

VOLUNTARY DISCLOSURE AGREEMENT GUIDE



OKLAHOMA
Tax Commission

Voluntary Disclosure Agreement (VDA)

What is a Voluntary Disclosure Agreement (VDA)?

A voluntary disclosure agreement (VDA) is an agreement between a taxpayer and the state of Oklahoma. It allows a taxpayer who has discovered a past filing obligation to enter into an agreement to file and pay the past due taxes and interest. In return, Oklahoma agrees to limit the past periods that must be filed and to potentially forgive a portion of the interest and/or penalty.

What types of taxes can be included in a VDA?

Any taxes administered by the Oklahoma Tax Commission are eligible for a VDA, as VDAs are tax type specific. 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 a VDA for other tax types.

Who can qualify?

- Any type of domestic or foreign taxpayer who is subject to tax in the State of Oklahoma.
- Taxpayers with no outstanding tax liability for any tax types other than those covered by the VDA.
- Taxpayers who have not been previously contacted by the Oklahoma Tax Commission (OTC) or an agent for the OTC regarding a potential or actual obligation to file or pay the state for the VDA tax type.
- Taxpayers who have not collected and not remitted taxes for the VDA tax type. This typically occurs with sales or use tax. If tax has been collected and not remitted, the taxpayer is eligible for a modified VDA, which reduces the amount of interest forgiven and extends the VDA period to include all periods that tax was collected but not remitted.

The taxpayer must note on their VDA application whether tax was collected and, if it was, the date tax collection began.

Who does not qualify?

- Taxpayers who have filed returns but underreported or under-remitted the tax are not eligible to enter into a VDA for that tax type.
- Taxpayers who have registered for a tax account prior to the VDA request are not eligible for a VDA for the same tax type.
- Taxpayers who have previously had a tax account with the Oklahoma Tax Commission (OTC) for the tax type of the proposed VDA are not eligible for a VDA.
- Taxpayers under audit by the OTC for any tax type.
- Taxpayers with delinquent periods for any tax type other than the VDA tax type.
- Taxpayers who have previously entered into a VDA for the proposed VDA tax type.

What are the requirements of the taxpayer once a VDA is entered?

- The taxpayer must file all required tax returns within 90 days of the date the Oklahoma Tax Commission (OTC) signs the VDA.
- The taxpayer must pay the full tax amount due under the VDA within 90 days of the date the OTC signs the VDA.
- Upon request, the taxpayer must make records available for the OTC to verify the amount of the taxpayer's liability and the accuracy of the representations made by the taxpayer.

What are the terms of the regular VDA?

- A regular VDA will be entered if all qualifications listed above have been met and taxes have not been collected and not remitted.
- The Oklahoma Tax Commission (OTC) will limit required filing to 3 years for taxes filed annually, or 36 months for taxes that do not have to be filed annually. This is fewer periods than taxpayers who are discovered by the OTC who do not participate in the VDA program.
- The lookback period includes the current tax return due on the date of applying for the VDA.
- The lookback period is calculated from the date of the taxpayer's VDA application and may include the month in which the taxpayer is applying for a VDA for periods that do not have an annual filing frequency.
- The taxpayer will be required to pay all tax due and half of the interest due.
- Oklahoma will waive half interest and all penalty without requiring any additional action by the taxpayer.
- The taxpayer has 90 days from the date the OTC signs the VDA to determine the tax liability, prepare the returns and pay the amount due.
- If the VDA tax type has been collected and not remitted, the taxpayer is only eligible for a modified VDA.

What are the terms of the modified VDA?

- When the tax type has been collected and not remitted, while meeting all other requirements of the VDA, taxpayer will only be eligible for a modified VDA.
- Under the modified VDA, the lookback period of the VDA will be extended to include all periods for which the tax was collected and not remitted.
- Taxpayer will be required to pay all tax and interest due under the VDA.
- Oklahoma will waive all penalty without requiring any additional action by the Taxpayer.
- Taxpayer has ninety (90) days from the date the OTC signs the VDA to determine the tax liability, prepare the returns and pay the amount due.

How do you apply for a VDA?

Taxpayers or their representative can anonymously complete the application to request a Voluntary Disclosure Agreement for business and/or income tax online via **oktap.tax.ok.gov**.

What happens after a taxpayer applies for a VDA?

The Oklahoma Tax Commission (OTC) will review each application for a VDA. If the information provided by taxpayer is sufficient and the taxpayer qualifies, a blank VDA will be sent to the contact named in the application. The taxpayer will then complete, sign and return the VDA to the OTC online at **oktap.tax.ok.gov**. The VDA is fully executed once it is signed by both parties.

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

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

The VDA cannot be reopened after it has been discharged. Any amended tax returns for the VDA periods will be handled outside of the VDA process as any other amended return, with any applicable tax, penalty and interest due therein.

Can I be audited for the VDA period?

The Oklahoma Tax Commission (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 the VDA by the OTC, may disclose the same to suspend audit activity pending acceptance into a VDA.

Will information disclosed for the VDA be shared with anyone?

The Oklahoma Tax Commission will not release the identity of any taxpayer that enters into a VDA, or the terms of the VDA, unless the information is required to be released upon request under the provisions of 68 Oklahoma Statutes Section 205 or existing information exchange agreements.

Who can I contact if I still have questions?

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



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