HVGP CHARTERED PROFESSIONAL ACCOUNTANTS Hufton Valvano Grover Philipp LLP

VOLUNTARY DISCLOSURE PROGRAM: Proposed Tightening

The Voluntary Disclosure Program (VDP) provides taxpayers (individuals, corporations, partnerships, trusts, etc.) the opportunity to fix incorrect or incomplete previously filed tax returns (or returns that should have been filed) with a reduction to penalties and possibly interest.
CRA recently released fairly substantial proposed changes to the current program, effective January 1, 2018. The proposals are expected to be finalized in the fall of 2017.

The proposals will create two tracks for income tax disclosures.

General Program (GP)
The GP is similar to the current VDP. Penalties will be waived, subject to the usual ten-year limit, criminal prosecution will not be considered and interest relief will be considered for years preceding the most recent three years, with 50% of interest generally being waived. Interest for the most recent three years will not be waived.

Limited Program (LP)
The LP will be applicable for disclosures of major non-compliance and will provide reduced relief. Examples of situations where the LP would apply include where there are: active efforts to avoid detection through the use of offshore vehicles or other means; large amounts involved; multiple years of non-compliance; sophisticated taxpayers involved; disclosures after CRA communications such as official statements regarding its intended compliance focus, or following CRA campaigns or correspondence; and other circumstances where a high degree of taxpayer culpability contributed to the non-compliance.

Under the LP, gross negligence penalties will be waived, and criminal prosecution will not be considered. However, all other penalties will be assessed. No interest relief will be provided.

No Relief
In addition to current ineligible submissions, a number of situations will no longer be eligible for the VDP, including, for example where there is: income from proceeds of crime; a disclosure from a corporation with gross revenue in excess of $250 million in at least two of its last five years; and a disclosure related to transfer pricing adjustments or penalties.

Conditions for Valid Disclosure
The current requirements that any disclosure be voluntary, complete, involve a penalty or potential penalty, and include information at least one year past due will remain unchanged. Some further conditions, such as the requirement that the applicant pay the estimated taxes owing on application are proposed. Payment arrangements supported by adequate security may be accepted.

Action Item: If you have a disclosure which may be impacted by these proposed changes, ensure to submit your disclosure prior to the proposed changes effective date of January 1, 2018.