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Canadian
Home Builders'
Association



Association canadienne
des constructeurs
d'habitations

CHBA Submission on Proposed Changes to the Voluntary Disclosures Program

August 2017

About the Canadian Home Builders' Association

Since 1943, the Canadian Home Builders' Association (CHBA) has been "the voice of Canada's residential construction industry" - one of the most vital and enterprising industries in Canada. Representing more than 8,500 member firms across Canada, CHBA members represent every part of Canada's housing industry - home builders, renovators, land developers, trade contractors, product and material manufacturers, building product suppliers, lending institutions, insurance providers, service professionals and others.

In 2016, the industry continued to support over 1 million jobs in new home construction, renovation and repair, and continues to be one of the largest employers in Canada. One of every 18 workers in Canada is employed, directly or indirectly, in residential construction. Total wages paid in 2016 were \$59.4 billion.

The investment value of new homes, renovations and repairs produced by the industry in 2016 exceeded \$138 billion.

Comments on the Voluntary Disclosures Program

CHBA supports the division of information on the Voluntary Disclosures Program (VDP) for income tax disclosures and GST/HST registrants/claimants. For the purposes of its submission, CHBA's comments focus on the VDP as it pertains to GST/HST registrants/claimants.

Small-Business Lens

- 1) THE VDP needs to be more cognizant of the capacities of small- and medium-sized businesses. CHBA urges that a small business lens be applied to proposed changes to the VDP as well as its subsequent application to ensure that SMBs have a fair opportunity to use the Program.
- 2) Specifically, Draft GST/HST Memorandum 16.5 provides a few examples of situations that would limit firms to being processed under Track 3 (Limited Program). Two of these examples are extremely ambiguous: "large dollars amounts" and "a sophisticated registrant."

- 3) CRA needs to explain its intent behind including 'large dollar amounts', criteria for this measure, and the relative scale compared to the size of the business in question. There is already a specific example of "GST/HST charged or collected but not remitted" – this would seem to already include partial remittance.
- 4) CRA also needs to provide criteria that would guide the evaluation of "a sophisticated registrant." CHBA would contend that one of the dominant characteristics of SMBs, after their size, is their general lack of sophistication in business operations.
- 5) Draft GST/HST Memorandum 16.5 also refers to "multiple years of non-compliance" as a limiting factor for VDP applications. SMBs, due to their lack of sophistication, may repeat the same remittance error year after year until they become aware of this deficiency. In cases like these there is no deliberate avoidance of tax, therefore the number of years should not be a factor in tracking the VDP application.
- 6) The criteria for a second VDP application by the same registrant is also overly strict in its application and potentially difficult for SMBs to comply with. Draft GST/HST Memorandum 16.5 allows a second application only if circumstances "are both beyond the registrant's control **and** related to a different matter than the first application" (emphasis added).
- 7) Determining that a particular circumstance was within the registrant's control is a very subjective restriction and does not speak to either intent or awareness – in the absence of which the question of control is less clear. In the absence of specific criteria that illustrate what is considered in the registrants control, the qualification that it is related to a different matter than the first application should be considered sufficient to prevent abuse of the VDP.

Input Tax Credits

- 8) CHBA is concerned about ability under the VDP to unduly punish builders and developers for administrative and organizational issues that have no real bearing on remittance.
- 9) Joint venture, co-ownership and partnership structures that are ideal setups for residential construction firms have not always aligned with CRA regulations and this lack of clarity can make compliance more complex.
- 10) VDP regulations should affirm that, in cases where "improperly claimed input tax credits" refers to the wrong entity only, as opposed to incorrect values, that the application should be considered a GST/HST "wash transaction" and processed under Track 1.

Loss of the “No-Name” Disclosure Method

- 11) There are distinct differences in the descriptions of the old “No-Name” Disclosure Method and the new Pre-Disclosure Discussion. What is contained in the Pre-Disclosure Discussion and what information may be conveyed to registrants/claimant in the process is presented in much more general terms.
- 12) It would be beneficial to confirm that the Pre-Disclosure Discussion will still include the possibility of a VDP official confirming that “there is nothing set out in the information provided that may immediately disqualify the taxpayer from further consideration under the VDP.”
- 13) CRA should also commit to continue to “review, upon request, this preliminary information and advise, without prejudice, on the possible tax implications of the disclosure.”
- 14) The removal of these specifics in the VDP regulations may be interpreted as a signal that a Pre-Disclosure Discussion is not a helpful tool to businesses.