Tax alert

Abuse of source deductions and GST/HST amounts held in trust

The Canada Revenue Agency (CRA) is warning businesses about the consequences of failing to report and remit source deductions and goods and services tax/harmonized sales tax (GST/HST) they hold in trust for the Government of Canada.

Trust funds and your obligations[1]

The *Income Tax Act* and the *Excise Tax Act* require businesses to hold source deductions and GST/HST amounts in trust for the government. Employers are required to remit these source deductions—amounts withheld from employee salaries and wages to pay income tax, Canada Pension Plan/Quebec Pension Plan, and employment insurance premiums—to the federal government by certain dates.[2] Businesses that collect GST/HST must also remit these amounts to the government by specified dates.[3]

Funds held in trust must not be used as an alternate means of cash for a business. The CRA will use its legislated powers of recovery to make sure that amounts considered to be held in trust are paid to the government in full and on time.

There are consequences

Businesses that do not fulfill their obligations or comply with payroll requirements may be assessed penalties or interest or incur other consequences.[4]

Businesses have to file their GST/HST returns and make payments on time. Failure to do so may result in penalties and interest on any returns or amounts the business has not remitted to the government by the filing due date.[5]

The *Income Tax Act* and the *Excise Tax Act* allow for the recovery of source deductions and GST/HST amounts by:

- enhanced garnishments to collect amounts considered to be held in trust for the government;
- assessment of the directors of a corporation for the corporation's failure to remit either source deductions or GST/HST amounts;
- seizure and sale of assets of a debtor corporation, an assessed director or a sole proprietor; and
- any other means of recovery allowed under federal legislation.

Come to us before we come to you

If you have collected source deductions or GST/HST amounts and have not remitted them on time, please contact the CRA as soon as possible to make arrangements to pay the outstanding amounts.

Employers or businesses that have failed to file returns, remit source deductions or GST/HST amounts for current or previous years can voluntarily correct their tax affairs by participating in the Voluntary Disclosures Program. The Voluntary Disclosures Program allows taxpayers to come forward to correct inaccurate or incomplete tax information and disclose information they have not reported to the CRA. Taxpayers will not be penalized or prosecuted if they make valid disclosures before they become aware of any CRA compliance action against them. These taxpayers may only have to pay the taxes owing, plus interest.

More information

More information is available on the CRA's Web site at www.cra.gc.ca/voluntarydisclosures.

[1] **Deemed Trust – Information**

[2] **Filing and Remitting – Source Deductions**

[3] **Filing and Remitting – GST/HST**

[4] **Source Deductions – Penalties, Interest and Other Consequences**

[5] **GST/HST – Penalties and Interest**