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FAIR.
FOR ALL.

**REWARD PROGRAM
FOR INFORMANTS OF
TRANSACTIONS COVERED
BY THE GENERAL
ANTI-AVOIDANCE
RULE AND SHAM
TRANSACTIONS**

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This guide is provided for information purposes only. The information it contains 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

The Québec government is committed to ensuring that all taxpayers contribute their fair share to the funding of public services. Out of fairness to those taxpayers and mandataries who meet their obligations voluntarily, collecting outstanding tax revenue is a top government priority. That is why the government has entrusted us with administering its Reward Program for Informants of Transactions Covered by the General Anti-Avoidance Rule and Sham Transactions.

An existing framework already allows taxpayers to report (anonymously or not) a person or business they suspect is not meeting its tax obligations. However, it does not offer any rewards for doing so.

The reward offered under the program is meant to offset the potential personal, social and professional consequences of reporting another taxpayer and thereby encourage people to come forward with information about transactions aimed at avoiding Québec income tax or other duties payable under Québec legislation.

Note that the program covers different transactions than the Canada Revenue Agency's Offshore Tax Informant Program (OTIP).



ELIGIBLE INFORMATION

To be eligible, information must:

- concern a transaction or series of transactions (hereinafter a “transaction”) that leads to the application of the general anti-avoidance rule (GAAR) or constitutes a sham; and
- lead to the recovery of at least \$100,000 in duties under Québec tax legislation.

In order for the GAAR to apply, the following elements must be present:

- the transaction results in a tax benefit;
- the transaction constitutes an avoidance transaction, in that it was not conducted for bona fide purposes (obtaining a tax benefit is not a bona fide purpose); and
- the avoidance transaction is abusive.

The three elements must be present for a tax benefit to be denied.¹

According to case law, a sham is generally a transaction conducted with an element of deceit so as to create an illusion calculated to lead the tax authority away from the taxpayer or the true nature of the transaction; or, simple deception whereby the taxpayer creates a facade of reality quite different from the disguised reality.

Without limiting the generality of the concept of a sham, the program covers sham transactions in the context of contractual relationships where there exists a simulation within the meaning of article 1451 of the *Civil Code of Québec*, i.e., where the parties agree to express their true intent, not in an apparent contract, but in a secret contract, in order to deceive tax authorities. The element of deceit covered by the program consists in parties creating the appearance of contractual rights and obligations that they know do not exist or are different from what is being presented, with the goal of deceiving tax authorities. The program does not cover the unilateral submission of facts that prove to be false.

The following information is not eligible:

- any information that has already been brought to the attention of Revenu Québec or the CRA through:
 - a voluntary, mandatory or preventive disclosure,
 - a reportable transaction information return filed with the CRA, or
 - an audit or investigation conducted by Revenu Québec or the CRA,
- any information concerning international tax non-compliance covered by the OTIP.

1. The law states that when the GAAR applies, the taxpayer’s tax consequences must be determined as is reasonable in the circumstances in order to deny a tax benefit that, if the GAAR did not apply, would result directly or indirectly from an avoidance transaction.



INFORMANTS

Any individual can be an informant, except:

- an individual who benefitted directly or indirectly from one or more transactions being reported;
- an individual who, directly or indirectly, proposed, planned or implemented a transaction being reported, or who was paid to do so;
- an individual who was found guilty of tax evasion or an offence listed in section 750 of the *Criminal Code*;
- an employee or former employee of any of the following who obtained eligible information as part of his or her duties:
 - Revenu Québec, the CRA or another tax authority,
 - a provincial or municipal government department or body,
 - a government corporation (or Crown corporation), or
 - a police force; and
- an individual subject to the *Professional Code* who obtained eligible information as part of the exercise of his or her profession.

An individual who benefitted indirectly from a transaction may still be eligible if he or she can prove that he or she did not take part in it.

Informants must identify themselves.

REWARDS

Rewards can reach up to 15% of the duties (not including interest or penalties) recovered under Québec tax legislation as a result of the information submitted. The exact percentage of an informant's reward is based on criteria such as the quality and usefulness of the information and the informant's level of cooperation.

If the information is considered eligible, a contract will be signed with the informant to define the parties' respective commitments. The reward will be paid only once the duties in question have been recovered and all deadlines for objection, contestation or appeal by the taxpayer(s) in question have elapsed. It must be included in the informant's income for the taxation year it was received and is subject to the applicable source deductions of income tax.



SUBMISSIONS

If you have detailed, credible information you think could be eligible, complete form LM-8-V, *Denunciation – Reward Program for Informants of Transactions Covered by the General Anti-Avoidance Rule and Sham Transactions*, and send it by mail or courier to the following address:

Direction de l'intégrité et de la recherche en matière de planification fiscale agressive
Revenu Québec
Complexe Desjardins, tour Nord, secteur D254LC
C. P. 5000, succursale Place-Desjardins
Montréal (Québec) H5B 1A7

We will ensure the protection of all confidential information and, subject to the applicable legislation, will protect informants' identities. In some cases, however, such as if an informant is called as a witness in public legal proceedings, it may be impossible to protect his or her identity. In such cases, we will notify the informant before deciding whether to continue the proceedings.

To ensure confidentiality, do not send any information by fax or email. Likewise, do not send us any documents that are protected by attorney-client privilege.

For more information about the program, refer to interpretation bulletin ADM. 8, *Reward Program for Informants of Transactions Covered by the General Anti-Avoidance Rule and Sham Transactions*, or call us, toll-free, at 1 855 208-1131. All calls are confidential.



TO CONTACT US

Online

revenuquebec.ca



By phone

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

Direction de l'intégrité et de la recherche en matière de planification fiscale agressive

Everywhere in Québec
1 855 208-1131

By mail

Direction de l'intégrité et de la recherche en matière de planification fiscale agressive
Revenu Québec
Complexe Desjardins, tour Nord, secteur D254LC
C. P. 5000, succursale Place-Desjardins
Montréal (Québec) H5B 1A7

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