

# Tax News Flash

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## Changes Are Coming to the Voluntary Disclosures Program

By: Louise Summerhill

In the fall of 2016, the Offshore Compliance Advisory Committee issued a report on the CRA's voluntary disclosures program (the "Report"), which Report was endorsed by the Minister of National Revenue in December. On February 22, 2017, the CRA announced that its review of the recommendations regarding the Report will be completed by March 31, 2017.

The Report proposed numerous changes to the voluntary disclosures program, the effect of which will likely reduce the benefits available under the program. The Report recommends that the amount of relief available to a taxpayer should be reduced where external factors indicate a high level of culpability on the part of the taxpayer. Factors such as the length of non-compliance, the dollar amounts of tax owing, the deliberateness of non-compliance and the sophistication of the taxpayer would be taken into account when determining the quantum of relief granted. Assuming this recommendation is taken up, there is a likelihood that interest and penalties will be applied to taxpayers in certain circumstances where currently penalties would be waived and interest reduced. As well, indications are that more audit review will occur at the voluntary disclosure level.

The Report also recommended that a condition of acceptance into the voluntary disclosures program will be payment of the estimated tax and interest within 90 days from the effective date of the disclosure. Historically, there has been no requirement to pay under the voluntary disclosures program and ability to pay has never been a precondition to acceptance.

Taxpayers considering whether to make a voluntary disclosure should be mindful of the timing. If the review of the recommendations is completed by March 31, 2017, one could expect that implementation of the new recommendations could be fairly immediate. Presumably, taxpayers who have initiated voluntary disclosures prior to an implementation date would be grandfathered. However, there is no guarantee that this would be the case.

The alleged purpose of the changes is to give the appearance of fairness to all taxpayers. However, one wonders whether these recommendations will discourage non-compliant taxpayers from becoming compliant; they may decide to take their chances rather than risk the antagonistic process.

Taxpayers seeking further information regarding the voluntary disclosures program should contact:

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