The voluntary disclosure programme

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IRAS operates a voluntary disclosure programme that reduces penalties for taxpayers who come forward before IRAS has begun an audit or investigation. The programme is administrative and is described in an e-Tax Guide, with no basis in the Act itself, but IRAS applies it consistently. It is the first instrument a practitioner reaches for when a client with undeclared token income appears.[1]

The conditions are that the disclosure is timely, accurate, complete and self-initiated and that the taxpayer cooperates fully and pays the tax and penalty. A disclosure made within the grace period of one year from the statutory filing deadline for the return in question attracts no penalty at all. A disclosure made after the grace period attracts a reduced penalty of 5 per cent per annum of the tax undercharged for income tax and withholding tax, computed from the original due date. For GST the reduced penalty is a flat 5 per cent. A disclosure of conduct that would otherwise be prosecuted as wilful evasion attracts a reduced penalty in place of prosecution, which IRAS has stated to be 200 per cent of the tax for income tax cases.[2] A disclosure is not voluntary if IRAS has already contacted the taxpayer about the matter, has begun an audit of the relevant year or has received the information from a third party, which after CARF will include the foreign exchange report.

The programme is well suited to the typical crypto case. Consider a Singapore resident who traded actively through 2021 and 2022, made and lost money, never filed and now wishes to regularise. He can compute his net trading profit for each year under the badges analysis, file the omitted income with a disclosure letter and pay tax plus 5 per cent per annum. Where the net position across years is a loss, the disclosure may produce no tax at all and establishes the loss for carry-forward. Where the client's position is that he was an investor, the disclosure should take the form of a position paper instead of an amended return, because filing income one does not believe is taxable concedes the point. In my experience IRAS engages with a reasoned position paper and will confirm investor status in writing where the facts support it.

Client question

"I traded crypto from 2020 to 2022 through a Singapore exchange and an overseas one, never declared anything and lost most of it in 2022. The exchange now asks me for my tax residence under the new rules. What should I do?" Compute your trading result for each year. If you were a trader, you probably had taxable profit in 2020 and 2021 and a loss in 2022 that could not be carried back. File a voluntary disclosure for the two profitable years before the exchange's CARF report reaches IRAS. The penalty is 5 per cent per annum on the tax, which for a 2021 profit disclosed in 2026 is about 25 per cent of the tax. The alternative, waiting for IRAS to ask, costs up to 200 per cent and removes the

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argument that you acted in good faith. If you believe you were an investor, say so in a reasoned letter and keep the evidence.

Notes

1. IRAS, e-Tax Guide *IRAS' Voluntary Disclosure Programme*, current edition.
2. IRAS, e-Tax Guide *IRAS' Voluntary Disclosure Programme*, sections on qualifying conditions, the one-year grace period, the 5 per cent per annum reduced penalty for income tax and the treatment of disclosures involving wilful intent.

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