

REVENU
QUÉBEC



FAIR.
FOR ALL.



**VOLUNTARY
DISCLOSURE**

**RECTIFYING
YOUR TAX SITUATION**

revenuquebec.ca



**THIS GUIDE EXPLAINS HOW
TO DISCLOSE INFORMATION
THAT HAS NEVER BEEN
BROUGHT TO OUR ATTENTION.**

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This guide is provided for information purposes only. It does not constitute a legal interpretation of the *Taxation Act*, the *Excise Tax Act*, the *Act respecting the Québec sales tax* or any other legislation.

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INTRODUCTION

Our mission is to ensure that all taxpayers pay their fair share toward the funding of public services. Our goal is tax fairness for all. With this in mind, we cannot overstate how important it is that taxpayers and mandataries comply willingly with fiscal legislation.

Although taxpayers and mandataries are responsible for determining, reporting and paying income tax, source deductions and consumption taxes, they sometimes make omissions when completing their returns or carrying out their other obligations under the fiscal laws we administer. That is why we encourage individuals and businesses who have failed to fulfill their tax obligations to rectify their tax situation by making a voluntary disclosure application and paying the amounts they owe.

If you owe an amount and would like to rectify your tax situation, you may be able to benefit from relief under one of the four categories of the voluntary disclosure program. The eligibility requirements, other conditions and program categories are set out in this guide. To make an application, you must file form LM-15-V, *Voluntary Disclosure*.

Note, however, that we are not required to grant relief in respect of all applications made under the program. We review every application individually and make a decision based on its merits.

For full program details, refer to interpretation bulletin ADM. 4, *Voluntary Disclosure Program*, on the Publications du Québec website or contact us. Confidentiality is guaranteed. You will find our contact information at the end of this guide.



WHAT IS VOLUNTARY DISCLOSURE?

Voluntary disclosure consists in spontaneously reporting and paying amounts you did not report for any of the following reasons:

- You failed to fulfill your tax obligations under the applicable legislation.
- You failed to file information returns involving additional duties payable.
- You claimed ineligible expenses in a tax return.
- You claimed a refund or rebate to which you were not entitled.
- You failed to declare the transfer of an immovable in the land register or file a notice of disclosure of the transfer with the municipality where the immovable is located by the 90-day deadline or in accordance with the prescribed terms.

If your disclosure is motivated by any other reason, it may not be accepted.

SPECIAL CASES

While the voluntary disclosure program generally applies in any situation where a penalty could be imposed, it cannot be used to avoid meeting prescribed filing deadlines or in situations that, in our view, violate its object or purpose.

Furthermore, since our voluntary disclosure program is meant to encourage good fiscal behaviour, you are expected to meet your tax obligations after benefitting from relief under the program. As a result, you generally cannot make another disclosure if you have already made one in the past.



CONDITIONS FOR ACCEPTANCE

Your application must be spontaneous, complete and verifiable, and your tax debt must be paid.

Spontaneous application

Your disclosure will **not** be considered spontaneous if, further to an examination of the facts, we find the following:

- You were aware that enforcement action was about to be conducted with respect to the information being disclosed.
- Enforcement action relating to the information being disclosed was initiated against you, against a person associated with or related to you, or against a third party. In the case of enforcement action against a third party, the purpose and impact of the enforcement action must be sufficiently related to the facts disclosed in the application.
- We have already received information regarding your potential involvement in tax non-compliance or that of a related person (for example, a leak concerning offshore banking or other information that names you).

Complete application

To be complete, your application must disclose, for all fiscal laws, taxation years and periods, all the instances where you failed to meet your fiscal obligations. You must also calculate or estimate your income and the duties you owe.

Your application will be considered **incomplete** in the following cases:

- You have failed to fulfill other obligations under the applicable fiscal legislation.
- A person you control has failed to fulfill its obligations under the applicable fiscal legislation.
- You are controlled by a person that has failed to fulfill its obligations under the applicable fiscal legislation.
- You are controlled by a person that also controls a person that has failed to fulfill its obligations under the applicable fiscal legislation.

Verifiable application

For your application to be considered verifiable, you must turn over all the available information and documents required to determine the accuracy of the facts submitted and the estimated duties. If you do not do so by the deadline, we will consider your application **unverifiable** and will deny it.



Tax debt paid

We will not examine your application under the program if the related tax debt is unpaid. You must therefore enclose payment of the outstanding duties with form LM-15-V. In situations where it is particularly difficult to estimate the amount of the duties, you must estimate them to the best of your ability and enclose payment in that amount.

In some cases, we may be able to reach a payment agreement taking into account all the amounts due as at the date of the agreement, not only the fiscal debt resulting from the voluntary disclosure. This way, you can still benefit from the relief under the program, on condition that you respect the agreement as well as the rest of your tax obligations.

Voluntary disclosures concerning the goods and services tax (GST) and the harmonized sales tax (HST) are subject to the Canada Revenue Agency's Voluntary Disclosures Program. For more information, see the current version of GST/HST memorandum 16-5, *Voluntary Disclosures Program*, at canada.ca/taxes.



MAKING A VOLUNTARY DISCLOSURE APPLICATION

To make a voluntary disclosure application, you or your representative must complete form LM-15-V, *Voluntary Disclosure*. You can get it at revenuquebec.ca or by calling one of the following numbers:

- Québec City area: 418 659-6299
- Montréal area: 514 864-6299
- Elsewhere in Canada and the U.S.: 1 800 267-6299 (toll-free)

You must provide all the required information and enclose your payment with the form. From the information and supporting documents you provide, we must be able to determine whether your situation is eligible, rectify your tax situation and determine whether the four main conditions mentioned above have been met.

To guarantee that the voluntary disclosure program is applied consistently, applications are received, reviewed and processed by a designated team. The same team is also responsible for answering any questions you might have about your application.

If you are unsure whether you want to proceed with an application, you can have an anonymous preliminary discussion about your situation to better understand the voluntary disclosure process, the risks involved in remaining non-compliant and the relief available under the program. However, such a discussion does not constitute acceptance into the program and has no impact on our power to audit, penalize, or refer a case for criminal prosecution.

If your representative files form LM-15-V, he or she must enclose a copy of form MR-69-V, *Authorization to Communicate Information or Power of Attorney*.



PROGRAM CATEGORIES AND RELIEF

If we conclude that your application was made in accordance with the terms and conditions, that it is eligible and that it meets all the requirements, we will determine which program category it falls into and grant the corresponding relief.

Since most taxpayers meet their tax obligations, we consider that the relief provided under the program should be proportional to the type of non-compliance. There are therefore four categories under the program.

1. General program

The general program applies in cases of fiscal non-compliance without any element of intentional misconduct on your part or on that of a closely related party. You will not be referred for criminal prosecution or be charged penalties with respect to the disclosed facts and elements. However, interest will be charged.

2. Limited program

The limited program applies in cases of fiscal non-compliance where there is an element of intentional misconduct on your part or on that of a closely related party. You will not be referred for criminal prosecution with respect to the disclosed facts and elements or be charged penalties for gross negligence. However, other penalties may apply, and interest will be charged.

3. QST wash transactions

This category applies in cases where wash transactions have occurred. You will have to remit the QST you did not collect or the input tax refunds you unjustly claimed, but we will waive the penalties and interest that would otherwise be payable under the applicable tax legislation.

4. Duties on the transfer of an immovable

This category concerns situations involving the imposition of special duties equal to 150% of the transfer duties payable in respect of the transfer of an immovable. It applies if you failed to declare the transfer in the land register or file a notice of disclosure with the municipality where the immovable is located by the 90-day deadline and in accordance with the terms set out in the *Act respecting duties on transfers of immovables*. Under this category, we can waive up to one sixth of the special duties.



CONSEQUENCES OF VOLUNTARY DISCLOSURE

If we accept your disclosure application, we will assign it a category. To benefit from the applicable relief, you will have to waive your right to objection, contestation and appeal in respect of the facts disclosed, as well as the duties, penalties and interest arising from the adjustments made under the program. However, this does not prevent you from filing a notice of objection in certain specific situations.

If your application is denied at any point while being processed, we will notify you (and your representative, if applicable) in writing. We will then forward the information and documents submitted with the application to the appropriate department (for example, the audit department). We may also determine or redetermine the amount of the duties, interest and penalties payable for the taxation years and periods in question and issue you a notice of assessment in that regard. We may also institute legal proceedings.



TO CONTACT US

ONLINE

revenuquebec.ca

BY TELEPHONE

Monday to Friday: 8:30 a.m. to 4:30 p.m.

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