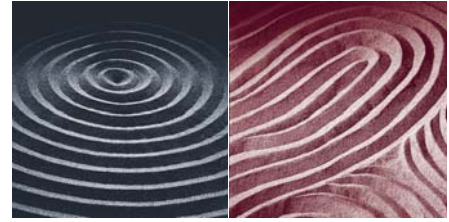


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The tax man, bless his soul, is giving some of you a chance to come clean

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GUEST COLUMN: OFFSHORE INVESTMENTS

Report on Business Column

The tax man, bless his soul, is giving some of you a chance to come clean

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It's tax time and for some, this means considering what to do about that offshore investment plan that was put in place some years ago and that somehow has not been disclosed in past returns.

The non-disclosure technically may have been permitted in the year the investment was made but the rules regarding disclosure of offshore investments have been tightened and all Canadians are required to disclose if they hold a foreign property with a total cost in excess of \$100,000.

If you have such an investment and haven't disclosed it in the past, now is the time to consider sharing that information with the Canada Revenue Agency.

Under the rules, resident Canadians are to be taxed on their worldwide income. That said, many have made investments that were structured to avoid being caught. The government has introduced numerous changes to these rules years that are designed to ensure that income and capital gains earned outside of Canada are to be reported and subject to tax.

Also, it was announced in the 2005 federal budget that the CRA would be given significant resources to counter what is referred to as "aggressive international tax planning." At a meeting held in Toronto on Feb. 22, officials announced that under this initiative, the CRA has hired nearly 200 auditors to reinforce its efforts to curb offshore structures that minimize or eliminate Canadian tax. Thirty-six of these auditors were hired exclusively to identify potential targets for audits.

Reporting that you hold such investments, regardless of whether the income should be taxed or not, is required on the T1 form. Failure to provide the information (even where no tax is due) can lead to penalties, and if you have been less than compliant with your income tax reporting obligations, now might be the time to disclose the information. If you make the move, the CRA will not impose civil or criminal penalties because it would be considered a "voluntary disclosure" under its Voluntary Disclosure Program (VDP). In other words, the VDP is a safe avenue through which you can come forward to the CRA.

A voluntary disclosure is designed to encourage compliance with the tax rules and gives taxpayers a break if they disclose their outstanding tax liability. If you decide to make the disclosure, you still will be required to pay the taxes not yet paid, with interest. The relief offered by the program is actually generous considering the statutory penalties that may be applied against delinquent taxpayers. When taxpayers are caught by the CRA, they often find themselves overwhelmed by the carrying charges that accompany their tax liability. The penalties and the accumulated interest on taxes and penalties can amount to more than the taxes that were originally due. The VDP assists you by removing the penalties and the interest on these penalties.

Why come forward before the CRA finds you? You can only take advantage of the relief under the VDP if you called the CRA before it or another tax authority called you, and if the disclosure is complete. You have to tell the whole story. You also have to be fess up about prior years.

A disclosure can be initiated simply by contacting voluntary disclosure officials at your local CRA office. This should only be done with careful consideration and planning to ensure that you are telling the whole story. If the information disclosed could have an impact on others, such as your family, be sure that they make a voluntary disclosure, too.

A general point concerning the VDP that is important to understand is that whatever tax should have been paid on the unreported income, will have to be paid. The CRA cannot settle a tax liability for anything less than the full tax owing. Unlike typical civil actions, the CRA does not have the authority to "meet you in the middle" to settle your outstanding taxes. A good "settlement" with the CRA is confirmation that civil and criminal penalties will be waived, contains reasonable terms of repayment under the circumstances and confirms that a minimum number of taxation years are examined.

The VDP affords taxpayers an opportunity to achieve the cancellation of civil and criminal penalties that could otherwise apply to their outstanding tax liabilities. If you consider using the VDP, approach the decision with caution and consider seeking legal help.

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