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FREE GUIDE · Catch-up

Getting Back On Side

The formal routes back into compliance in Canada and the United States, what each requires, and why the choice is made before anything is filed.

Behind on filings: the catch-up routes and how to choose one

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Behind on filings: the catch-up routes and how to choose one

Missing years are a solved problem with a fixed procedure, not a crisis. What determines the outcome is the route you use and the order you do things in — and both are decided before a single return is filed, because filing first can close the better door.

Who this is for

- Anyone with unfiled returns or unfiled information forms in Canada, the United States or both.
- US citizens abroad who have only just discovered the US filing obligation.
- People holding a letter from a tax authority about foreign income or an unfiled year.

First: establish what is actually missing

The instinct is to start filing. The correct first step is to establish the perimeter: which years, which returns, which information forms, in which countries, and whether tax was owed as well as forms missed. Missing information forms with no tax owing is a very different case from unreported income, and they take different routes.

This also means finding out what the authority already knows. Automatic exchange of information means both the CRA and the IRS may already hold data about foreign accounts. A disclosure route that requires you to come forward before being contacted is available or not available depending on that, so it is worth knowing which side of the line you are on.

The Canadian route

Canada operates a voluntary disclosure programme with tracks that differ in the relief they offer, generally reflecting how serious the non-compliance was and whether it was deliberate. Acceptance depends on the disclosure being genuinely voluntary — made before the CRA contacts you about the issue — complete, and involving a potential penalty. Relief typically addresses penalties and some interest rather than the tax itself.

Separately, and often more useful for a first-time slip, taxpayer relief provisions allow a request to cancel or waive penalties and interest where circumstances beyond your control, an error by the authority, or genuine inability to pay caused the failure. That is a request supported by evidence rather than a programme with tracks, and it can be made alongside filing the returns. Our pages on CRA voluntary disclosureandtaxpayer reliefcover both.

The US routes, and the choice between them

For a US person whose failure to file was not wilful, streamlined procedures exist in two versions — one for taxpayers resident outside the United States and one for those resident in it — with different requirements and different penalty consequences. Both require a set number of past returns, a set number of past foreign account reports, and a signed certification explaining why the failure was non-wilful. That certification is the heart of the submission and it is a statement of fact, not a form to be filled lightly.

Where only information returns are missing and no tax is owed, lighter procedures may apply for delinquent account reports and delinquent information returns, on a reasonable cause basis. Where conduct was wilful, the streamlined route is not available and a different, formal disclosure practice applies with legal representation normally involved.

A quiet disclosure — filing back returns through the ordinary channel and saying nothing — is the option to avoid. It forfeits the protection the formal routes give and is treated as an aggravating rather than a mitigating fact. Our page onwhy not to make a quiet disclosuresets out the reasoning.

Reasonable cause is a story with evidence

Where relief depends on the reason for the failure, that reason has to be stated plainly and supported. What works is specific and verifiable: reliance on professional advice that turned out to be wrong, a serious illness, a bereavement, records lost in a documented event, or a genuine and reasonable misunderstanding about a status you had no obvious reason to question.

What does not work is a generic assertion of ignorance, or an explanation that contradicts the documents — a certification of non-wilfulness sits badly beside an email from three years earlier discussing the obligation. Building the explanation from the actual chronology, and testing it against the file before submitting, is the difference between relief and a rejected submission.

What good looks like when it is finished

A completed catch-up leaves you with the returns filed, the information forms filed, the explanation on the record, the tax and interest settled or arranged, and — most importantly — a system that means it does not happen again. The last part is the one people skip, and it is why some clients arrive twice.

That system is usually mundane: a calendar with every filing on it, an asset inventory kept current, and a decision about who is responsible for each filing each year. It is much cheaper than the disclosure that precedes it.

A catch-up, in order

Steps one to three happen before anything is filed. That is the part that decides the outcome.

1. **Map the perimeter** Every year, every return, every information form, in every country, with a note of whether tax as well as filing was missed.
2. **Establish whether you have been contacted** Voluntariness is a condition of several routes. Any letter, query or audit already received changes which options are open.

3. **Choose the route deliberately** Compare the routes on eligibility, the number of years required, the penalty outcome and what has to be certified. Filing into the ordinary channel first can remove the best option.
4. **Prepare the returns to filing standard** These are ordinary returns, prepared properly, not estimates. Where records are missing, reconstruct from bank and institutional data and document the method.
5. **Write the explanation from the chronology** A factual narrative supported by documents, tested for consistency with everything else in the file before it is signed.
6. **Submit, settle and build the calendar** File the package, arrange payment, then put the recurring filings and the asset inventory on a calendar so the next year is routine.

Papers to gather

What a catch-up engagement needs from you:

- Every return already filed in any country for the years in question.
- Bank, brokerage and institutional statements for each year, including closed accounts.
- Records of foreign accounts and assets with balances by year, including maximum balances.
- Employment, pension and business income records for each year.
- Any correspondence from a tax authority, in date order.
- A written chronology: when you learned of the obligation, from whom, and what advice you received.
- Immigration and travel records where residence or status is part of the story.
- Details of anyone who prepared returns for you, and what they were told.

Where it goes wrong

- **Filing first and asking later** Filing back returns through the ordinary channel can remove eligibility for the route that would have given the best outcome. The route decision comes first, always.
- **Signing a certification that the file contradicts** A non-wilfulness statement has to survive being read next to your own emails and prior advice. Test it before signing, not after.
- **Fixing the returns and not the system** The disclosure resolves the past. Without a calendar and an asset inventory, the same gap reopens, and a second failure is a much worse fact pattern than the first.

Questions this raises

How many years do I have to file?

It depends on the route. Some procedures specify a fixed number of past returns and a longer set of past account reports; others are driven by the years actually open. The number is an output of the route decision, not something to guess at the start.

Will I go to jail for unfiled returns?

For the ordinary case — someone who did not know they had to file and comes forward through a formal route — that is not the trajectory. The routes exist because authorities prefer voluntary compliance. Where conduct was deliberate, the route is different and legal representation is normal.

Can I just start filing from this year?

You can, and it is the option most likely to make things worse. It forfeits the protection of a formal disclosure and, because foreign account data is exchanged automatically, does not make the earlier years invisible.

What if the CRA or IRS has already written to me?

Several routes require the disclosure to be voluntary, so a letter can close them. Others remain, including relief requests based on the reason for the failure. The first step is to establish exactly what the letter is and what it does to your options.

What to do next

Ask for the perimeter map first. It is a short piece of work, it tells you the size of the problem in years and forms rather than in worry, and it is what the route decision is made from.

We scope and quote catch-up engagements in writing before anything is prepared. Seefiling ten years of missed returns,the streamlined foreign offshore procedureand thestreamlined catch-up fee page.

Legal Quotient Consultants

Cross-border and international tax. Fixed fees agreed in writing before work starts, quoted from your own documents.

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