

VOLUNTARY DISCLOSURE AGREEMENT GUIDE



OKLAHOMA
Tax Commission

Voluntary Disclosure Agreement (VDA)

Description of Program

The Oklahoma Voluntary Disclosure Agreement (VDA) Program is designed to promote state tax compliance and benefit taxpayers who discover a past filing obligation and/or liability that has not been discharged. Only taxpayers that have not registered, filed or remitted tax to the Oklahoma Tax Commission (OTC) are eligible for the VDA Program. The VDA Program applies to any tax administered by the OTC and to any type of domestic or foreign taxpayer that is subject to tax in this state.

Taxpayers that have filed returns but underreported or under-remitted the tax due are not eligible for the VDA Program. In addition, taxpayers that have applied for a tax account prior to the VDA Program request, or those who have previously had a tax account with the OTC, are not eligible for the VDA Program.

A major function of the VDA Program is to resolve sales and use, withholding, corporate income and franchise tax liabilities when nexus is the central issue.

Eligibility for the VDA Program is reviewed on a tax-by-tax basis. For example, if a taxpayer has filed a return, paid or been contacted for one tax type, it will not preclude the taxpayer from entering into the VDA Program for other tax types.

Qualifying for Voluntary Disclosure

To qualify for the VDA Program, all the following criteria must be met:

- The taxpayer has not been contacted by the OTC, an agent of the OTC, or the Internal Revenue Service with respect to any tax for which the taxpayer is requesting a VDA.
- The taxpayer has not filed a return, had an account or applied for an account for the specific tax type.
- The taxpayer does not have outstanding tax liabilities other than those reported through the VDA Program.
- The taxpayer is not under audit by the OTC.
- The taxpayer pays the tax due under the VDA Program within 90 days of the date the OTC signs the VDA.
- Upon request, the taxpayer makes records available for the OTC to verify the amount of the taxpayer's liability and the accuracy of representations made by the taxpayer.
- The taxpayer cannot have previously entered into a VDA with the OTC.
- The taxpayer must note on the VDA Program application whether the tax was collected and, if so, the dates that tax was collected.

Benefits of Voluntary Disclosure

A taxpayer whose application for a VDA is approved will receive:

- A look-back period limiting the requirement to file returns and pay tax to three (3) years for taxes filed annually, or thirty-six (36) months for taxes that do not have an annual filing frequency. The look-back period will be calculated from the date of the taxpayer's VDA Program application. If the taxpayer has collected taxes from others, such as sales tax, and not reported those taxes for periods beyond three years or thirty-six (36) months, the requirement to file and pay will be extended to cover those periods for which the taxpayer collected the taxes.

Under the VDA Program, the requirement to file returns and pay taxes for three years or thirty-six (36) months refers to returns that are currently past due. To determine the filing requirement for taxes that are filed annually, a taxpayer would file the most recent return **that is past due**, plus returns for the two (2) previous years. To determine the filing requirement for taxes that do not have an annual filing frequency, a taxpayer would file the most recent return **that is past due**, plus returns for the previous thirty-five (35) months.

Unregistered taxpayers that do not participate in the VDA Program and are discovered by the OTC are required to file returns and pay taxes for a minimum of six (6) years for taxes filed annually or seventy-two (72) months for taxes that do not have an annual filing frequency.

- For VDAs where tax was not collected by the taxpayer, penalty and one-half of accrued interest will be waived by operation of law and no further action shall be required by the taxpayer.
- Taxpayers who collected a trust tax, such as sales tax, but did not pay it to the OTC will receive consideration for a waiver of only the penalty after all taxes due for the filing period(s) and all taxes collected by the taxpayer have been paid to the OTC.
- For sales and use tax or withholding tax, the taxpayer shall submit the tax liability in a spreadsheet format versus filing a return for each period included in the VDA.
- The taxpayer will have ninety (90) days from the date the OTC signs the VDA to determine the tax liability, prepare the returns or spreadsheets and pay the amount of tax due.

How to Apply

Taxpayers or their representative can anonymously complete the program application for **business taxes and/or income tax** by visiting OKTAP via oktap.tax.ok.gov and selecting the [Request a Voluntary Disclosure Agreement](#) link to submit an application electronically.

Review and Approval of Voluntary Disclosure Requests

The OTC will review each application for the VDA Program. If the information provided on the VDA Program application is sufficient, a blank VDA will be sent to the contact named in the application. The taxpayer will then need to complete, sign and return the VDA. Once the VDA has been approved, the OTC will sign and send it back to the taxpayer or representative. The VDA is considered fully executed once it is signed by both parties.

If the OTC determines that the taxpayer does not qualify for the VDA Program, the taxpayer or representative will be notified.

If the taxpayer or representative makes any misrepresentation of information or applicable tax data to the OTC, the VDA may be voided and the OTC may take action as if the agreement does not exist.

Audits for Voluntary Disclosure Period

The OTC reserves the right to examine the books and records of the taxpayer for periods prior to registration, solely for the purpose of ascertaining the correctness of representations made by the taxpayer to the OTC.

The OTC will assess any tax determined to be due under the VDA. All applicable penalties and interest will apply to additional taxes discovered to be due that have not been paid.

A taxpayer contacted by the OTC for the purpose of examination after an application for the VDA Program has been submitted, but prior to the signing of a VDA by the OTC, may disclose the same to suspend audit activity pending acceptance into the VDA Program.

Confidentiality

The OTC will not release the identity of a taxpayer that enters into a VDA or the terms of a VDA unless the information is required to be released upon request of existing information exchange agreements or under the provisions of 68 O.S. § 205.

Questions?

Contact Audit Services at voluntarydisclosure@tax.ok.gov.



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