

Tax Tip

Week of April 6, 2009

Voluntary Disclosures

If a taxpayer has claimed a deduction or omitted income from their tax return, either accidentally or otherwise, should CRA become aware of the situation, the taxpayer will have to pay not only the taxes, but interest and penalty. In order to encourage compliance, CRA has a voluntary disclosure program for the following types of offenses:

- failed to report any taxable income they received
- claimed ineligible expenses on a tax return
- failed to remit source deductions of their employees
- failed to report an amount of GST/HST, (which may include undisclosed liabilities or improperly claimed refunds or rebates, unpaid tax or net tax from a previous reporting period)
- failed to file information returns
- failed to report foreign sourced income that is taxable in Canada

If the taxpayer comes forward, CRA will waive any penalty (including jail time) and may provide interest relief. A disclosure will not be considered voluntary if any of the following conditions exist.

- the taxpayer was aware of, or had knowledge of an audit, investigation or other enforcement action set to be conducted by the CRA or any other authority or administration, with respect to the information being disclosed to the CRA, or
- enforcement action relating to the disclosure was initiated by the or on a third party, where the purpose and impact of the enforcement action against the third party is sufficiently related to the present disclosure, and
- the enforcement action is likely to have uncovered the information being disclosed.

Taxpayers who are unsure they want to proceed with a disclosure are given an opportunity to participate in preliminary discussions about their situation on a “no-name” basis. These discussions with a CRA are informal,

non-binding, and general in nature and are done before the identity of the taxpayer is revealed. In such cases, the taxpayer would have a third party approach CRA on their behalf.