

Voluntary Disclosure Program and Tax Amnesty Program

	Voluntary Disclosure Program	Tax Amnesty Program
Application period	On-going	February 1, 2005 – March 31, 2005
Eligible tax years	Six year look-back	2002 and earlier tax years
Who is an eligible entity/individual?	C corps, S corps, S corp shareholders, Certain trusts, Certain trust beneficiaries, LLCs and their owner members	All - Individuals, Corporations, Fiduciaries, Estates and Trusts, & Other Entities (LLCs, partnerships, etc.)
Qualifications	<ul style="list-style-type: none"> ➢ Cannot be qualified, registered or organized in California, ➢ Neither the applicant nor any predecessors to the applicant may have previously filed CA returns, ➢ Neither the applicant nor any predecessors to the applicant may have been contacted by the FTB regarding a tax obligation, ➢ Cannot have staffed and maintained a permanent facility in California, ➢ Must establish reasonable belief that there was no filing obligation, and ➢ Eligible S corp shareholders, trust beneficiaries and LLC owner members cannot be California residents on the date they sign their VDP agreement 	<ul style="list-style-type: none"> ➢ Failed to file income tax returns, ➢ Underreported tax liability on a previously filed income tax return, and/or ➢ Failed to pay any taxes previously assessed
Who is disqualified from the program?	Admitted applicants will have their VDP agreements voided if they misrepresent a material fact, fail to file and pay timely or the tax stated on a return is understated by 10%	Under investigation as of 2/1/05, or eligible for VCI or OVCI (but only disqualified in this latter case with respect to tax shelter items)
What is the approval process?	FTB staff evaluates applications. The Executive Officer and Chief Counsel of the FTB recommend and submit VDP agreements to the three member Board for approval. The Board's decision ordinarily is expected approximately 60 days after presented by staff	Automatic (unless disqualified)
What taxes are eligible?	Income and franchise	Income, franchise, sales and use
What required payments must be made?	Tax, interest, certain penalties and fees	Tax, interest and certain penalties and fees
What is relieved?	Certain penalties	Certain penalties and fees
Is relief discretionary or mandatory?	Discretionary	Mandatory
Imposition of 50% interest-based amnesty penalty	<p>Applies to VDP applications approved <u>after</u> March 31, 2005, for amnesty eligible tax years (if account has not been fully paid by that date)</p> <p>This penalty is not waivable</p>	<p>Applies to amnesty eligible candidates with a balance due that do not apply by March 31, 2005 (other than grandfathered I/As), and to deficiency and self-assessed amounts that become final for amnesty eligible tax years after March 31, 2005</p> <p>This penalty is not waivable</p>
Identity of applicant	Remains anonymous until accepted in VDP	Must be disclosed on the amnesty application
Time to file required returns	After applications are approved by the Board, staff has discretion to allow admitted applicants up to 120 days to file returns and make payment	No later than May 31, 2005 (must have applied for amnesty by March 31, 2005)
Appeal Process	None	None