

Does My Company Qualify for Wisconsin's Voluntary Disclosure Program?

Article

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Taxes and their applicable laws can be confusing for even the most savvy businesspeople. For any number of reasons, businesses and individuals fall out of compliance with tax reporting requirements and become exposed to penalties for outstanding obligations.

To encourage taxpayers who are not in compliance with state tax laws to remedy their situations, the Wisconsin Department of Revenue provides the Wisconsin Voluntary Disclosure Program ("Program").

The Program is designed to help businesses correct their state tax responsibilities and potentially avoid costly penalties and interest. It covers sales and use tax, franchise/income taxes, withholding taxes, and other taxes, allowing for wide-spread correction of state compliance requirements.

To determine whether the Program is right for your business, it is first important to understand its benefits, requirements, and potential risks.

Overview of the Program

The Program provides several benefits:

- Written agreement to restrict the statute of limitations.
- Waiver of negligence penalties.
- Reduction of interest from 18 percent to 12 percent, with the exception of withholding taxes, motor vehicle taxes, and intoxicating liquor floor taxes, which remain at 18 percent.
- Possible reduction in number of periods for which returns must be filed—typically, four years.
- Elimination of the risk of being discovered under audit.

The opportunity for businesses to avoid penalties and correct their misgoverned books and records is noteworthy in this climate of rapidly changing tax laws. Because the Program offers such substantial benefits, there are stringent requirements to enter into it.

Qualification Requirements for the Voluntary Disclosure Program

A taxpayer must meet certain conditions and enter into a written agreement with the Wisconsin Department of Revenue to enter into the voluntary disclosure program. To qualify, a business must meet the following conditions:

- No tax returns filed for the period being disclosed.
- No registration for the type of tax involved during the period being disclosed.
- No contact by the department within the last six years regarding a registration/filing requirement or an assessment/audit assignment regarding the tax being disclosed.

The Wisconsin Department of Revenue has also allowed online marketplace sellers to qualify for the Program. Online marketplace sellers, defined as “sellers who make sales through online marketplaces,” may be required to collect Wisconsin sales/use tax and file Wisconsin franchise/income tax returns as a result of having inventory stored in a warehouse or fulfillment center located in Wisconsin. Furthermore, marketplace providers that sell goods on behalf of sellers may also participate.

Is the Program Right for My Business?

Before a business decides if it wants to enter into the Program, it must understand its requirements going forward.

A taxpayer may initially remain **anonymous**. However, once the agreement is complete, they must:

- File all agreed-upon prior period returns (usually four prior years). Registering and filing voluntarily may not alleviate past filing obligations.
 - Sales and withholding tax returns are filed on a quarterly basis.
 - Combined corporation franchise or income tax returns must be filed electronically for the current and two prior years.
- Pay all tax, late filing fees, and interest according to the agreement.
- File the current and any subsequent returns in a timely manner according to the agreement
- Make books and records available to the department.

Although this process is strictly for relief in Wisconsin, if a taxpayer wishes to enter into an agreement with more than one state, they are able to do so. Wisconsin is a member of the Multistate Tax Commission (MTC), and as such, allows taxpayers to participate in the Multistate Voluntary Disclosure Process.

The Wisconsin Voluntary Disclosure Program provides a litany of benefits for businesses, however, taxpayers who may be considering entering into the agreement should consult a tax professional to determine if it is best for their

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situation. In addition to the benefits of the Program, it also avails the taxpayer to an audit of the information provided to the department. Businesses should work with a tax professional to review their application materials that must be submitted as well as their state filing history.

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