

# Voluntary Disclosure Program

The Montana Department of Revenue encourages businesses and individuals that are not in compliance with Montana tax laws to voluntarily come forward to register and pay prior tax obligations. The Department's Voluntary Disclosure Program is designed to help resolve prior tax liabilities. This applies to any tax administered by the Department and to any type of domestic or foreign taxpayer who is subject to tax in Montana.

The Voluntary Disclosure Program allows qualified entities and individuals to disclose their tax liabilities voluntarily and settle their tax obligations in a Voluntary Disclosure Agreement (VDA). Impacted taxpayers may contact the Montana Department of Revenue directly or use the services of the Multistate Tax Commission's National Nexus Program. The Department encourages those entities engaged in multistate activities to use the services of the National Nexus Program to come into compliance in multiple jurisdictions in which returns should have been filed. The National Nexus Program offers a single point of contact and substantially uniform procedures. Information regarding the National Nexus Program can be found at [www.mtc.gov](http://www.mtc.gov).

## Qualifying for Voluntary Disclosure

Each voluntary disclosure request is considered separately on its own facts and circumstances. Before the Department will consider a request, an entity or individual must meet all of the following criteria:

1. has not filed a return for the tax type covered by the agreement within the last five years;
2. has had no previous contact by the Department or its agencies, including the Multistate Tax Commission, regarding a tax covered by the agreement, including, but not limited to, notification of audit, review, assessment, request for information, letter from the Department following a foreign company's registration with the Montana Secretary of State, or a letter from the Department following a domestic company's formation by filing documents with the Montana Secretary of State;
3. has had no notification of an impending audit by the Department or its agencies, including the Multistate Tax Commission;
4. has voluntarily come forward and made an application for a VDA;
5. agrees to file returns specified in the agreement and pay all the taxes and statutory interest for the entire lookback period within the time period and manner specified in the agreement without further action by the Department;
6. agrees to register with the Montana Secretary of State, file returns, and pay all taxes for periods after the lookback period without further action by the Department; and
7. has not been a party to any criminal investigation or pending civil or criminal litigation for nonpayment, delinquency, or fraud in relation to any tax due.

## Initial Taxpayer Contact

The Department will accept telephone inquiries about the program; however, formal requests to participate in the program must be in writing and must contain the following information:

*If an entity,*

- a full and accurate statement of the entity's activities for five immediately preceding filing periods;
- a full and accurate statement of the entity's activities in Montana for five immediately preceding filing periods;
- the number of years the entity has been doing business in Montana;
- the type of tax or taxes for which the entity is requesting an agreement for voluntary disclosure;
- an explanation for the failure to register with the Secretary of State;
- an explanation for the failure to file Montana returns and pay taxes;
- proposed voluntary disclosure agreement terms; and
- an estimate of the tax liability for the lookback period.

*If an individual,*

- a full and accurate statement of the individual's activities in Montana for five immediately preceding filing periods;
- the addresses at which the individual has resided for the five immediately preceding filing periods;
- the number of years the individual maintained a place of abode in Montana;
- the type of tax or taxes for which the individual is requesting an agreement for voluntary disclosure;
- an explanation for the failure to file Montana returns and pay taxes;
- proposed voluntary disclosure agreement terms; and
- an estimate of the tax liability for the lookback period.

An application will not be considered until a full written disclosure has been made setting out all pertinent facts and circumstances concerning the information required by the Department. Based on the information submitted, the application will be approved or rejected or a counter proposal will be made. The Department will offer a draft agreement for review and approval by the taxpayer or their representative.

The length of the disclosure, or lookback, period depends on the facts and circumstances of the activities in Montana. Generally, the disclosure period is five years.

#### Executing the Agreement

When the terms of the agreement have been established, the Department will forward the agreement to the taxpayer or their representative. The taxpayer will have 45 days to execute the agreement and an additional 15 days to submit the executed agreement to the Department. The taxpayer will remain anonymous until the signed agreement is returned to the Department.

The taxpayer will then have 90 days to register with the Secretary of State (if applicable), submit the tax returns, and pay the tax. Upon receipt, the Department will issue a bill to the taxpayer for interest owed at the statutory rate.

If an offer is denied, a letter will be sent to the taxpayer or their representative.

The VDA can be voided by the Department if the taxpayer:

- misrepresents material facts relevant to the agreement;
- fails to file returns or pay taxes and statutory interest for the lookback period within the time specified in the agreement;
- reneges on an installment payment arrangement; or,
- fails to continue to comply with Montana tax law.

Contact Information:

Voluntary Disclosure Program  
Montana Department of Revenue  
P.O. Box 5805  
Helena, Montana 59604-5805

National Nexus Program  
Multistate Tax Commission  
444 North Capitol St., Suite 425  
Washington, D.C. 20001-1538

Toll Free (866) 859-2254  
Telephone (406) 444-6900  
Fax (406) 444-2900

Telephone (202) 508-3800  
Fax (202) 624-8819