\_\_ - (or) - VDP Ident #: \_\_\_\_\_

Client's name: \_\_\_\_\_ Phone #: (\_\_\_\_) \_\_\_\_\_

Representative's name: \_\_\_\_\_ Phone #: (\_\_\_\_) \_\_\_\_\_  
(required only if representative is making disclosure on behalf of client)

Amount of disclosure: \$ \_\_\_\_\_ CDN  
(information provided must be substantially complete)

Details of disclosure:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date final details required by: \_\_\_\_\_  
(if full details cannot be provided at time of initial disclosure)

Is client or representative aware of any enforcement action underway by the CCRA on the client or a non-arm's-length associate of the client? (tick one) YES \_\_\_ NO \_\_\_

I acknowledge that:

- (a) I have been provided with a copy of the CCRA's Voluntary Disclosures Program policy;
- (b) I have read and understood the four conditions set out in that policy which must be met to qualify for the program; and,
- (c) I understand that if the CCRA determines that the four conditions have not been met (either with respect to the information set out above or information submitted after the disclosure), the disclosure will not be accepted as a valid voluntary disclosure. In such cases, the CCRA may proceed with an assessment, audit, investigation, prosecution, collection action, or related activity based on the information provided,<sup>1</sup> and that penalties may be levied.

Client's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Representative's signature: \_\_\_\_\_ Date: \_\_\_\_\_

VDP Officer's name: \_\_\_\_\_ Phone #: (\_\_\_\_) \_\_\_\_\_

VDP Officer's signature: \_\_\_\_\_ Date: \_\_\_\_\_

<sup>1</sup> In the case of "no-name" or hypothetical disclosures, when clients choose not to proceed with a disclosure, the CCRA will not use the information provided for any purpose.

## Appendix C: VDP Offices and Contacts

TSO / BSF	Chief of Appeals / Chef des Appels	Voluntary Disclosures Program Officer / Agent du Programme des divulgations volontaires
<b>Atlantic Region / Région de l'Atlantique</b>		
Bathurst	Refer to Saint John / Renvoi à Saint John	Refer to Saint John / Renvoi à Saint John
Charlottetown	Walter MacDonald (902) 628-4020	Brian Bradley (902) 628-4232
Halifax	Anne Marie Long (902) 426-5131	Richard Aucoin (902) 426-1856 David MacLean (902) 426-4955
Moncton	Refer to Saint John / Renvoi à Saint John	Refer to Saint John / Renvoi à Saint John
Newfoundland & Labrador / Terre-Neuve et Labrador	Alan Ross (709) 772-5039	Oswald Tilley (709) 772-0840
Saint John	Bernie Gillis (506) 636-4694	Danielle Charbonneau- McAlpine (506) 636-5683
Sydney	Mike Morrison (902) 564-3081	Bev Campbell (902) 564-3113 Patty McCann (902) 564-3133
<b>Québec Region / Région du Québec</b>		
Chicoutimi	Refer to Québec / Renvoi à Québec	Refer to Québec / Renvoi à Québec
Laval	Claude Miller (450) 973-5745	Daniel Vaillancourt (450) 973-5655 Martin Nadeau (450) 973-5647
Montréal/Rive-Sud	Refer to Montréal / Renvoi à Montréal	Refer to Montréal / Renvoi à Montréal
Montréal	Pat Allard (514) 283-8513	Jean-Louis Lussier (514) 283-5481
Outaouais	Réjean Tremblay (819) 994-7666	Réjean Tremblay (819) 997-5460
Rimouski	Refer to Québec / Renvoi à Québec	Refer to Québec / Renvoi à Québec
Rouyn-Noranda	Refer to Laval / Renvoi à Laval	Refer to Laval / Renvoi à Laval
Eastern Townships/Estrie Cantons de l'Est/Estrie	Jean-Claude Fontaine (819) 821-8569	Denis Blais (819) 821-8561

ISO / BSI	Chief of Appeals / Chef des Appels	Voluntary Disclosures Program Officer / Agent du Programme des divulgations volontaires
Trois-Rivières	Refer to Eastern Townships/Estrie Renvoi aux Cantons de l'Est/Estrie	Refer to Eastern Townships/Estrie Renvoi aux Cantons de l'Est/Estrie
Québec	Laval Mailhot (418) 649-6405	Élisabeth Roy (418) 649-6406 Jean-Claude Fortier (418) 649-6408
Jonquière	Anne Maziade (418) 699-0735	
Shawinigan-Sud	Christian Gélinas (819) 536-6900	
<b>Southern Ontario Region / Région du Sud de l'Ontario</b>		
Hamilton	Dave Partridge (905) 572-2694	Cathy Randazzo (905) 570-7334 Kevin Matthews (905) 570-7335
Kitchener/Waterloo	Dale Carberry (519) 570-7419	Helene Hebert (519) 570-7615
London	Jackie Cleaver (519) 645-5363	Bill Scott (519) 675-3357 Jim Moffat (519) 675-3150 Mark Okonski (519) 675-3230
St. Catharines	Dave Simpson (905) 984-2258 (905) 688-1613 (fax)	Judy Dakers (905) 984-2212 Tim Matthews (905) 984-2396
Toronto Centre	Bruce Allen (416) 954-3812	Marianne Lem (Tax) (416) 952-2890 Harvey Wiseberg (416) 973-4166
Toronto East / Est	Mike Rose (416) 954-1444	Paul Jagtoo (416) 954-5611
Toronto North / Nord	Colin M. Cooke (416) 512-4007	Monica Crocione (416) 218-4624 Andrea Neal (416) 512-4455
Toronto West / Ouest	Ken Parkes (905) 615-2658	Kathy Wilcox (905) 855-4957
Windsor	Darlene Vandal (519) 973-7110	John Mills (519) 973-7998 ext. 6354

TSO / BSF	Chief of Appeals / Chef des Appels	Voluntary Disclosures Program Officer / Agent du Programme des divulgations volontaires
Ontario - East and North and Nunavut Region / Région de l'est et du nord de l'Ontario et du Nunavut		
Belleville	Tony Kelly (613) 391-2613	Michele Locke (613) 391-2614 Paul Young (613) 391-2650
Kingston	Refer to Belleville / Renvoi à Belleville	Refer to Belleville / Renvoi à Belleville
Ottawa	Kal Malhotra (613) 598-2065	Norm Levesque (Tax) (613) 598-2415 Norma Jean Woolley (GST) (613) 598-2142 Linda Rieux (613) 598-2176
Peterborough	Refer to Belleville / Renvoi à Belleville	Refer to Belleville / Renvoi à Belleville
Sudbury	Marc Langlois (705) 671-4257	Frank Baltutis (705) 677-7719
Thunder Bay	Dominic Talarico (807) 625-7063	Diane Lee (807) 625-7041
Prairie Region / Région des Prairies		
Calgary	Amir Bhaloo (403) 691-6601	Deb Schneider (403) 691-6944
Edmonton	Bill Blahun (780) 495-3575	Mehr Keshwani (780) 495-2027 Robert Loewen (780) 495-6215
Saskatoon	Randy Pangborn (306) 975-4631	Frank Metanchuk (306) 975-6008 Brent Ball (306) 975-4508
Regina	Doug Spencer (306) 780-6070	Ron Swahn (306) 780-6759
Winnipeg	Rick McClinton (204) 983-3679 Acting: Paul Fenez	Barbara Knoff (204) 983-3395 Sharon Farysey (204) 983-1782
Winnipeg TC	Ingrid Bauer (204) 983-5872	

TSO / BSF	Chief of Appeals / Chef des Appels	Voluntary Disclosures Program Officer / Agent du Programme des divulgations volontaires
Pacific Region / Région du Pacifique		
Burnaby-Fraser	Devinder Sekhon (604) 951-7115	Harold Howard (604) 951-7119
Northern B.C. – Yukon / Nord de la C.-B. – Yukon	Refer to Vancouver / Renvoi à Vancouver	Refer to Vancouver / Renvoi à Vancouver
Southern Interior B.C. / Intérieur sud de la C.-B.	Elaine Lloyd (205) 492-9355	Murray Reiter (250) 492-9459 Jim Andrew (250) 492-9404
Vancouver	Roger Smith (604) 691-4630	Linda Baziuk (604) 775-7176 Rocky Lloyd (604) 775-7319
Vancouver Island / Île de Vancouver	Denis Farling (250) 363-3998	Maggie Martel (250) 363-0361

## Appendix D: Sample Letters

### Sample Acceptance Letter

[date]

[name/corporation]

[address]

[city, province]

[postal code]

Attention: [name]

Dear [name]:

Re: **Voluntary Disclosures Program**  
**Case No. [#####]**

---

Further to our previous correspondence of [date], I am writing to advise you of our decision concerning your request for the waiver or cancellation of penalties under the Voluntary Disclosures Program (VDP).

The circumstances of your case have been carefully considered and I am pleased to inform you that your request has been granted.

[Detail the basis for the assessment including the penalties and interest to be waived or cancelled.]

Our acceptance of the disclosure covers only the years and/or amounts specified above. We may open other years/periods for possible audit and verification.

I trust that this satisfactorily explains our decision in this matter. However, if you wish to discuss our decision, please feel free to contact the [VDP officer] at [###-#####].

Yours truly,

[Delegated Officer]

[title]

[office]

Telephone number: [#]

Fax number: [#]

c.c. Representative



Sample Denial Letter

[date]

[name/corporation]

[address]

[city, province]

[postal code]

Attention: [name]

Dear [name]:

**Re: Voluntary Disclosures Program  
Case No. [#####]**

---

Further to our conversation of [date], I am writing to advise you of our decision concerning your request for the waiver or cancellation of penalties under the Voluntary Disclosures Program (VDP).

The circumstances of your case have been carefully considered and I regret to inform you that your request cannot be granted. As indicated in VDP Policy attached to our previous correspondence, four conditions must be satisfied to qualify for the benefits of the VDP. Unfortunately, [advise which condition(s) was not met and provide explanation].

I would like to assure you that this case was carefully reviewed before the decision to decline your request was made. The decision was based on the representations and documents provided by you.

If you do not agree with the decision, you may request in writing that the Director of this office initiate a second impartial review of the matter.

I trust that this satisfactorily explains our decision in this matter. However, if you wish to discuss our decision, please feel free to contact the [VDP officer] at [###-#####].

Yours truly,

[Delegated Officer]

[title]

[office]

Telephone number: [#]

Fax number: [#]

c.c. Representative