



Revenu Québec
3800, rue de Marly
Québec (Québec)
G1X 4A5

Consumer Taxes

Number: ADM. 4/R4
Date: September 19, 2013
Page: 1 of 8

Subject: Voluntary Disclosures

This version of bulletin ADM. 4 supersedes the version of June 29, 2012. The bulletin has been revised to provide additional information on the application of the voluntary disclosure policy and to reflect the changes to the procedure for making a voluntary disclosure (introduction of application form LM-15-V).

This bulletin sets out Revenu Québec's voluntary disclosure policy. It establishes the conditions that must be met for a disclosure to be considered a voluntary disclosure with respect to the fiscal laws administered by Revenu Québec. The relief measures described herein concern only the waiver of Revenu Québec's right to institute penal proceedings and its decision not to impose the penalties provided for by law where a disclosure is considered voluntary; such measures do not extend to the determination of the tax debt itself.

Where a voluntary disclosure concerns the goods and services tax and harmonized sales tax (GST/HST) provided for under the *Excise Tax Act* (R.S.C. 1985, c. E-15), the guidelines of the Voluntary Disclosures Program administered by the Canada Revenue Agency (CRA) apply. For more information, refer to the current version of information circular IC00-1, *Voluntary Disclosures Program*, available on the CRA website at www.cra-arc.gc.ca.

GENERAL CONSIDERATIONS

1. Revenu Québec's mission is to ensure that all taxpayers pay their fair share when it comes to funding public services. Its goal is tax fairness for all. With that in mind, Revenu Québec considers taxpayers' and mandataries'¹ spontaneous compliance with fiscal legislation to be of the utmost importance. Accordingly,

Revenu Québec encourages taxpayers and mandataries that have failed to meet all their fiscal obligations to make a voluntary disclosure in order to pay any duties and interest they may owe as a result. Examples of such failure to meet one's obligations include omissions with respect to the *Act respecting the Québec sales tax* (CQLR, c. T-0.1) and failure to meet one's income tax obligations by neglecting to report certain income or by claiming deductions or credits to which one is not entitled.

2. In some cases, an omission, an inaccurate or incomplete statement or an act of tax evasion can result in the imposition of one or more penalties, which serve as a disciplinary measure and also emphasize the importance of meeting one's fiscal obligations.

3. To encourage taxpayers and mandataries to rectify their tax situation by making a voluntary disclosure, Revenu Québec has decided not to impose the penalties provided for under fiscal legislation and waives its right to institute penal proceedings where it receives, in writing, an application made under the voluntary disclosure policy (see points 7 and 12 through 26 of this bulletin), and where the disclosure meets the conditions set forth in this bulletin.

¹ "Mandatory" is the term used in the *Act respecting the Québec sales tax* (CQLR, c. T-0.1). For the purposes of this brochure, the term "mandatory" also encompasses the term "agent," which is the equivalent term used in the *Excise Tax Act* (R.S.C. 1985, c. E-15).

Consumer Taxes

Number: ADM. 4/R4

Date: September 19, 2013

Page: 2 of 8

SPECIAL CASES

Situations in which the voluntary disclosure policy does not apply

4. While Revenu Québec's voluntary disclosure policy applies in any situation where a penalty could be imposed, it cannot be used to avoid meeting prescribed filing deadlines, nor can it be used to allow for retroactive tax planning or tax evasion. More specifically, the voluntary disclosure policy does not apply in the following situations:

a) situations involving only the most recent income tax return or the most recent remittance for which the statutory filing deadline has expired by the date the voluntary disclosure file is opened;

For example:

- A voluntary disclosure application made in respect of a taxpayer's original 2010 income tax return, the statutory filing deadline for which is April 30, 2011, cannot be accepted until April 30, 2012, i.e., the statutory filing deadline for the 2011 income tax return,
- A mandatory that makes monthly remittances cannot make a voluntary disclosure for having failed to make the last remittance due.

However, if the most recent income tax return or remittance is part of a larger set of returns that were not filed or remittances that were not made by the taxpayer or mandatory, and the statutory filing deadlines for those returns or remittances have expired by the date on which the voluntary disclosure file is opened, then the most recent income tax return or remittance may be accepted to ensure complete disclosure of the tax situation to be rectified.

b) situations that do not result in additional duties, and those giving rise only to refunds;

c) situations involving late, amended or revoked elections;

d) situations in which a post-assessment application for the cancellation or waiver of penalties or interest has been filed; such applications will be considered to be retroactive tax planning;

e) situations in which relief measures could apply under Revenu Québec's tax fairness measures but that do not correspond to the general considerations of this bulletin. For more information on such situations, see the current versions of interpretation bulletins LAF. 94.1-1, *Waiver or Cancellation of Interest, Penalties or Charges*, IMP. 1051-2, *Tax Fairness: Refunds Applied For After December 31, 2004* and IMP. 1056.4-1, *Late, Amended or Revoked Election*.

Making a second voluntary disclosure

5. As a rule, a person that has already made a voluntary disclosure cannot make a second one. In other words, persons that repeatedly fail to meet their fiscal obligations cannot avoid the applicable penalties or proceedings.

6. That said, Revenu Québec may allow a person to make a second voluntary disclosure if it judges that the circumstances of the second disclosure are beyond the person's control and that the omissions, acts of tax evasion and incomplete or inaccurate statements being divulged cannot be considered gross negligence or a repeat of the omissions, acts of tax evasion or incomplete or inaccurate statements reported in the first disclosure.

Making an anonymous disclosure

7. A disclosure can be made anonymously (on a no-name basis) if it is a first disclosure and covers at least one taxation year, calendar year or period in respect of which the prescriptive period would normally have expired. For example, an individual who failed to report income tax-related amounts cannot make an anonymous



Consumer Taxes

Number: ADM. 4/R4

Date: September 19, 2013

Page: 3 of 8

disclosure if the disclosure concerns only the three most recent years for which a return had to be filed. However, before a file is opened or before the 90-day deadline provided for in point 21 of this bulletin expires, Revenu Québec reserves the right to demand the name of the person making the disclosure when there is doubt that the “spontaneous” condition is met.

Wash transactions

8. With regard to the Québec sales tax, the voluntary disclosure policy also applies to wash transactions. The transaction must, however, be a true wash transaction, i.e., a transaction for which a registrant supplier did not remit an amount of net tax because the registrant did not duly charge and collect the tax on a taxable supply in respect of which the recipient would have been entitled to a full input tax refund had the recipient paid the tax. Wash transactions can also occur when the wrong member of a closely related group or of a group of associated persons (all of which carry on commercial activities exclusively) collects and reports the tax or claims an input tax refund.

9. In such a case, Revenu Québec will assess the duties that should have been collected by the supplier with respect to the transaction. However, where a voluntary disclosure is made concerning a wash transaction and the disclosure is accepted, Revenu Québec may waive the penalties and interest that would otherwise be payable under fiscal legislation as at the date on which the notice of assessment was sent. Nonetheless, any amount that remains unpaid as at the date on which the notice of assessment was sent will bear interest at the prescribed rate until payment is received in full.

PERIODS COVERED

10. Revenu Québec will issue notices of assessment for years in respect of which the prescriptive period has not expired, that is, years with respect to which the burden of proof is not on Revenu Québec, so that all omissions, acts of tax evasion and incomplete or inaccurate statements are taken into account. Revenu Québec will also issue notices of assessment for prior years or periods in respect of which the prescriptive period has expired if it considers that there has been misrepresentation of the facts through negligence or wilful omission or if fraud has been committed. If, for instance, the non-compliance extended over a period of 12 taxation years, assessments would be made for each of those 12 taxation years.

11. In order to allow a person (or the person’s representative) sufficient time to provide all the necessary documents and information, the years in respect of which the prescriptive period has not expired will be determined on the date the voluntary disclosure file is opened.

PROCEDURE FOR MAKING A VOLUNTARY DISCLOSURE AND HAVING A FILE OPENED

Application

12. To make a voluntary disclosure, a person (or the person’s representative) must submit a duly completed copy of **form LM-15-V, Voluntary Disclosure Application**. Applications must be sent either by mail or by fax to one of the Revenu Québec offices mentioned in the appendix at the end of this bulletin; applications cannot be sent by email. Form LM-15-V can be printed from our website (www.revenuquebec.ca).

Consumer Taxes

Number: **ADM. 4/R4**

Date: **September 19, 2013**

Page: **4 of 8**

13. To make a second voluntary disclosure, a person must submit a duly completed copy of form **LM-15-V, Voluntary Disclosure Application**, to one of the Revenu Québec offices mentioned in the appendix at the end of this bulletin. Such an application must contain the person's name and identification number, as well as a note indicating that the application concerns a second voluntary disclosure. The person must also include the details of the first voluntary disclosure and explain the facts that have led to the new application. If any of the foregoing elements are omitted, the new voluntary disclosure may be disallowed.

14. If a second voluntary disclosure is being made by a person that has already made an anonymous disclosure that was disallowed because the deadlines given in points 17, 19 and 21 of this bulletin were not respected, because the person did not cooperate or because the application was withdrawn, then the person must be identified in the new disclosure; otherwise, Revenu Québec will disregard the application. Revenu Québec will only study such a voluntary disclosure application once the person's identity has been confirmed and the necessary information and documents have been validated. It is important to note that the new voluntary disclosure must include all the facts and omissions divulged when the person submitted the initial anonymous application.

15. In the case of an anonymous disclosure, the requirements listed in point 21 must be met.

16. It is important to note that in the case of a first voluntary disclosure, the date on which the voluntary disclosure file is opened corresponds to the date on which Revenu Québec receives **form LM-15-V**, duly completed and signed by the person (or the person's representative). In the case of a second voluntary disclosure, the date on which the voluntary disclosure file is opened corresponds to the date that Revenu Québec received form LM-15-V, duly completed, as required under points 13 and 14.

17. In some cases, the person (or the person's representative) may not be able to immediately provide or file all the information or documents pertaining to the disclosure, in which case Revenu Québec may grant an extension. As a rule, such an extension begins on the date the file was opened and does not exceed 90 days.

18. In order for a voluntary disclosure file to be opened, the initial application must include general information that will allow Revenu Québec to determine whether the voluntary disclosure policy is likely to apply to the situation and that will allow Revenu Québec to sketch a broad outline of the tax situation to be rectified. The following information must be provided:

a) an outline of the facts, including the date of the first inaccurate or incomplete statement, omission or act of tax evasion;

b) the person or persons involved (individuals, corporations, successions, trusts, etc.);

c) the person's sex and age, in the case of an individual;

d) the person's commercial or professional activities;

e) the tax laws concerned;

f) the type of omission (for example, GST/HST or QST that was collected but not remitted, or business income, investment income, pension income or capital gains that were not reported);

g) the taxation years, reporting periods or fiscal periods covered by the disclosure;

h) the amount of the duties owed (or an estimate, if the actual amount is unknown);

i) in the case of foreign investments:



Consumer Taxes

Number: ADM. 4/R4

Date: September 19, 2013

Page: 5 of 8

- the date on which the investment account was opened and the date on which the first investment or transfer was made,

- the balance of the investment account as at the date the voluntary disclosure file is opened,

- the names of the foreign financial institutions involved and the countries in which they are located;

j) the first three characters of the person's postal code, in the case of an anonymous disclosure;

k) an explanation demonstrating how the file submitted meets the four conditions for a disclosure to be considered a voluntary disclosure (see points 25 and 26);

l) the person's name and address, as well as the identifiers (social insurance number, identification number, Québec enterprise number (NEQ)) assigned to the person.

In the case of an anonymous disclosure (see point 7), only the information mentioned in subpoints (a) through (k) of point 18 needs to be provided.

Processing the file

19. Once the voluntary disclosure file has been opened, the person must promptly provide Revenu Québec with particulars of the facts and of the duties payable for each period covered by the disclosure. Furthermore, when analyzing the disclosure, Revenu Québec may request additional information or documents in order to verify certain details, even if the disclosure is still anonymous. The person must comply with these requests within the time frame provided. The person's full and complete

cooperation is essential to the analysis of the application and to its acceptance as a voluntary disclosure.

20. After analyzing the information received, Revenu Québec will inform the person (or the person's representative) of its decision to accept or disallow the voluntary disclosure. The disclosure will be accepted subject to verification of the conformity of the information and supporting documents that must be provided.

Divulgence of information in the case of an anonymous disclosure

21. Where a voluntary disclosure application is made anonymously through a representative, the name of the person making the disclosure must be divulged to Revenu Québec within 90 days following the date on which the file is opened. However, Revenu Québec may grant an extension where circumstances warrant and provided it receives a written request to extend the deadline before the initial 90-day deadline expires. Revenu Québec will set a new deadline that it deems reasonable given the particulars of the file. However, the extension cannot exceed 30 days.

22. A representative that files an application or a request pursuant to point 7 or point 21 must, when subsequently providing the name of the person making the disclosure, file a power of attorney with Revenu Québec. To do so, the representative must have the person that is being represented complete and sign form MR-69-V, *Power of Attorney, Authorization to Communicate Information, or Revocation*.

23. Regardless of a file's status, where the above-mentioned requirement is not met, or where the deadlines provided for under points 17, 19

Consumer Taxes

Number: **ADM. 4/R4**

Date: **September 19, 2013**

Page: **6 of 8**

and 21 are not respected, Revenu Québec may inform the person (or the person's representative) in writing that it is disallowing the voluntary disclosure.

Signature of a transaction (agreement)

24. In the context of a voluntary disclosure, the parties may enter into a transaction only if the disclosure concerns one or more taxation years, calendar years or periods in respect of which the prescriptive period would normally have expired. For example, an individual who failed to report income tax-related amounts cannot enter into a transaction if the disclosure only concerns the three most recent years for which a return had to be filed.

CONDITIONS FOR A DISCLOSURE TO BE ACCEPTED AS A VOLUNTARY DISCLOSURE

25. For a disclosure to be accepted as a voluntary disclosure, the following four conditions must be met:

a) The disclosure must be spontaneous

A disclosure is not spontaneous where an objectively demonstrable fact could reasonably have led the person to believe that Revenu Québec was about to undertake a review, audit or investigation regarding the person on the date the voluntary disclosure file was opened (see points 12 and 16). In addition, a disclosure is not spontaneous where Revenu Québec has already undertaken a review, audit or investigation regarding the person (or regarding another taxpayer or mandatary with which the person is not dealing at arm's length, is affiliated or has commercial ties) and where it is reasonable to believe that the review, audit or investigation would have brought to light the facts or omissions divulged as part of the voluntary disclosure. Nor is a disclosure spontaneous where similar oversight activities have been undertaken by a body of another government that administers fiscal laws or by a police force or any other authority or administrative body with which Revenu Québec has entered into an information exchange agreement.

However, if such a review, audit or investigation is in the preliminary stages and it is reasonable to believe that the person did not yet have any knowledge of it, the disclosure may generally be considered spontaneous. A disclosure may also be considered spontaneous if the audit, investigation or review concerned other fiscal matters and the audit, investigation or review in question has been completed.

b) The disclosure must be complete

A disclosure is complete where the person discloses all the facts and provides all the pertinent information and documents that make it possible to determine as accurately as possible the duties and interest owed by the person under the fiscal laws to which the person is subject.

A disclosure is not considered complete where

- a person controlled by the person making the disclosure has failed to fulfill its obligations with Revenu Québec;
- the person making the disclosure and a person that has failed to fulfill its obligations with Revenu Québec are both controlled by the same person;
- the person making the disclosure is controlled by a person that has failed to fulfill its obligations with Revenu Québec.

Regardless of the status of the file, if the person making the disclosure fails or refuses to disclose facts, amounts or important elements regarding the person's situation that could result in an adjustment, the disclosure will not be considered complete, but will instead be considered another attempt to mislead Revenu Québec. Under such circumstances, Revenu Québec may disallow the voluntary disclosure and may also impose penalties or institute proceedings before the courts, or take both of these measures (penalties



Consumer Taxes

Number: **ADM. 4/R4**

Date: **September 19, 2013**

Page: **7 of 8**

and proceedings), with regard to the duties reported and those added.

c) The disclosure must be verifiable

A disclosure is verifiable where the person has made available to Revenu Québec all the information, registers and documents required in order to analyze the accuracy of the facts presented and the duties and interest payable. If it deems it necessary, Revenu Québec may request additional information and documents in order to verify the conformity of the amounts and facts disclosed, or to ensure that the disclosure is complete. The full cooperation of the person is essential to the analysis of the voluntary disclosure application.

d) The fiscal debt must be paid

A voluntary disclosure cannot be accepted until Revenu Québec has validated all the documents and information provided by the person (or the person's representative), and until the tax debt determined further to the analysis of the file (i.e., the duties and interest payable) has been paid. The duties and interest must be paid before the deadline granted under fiscal legislation for the payment of amounts appearing in the notices of assessment that were sent further to the initial acceptance of the disclosure.

Where circumstances require, Revenu Québec may enter into a payment agreement if the person provides sufficient guarantee of payment. It is important to note that any payment agreement must take into account all amounts owed to Revenu Québec and therefore cannot be limited to the additional amounts owed. Furthermore, should the person not respect the payment agreement or should the person use remittances payable in accordance with fiscal legislation (source deductions, QST and

GST/HST) to pay the duties and interest determined further to the analysis of the voluntary disclosure, thereby failing to make the remittances in question, Revenu Québec will consider that the tax debt has not been paid under the voluntary disclosure policy. In such a case, Revenu Québec will disallow the voluntary disclosure and may issue notices of reassessment indicating the applicable penalties and interest.

26. In any event, should Revenu Québec determine, after analyzing or reviewing the file, that any of the four conditions listed in point 25 have not been met, the voluntary disclosure will be disallowed and any agreement entered into between the parties will be null and void. The person will be notified in writing that the disclosure has been disallowed. Revenu Québec may then

- issue notices of assessment (or notices of reassessment) for years in respect of which the prescriptive period has expired, as well as years in respect of which the prescriptive period has not expired, indicating the applicable penalties and interest;
- institute proceedings before the courts; or
- take both of these measures (penalties and proceedings), with regard to the duties reported and those added.

FILING AN APPLICATION

27. Any person that wishes to make a voluntary disclosure can file an application to that effect, following the procedure described in this bulletin, at one of the offices mentioned in the appendix at the end of this bulletin.

Consumer Taxes

Number: ADM. 4/R4

Date: September 19, 2013

Page: 8 of 8

APPENDIX

Individuals

Individuals who wish to make a voluntary disclosure must submit their applications to one of the offices of the Direction principale des relations avec la clientèle des particuliers or to the Direction des divulgations volontaires (see the addresses below). Please note, however, that individuals who wish to make an anonymous disclosure or whose disclosure concerns unreported foreign assets or income are required to file their applications with the Direction des divulgations volontaires.

Individuals in business and other persons

Individuals in business and other persons that wish to make a voluntary disclosure must file their applications with the Direction des divulgations volontaires.

Direction des divulgations volontaires	
	Direction des divulgations volontaires Revenu Québec Complexe Desjardins Secteur D246VE Montréal (Québec) H5B 1A4 Telephone: 514 287-3585, extension 2878705 1 888 830-8808, extension 2878705 (toll-free) Fax: 514 287-8490
Direction principale des relations avec la clientèle des particuliers	
Montréal, Laval, Laurentides, Lanaudière and Montérégie	Direction principale des relations avec la clientèle des particuliers Revenu Québec C. P. 3000, succursale Place-Desjardins Montréal (Québec) H5B 1A4 Telephone: 514 864-6299 1 800 267-6299 (toll-free)
Quebec City and other regions	Direction principale des relations avec la clientèle des particuliers Revenu Québec 3800, rue de Marly Québec (Québec) G1X 4A5 Telephone: 418 659-6299 1 800 267-6299 (toll-free)
Persons with a hearing impairment	
Montréal	514 873-4455
Elsewhere	1 800 361-3795

For more information, please contact one of the above offices or visit our website at www.revenuquebec.ca.