



Voluntary Disclosure Program

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Voluntary Disclosure Program

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Voluntary Disclosure Program

Description of Program

- The Kansas Department of Revenue encourages businesses and individuals that are not in compliance with Kansas tax laws to voluntarily come forward to register and pay prior tax obligations.
- This applies to any tax administered by the Division of Taxation and to any type of domestic or foreign taxpayer subject to tax in this State.
- Taxpayers may anonymously contact the Department to seek resolution of tax liabilities arising from past activities in Kansas.



Voluntary Disclosure Program

Benefits of Voluntary Disclosure

- limited three-year look-back period
- no potential discovery through the State's normal investigative or audit procedures
- no penalties are imposed for late filing and payment, however, interest is due at the statutory rate on all tax due



Voluntary Disclosure Program

Qualifying for Voluntary Disclosure

- The taxpayer has not been contacted by the Department or The Multistate Tax Commission with respect to any tax for which the taxpayer is requesting voluntary disclosure.
- The taxpayer is not under audit for any tax for which the taxpayer is requesting voluntary disclosure.
- The taxpayer's failure to file is not the result of fraud or gross negligence on the part of the taxpayer.



Voluntary Disclosure Program

How to Apply

- KDOR accepts telephone inquiries about the program. Formal requests to participate in the program must be in writing and must contain the following information:
- A description of the business.
- The nature and extent of Kansas activities
- The periods of time the taxpayer has been in business and conducted activities in Kansas.
- Previous filing or payment history with the Department.
- Prior contact with KDOR or the MTC regarding its Kansas liability.



Voluntary Disclosure Program

How to Apply

- Whether the taxpayer has collected Kansas sales or use taxes.
- Any outstanding liabilities for any tax administered by KDOR.
- An explanation of why returns have not been filed and taxes have not been paid.
- Terms proposed by the taxpayer.
- An estimate of the amount of Kansas taxes due.



Voluntary Disclosure Program

Approval of Voluntary Disclosure Requests

- An application will not be considered until a full written disclosure has been made setting out all pertinent facts and circumstances.
- 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.



Voluntary Disclosure Program

Executing the Agreement

- The taxpayer has 60 days to return the signed agreement, provide the requested registration, returns and schedules, and pay the tax.
- Upon receipt, the Department will issue a bill to the taxpayer for interest owed at the statutory rate.
- The taxpayer will remain anonymous until the signed agreement is returned to the Department.



Voluntary Disclosure Program

Executing the Agreement

- When the taxpayer is identified, check is made to determine if the taxpayer has an outstanding liability for any tax and if the taxpayer has a prior filing history.
- If the Department determines that the taxpayer or its representative misrepresented the information the Agreement can be voided and the Department can take action as if the Agreement did not exist.



Voluntary Disclosure Program

Audits for Voluntary Disclosure Period

- KDOR may audit a taxpayer's books and records, subject to statutory time limits.
- The audit may include all or part of a voluntary disclosure period and assess any tax determined to be due that was not discharged under the Voluntary Disclosure Agreement.
- All applicable penalties and interest will apply to additional taxes discovered to be due that have not been paid.



Voluntary Disclosure Program

Audits for Voluntary Disclosure Period

- If any of the factual representations made in the voluntary disclosure process are found to have been materially misrepresented or a material fact is found to have been omitted by the taxpayer or its representative, the Department may consider the Agreement null and void and proceed as though the Agreement never existed.



Voluntary Disclosure Program

Confidentiality

- KDOR will maintain complete confidentiality of the Disclosure Agreement.
- KDOR will not discuss the identity of the taxpayer or the existence of the Disclosure Agreement with any tax authorities of any State or government authority or with any person or party except as required by exchange agreements in effect.



Voluntary Disclosure Program

Agreements received and processed

	<u>FY</u> <u>2006</u>	<u>FY</u> <u>2007</u>	<u>FY</u> <u>2008</u>
In Process	0	4	49
Denied	20	21	8
Closed	65	91	33
Total	<hr/> 85	<hr/> 116	<hr/> 90



Voluntary Disclosure Program

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
Tax Collected	1,109,467	2,420,500	2,826,098
Interest Collected	142,168	284,845	219,307
Total	<u>1,251,635</u>	<u>2,705,345</u>	<u>3,045,405</u>