

ATO RECEIVABLES POLICY

PART C Lodgment of Documents and Notification of Liabilities

Chapter 51

INTRODUCTION TO PART C – LODGMENT OF DOCUMENTS

The policy in this chapter is to be followed by Tax Office staff. We have made every effort to ensure that it is technically accurate, but in the interests of clarity it has been written in 'plain English' and should not be read or interpreted like legislation. If you feel that something in this chapter is wrong or misleading, please advise the Tax Office.

Date of effect: 24 July 2008 (This version replaces the 2006 version.)

Key legislation: various

PURPOSE

1. This chapter sets out the broad principles underlying the Tax Office's policies relating to the lodgment of documents by taxpayers. It also describes the various due dates and how they are determined.

INTRODUCTION

2. Taxpayers are required to lodge correct documents by the due date.
3. At times, taxpayers may experience circumstances that prevent them from lodging by the due date. Legislation allows the Commissioner to defer the time for lodgment of an approved form and other prescribed forms.
4. Where taxpayers fail to meet their lodgment obligations, the Tax Office will differentiate its treatment of taxpayers according to their individual circumstances and the reasons for their non-compliance.
5. The policy seeks to make it as simple as possible for taxpayers to meet their obligations under the law, to lodge documents on time and to ensure the integrity of the tax system.

POLICY

6. An 'approved form' can be a return, notice, statement, application or other document. Refer to Law Administration Practice Statement PS LA 2005/019.
7. Due dates for lodgment of various returns and statements by superannuation providers are set out in legislative instruments that are prepared in accordance with the *Legislative Instruments Act 2003* (LIA). (Prior to 1 January 2005, due dates were published in a gazette notice). Legislative instruments must be registered on the Federal Register of Legislative Instruments to be enforceable. This is in accordance with the provisions of the LIA. The LIA provides that registration of the legislative instrument satisfies the requirement for notification in the gazette.
8. Approved forms such as fringe benefits tax (FBT) returns and activity statements have their due dates set by legislation.

9. Where the lodgment due date falls on a day that is a Saturday, Sunday or public holiday, lodgment may be made on the first business day after the lodgment due date without incurring a failure to lodge on time penalty. A public holiday refers to a day that is a public holiday for the whole of any state, the Australian Capital Territory or the Northern Territory.

Due Dates - Legislative Instrument

10. Each year legislative instruments and the previous gazette notices set out who is required to lodge an income tax return in the approved form. The due dates for lodgment for each group are currently as follows:

Individuals, Partnerships and Trusts:

- (i) for the income year ended 30 June, **on or by 31 October** following the end of the income year

or,

- (ii) for those persons who have adopted a substituted accounting period, no later than 4 months after the close of their accounting period.

Full self assessment taxpayers (including head companies of consolidated groups and non regulated superannuation funds):

- (i) for the income year ended 30 June, **on or by 31 October** following the end of the income year or,
- (ii) for those taxpayers that have adopted a substituted accounting period, on or by the 15th day of the 7th month after the close of their accounting period.

Non full self assessment entities

- (i) first day of the sixth month following their year of income.

11. Companies that are required to pay a **franking deficit tax** or **venture capital deficit tax** for the relevant income year must lodge by the last day of the month following the end of the income year.
12. Trustees of **self managed superannuation funds** must give to the Commissioner, a Regulatory Return by the same date they are required to lodge their Income Tax Return.
13. A **superannuation provider**, other than a self managed superannuation fund must give a member contributions statement to the Commissioner on or by 31 October following the end of the financial year. Self managed superannuation funds are required to lodge their member contributions statements by 31 March or such later date as the Commissioner allows.
14. For **superannuation surcharge** purposes for 2004–05 income year and previous years a superannuation provider must give a statement to the Commissioner by the same date they are required to lodge their income tax return.

Due Dates – Legislation

15. Superannuation providers have other legislated due dates in relation to various reporting requirements.
16. The Departing Australia Superannuation Payment (DASP) annual report is due on or by 31 October each year.

17. If DASP data records are reported as part of the pay as you go (PAYG) withholding payment summary annual report, the due date for the report is 14 August each year.
18. A superannuation provider, other than a self managed fund, must report at the end of each half year, lost members to the Lost Members Register which is maintained by the Tax Office. A Lost Members Statement in relation to 1 January - 30 June period is due 31 October, and in relation to the 1 July - 31 December period, the statement is due 30 April. Reporting is done via an approved electronic form.
19. Superannuation providers must also give to the Tax Office a statement of unclaimed money, in an approved form, at the end of each half-year. The statement in relation to 1 January - 30 June period is due 31 October, and in relation to the 1 July - 31 December period, the statement is due 30 April.
20. In relation to superannuation guarantee shortfall statements, employers must give these statements by 28 May, 28 August, 28 November and 28 February. These due dates relate to quarters that commence on 1 January, 1 April, 1 July and 1 October each year.
21. An auditor or an actuary of a self managed superannuation fund must report in writing to the Tax Office if there has been a contravention of the *Superannuation Industry (Supervision) Act* as soon as practicable.
22. The legislated due dates for taxpayers required to lodge monthly and / or quarterly **activity statements** are as set out in the appendix.
23. For entities with substituted accounting periods that:
 - (i) have not chosen to pay goods and services tax (GST) monthly or are not required to pay GST monthly, and
 - (ii) have a quarterly PAYG instalment obligation that does not align with the standard quarters ending September, December, March and June,

the due date for lodgment and/or payment will generally be the 28th day of the month after the end of the instalment quarter. Where a monthly PAYG withholding obligation also exists, the withholding obligation for that month will also fall due on the 28th day and not the 21st day as would otherwise be the case.
24. For the 2002–03 year of income and subsequent years there is no obligation to notify the Commissioner of an **annual PAYG instalment** except where:
 - (i) an entity chooses to calculate the instalment amount based on the Commissioner's instalment rate and instalment income for the year;

or

 - (ii) an entity chooses to pay the amount that they estimate to be their PAYG instalment amount for the income year.
25. Where an obligation to notify the Commissioner of the instalment amount does exist, notification is due on or before the 21st day of the fourth month after the end of the income year. For June 30 balancers this will be 21 October following the end of the income year.
26. Generally, the due date for lodgment of an **annual GST return** will be the due date for lodgment of the income tax return. Where an entity has no obligation to lodge an income tax return, the due date for the annual GST return will be 28th February.
27. A client who is eligible to report and pay, or claim a refund of, **GST annually** (that is **elect annual tax periods**) and wishes to use this option must make an election by the due date. The election needs to be made by:

- 28 October, for a quarterly lodger
 - 21 August, for a monthly lodger
28. Where a request is made by a client after these dates the Tax Office may accept a late election.
29. New GST registrants will be allowed up to six months from the date of effect of their GST registration to elect the annual GST option, or by the legislative due dates (whichever is the later).
30. Where an instalment or annual tax period ends because of a change in GST group membership, the **annual GST return** is due on or before the 21st day of the following month.
31. Where an instalment payer or annual reporter becomes a bankrupt or where an instalment payer or annual reporter, that is not an individual, goes into liquidation, receivership or for any reason ceases to exist, the return is due on or by the 21st day of the month following the instalment or annual tax period that ends because of bankruptcy, liquidation, receivership or cessation.
32. Where a taxpayer, who is not registered or required to be registered for GST, makes a supply during a month in satisfaction of a debt and the supply is a taxable supply, then the taxpayer must lodge a GST return within 21 days after the end of the month in relation to supplies made in that month.
33. Where a taxpayer, who is not registered or required to be registered for GST, makes a taxable supply or an increasing adjustment to any such supplies (whether made in that month or a previous month) the taxpayer must lodge a GST return within 21 days after the end of the month in relation to supplies made in that month and those adjustments, for example settlement of insurance claims.
34. There are two due dates for reporting **PAYG withholding** information for the year:
- (i) For payers who have an obligation to report on:
 - payments for work and services (Individuals) including retirement payments, annuities; and compensation payments
 - voluntary agreements
 - labour hire and other specified payments
 - eligible termination payments
 - alienated personal services payments
 - non-cash benefits, and
 - reportable fringe benefit amounts

the due date is 14 August.
 - (ii) For payers who have a '*PAYG withholding where ABN not quoted*' reporting obligation, the due date for reporting is 31 October.
- Note, that where the PAYG withholding annual report has been prepared by a tax agent, concessional due dates generally apply as set out in the tax agent lodgment program.
35. Where a person gives a **Tax File Number declaration** to a payer, the payer has an obligation to send the TFN declaration to the Tax Office within 14 days after the declaration is made.

36. **Annual FBT returns** are due to be lodged by 21 May following the close of the year of tax.
37. For the financial year, investment bodies must give a written report to the Tax Office in relation to all investments in the investment body (**Annual Investment Income Report**). The report must be lodged within four months after the end of the financial year. That is, 31 October following a financial year ending 30 June.
38. An obligation to lodge a **Petroleum resource rent tax annual return** arises where a person derives assessable receipts in relation to a petroleum project. The due date for lodgment of an annual return is 60 days after the end of the year of tax in which a person derives the assessable receipts for financial years commencing on or after 1 July 2006 and 42 days after the end of the year of tax for previous years.

Notifications - Consolidation

39. A company that chooses to consolidate must notify the Tax Office of its choice in writing. The notification of choice to consolidate for an income tax year must be given in the approved form on, or before, the day the income tax return for that year is lodged. If there is no income tax lodgment obligation, then the notification is due by the usual lodgment due date which would have been applicable.
40. If the choice to consolidate is not given to the Tax Office on or before the time when the head company lodged its income tax return for an income year, the group cannot be treated as consolidated for that income year.
41. Once the choice to consolidate is made, it cannot be revoked.
42. A written notice of choice to consolidate a potential Multiple Entry Consolidated group (MEC) for an income tax year must be given in the approved form on, or before, the day the income tax return for that year is lodged. If there is no income tax lodgment obligation, then the notice is due by the usual lodgment due date which would have been applicable.
43. Where a deferral has been granted for the lodgment of the income tax return, then the last day that the notification of choice to consolidate can be given is no later than the deferred due date for lodgment of the income tax return.
44. The appointment of one of the companies as the provisional head company (PHC) of a MEC group must be included in the notification of choice to form a MEC group.
45. Where a new PHC is appointed because the old PHC no longer fulfils the eligibility rules to be the PHC of the group, the eligible tier-1 member companies of the MEC group must give a written notice of the appointment in the approved form, either at the time the notice of choice to consolidate is given, or within 28 days after the cessation event. Failure to notify the Tax Office of the appointment of the new PHC within the time allowed will lead to the deconsolidation of the MEC group.
46. In order for a special conversion event to occur to a potential MEC group, a written notice must be given in the approved form by the time of lodgment of the income tax return, or, if there is no income tax lodgment obligation, by the usual due date that would have been applicable.
47. Where a subsidiary member of a consolidated group, or a member of a MEC group, enters or exits that group, a notice must be given by the head company or PHC in the approved form, either on the day the notice of choice to consolidate is given, or within 28 days after the event.
48. Where a consolidated group ceases to exist, or a cessation event occurs to the provisional head company of a MEC group, a notice must be given in the approved form, either on the day the notice of choice to consolidate is given, or within 28 days after the event.

Due Dates - As the Commissioner Directs

49. The Commissioner can request annual amounts to be notified in an **Annual GST information report** for entities that choose to report less of their GST information quarterly (that is, where they have elected to use the simplified GST reporting option).
50. Generally, the due date for lodgment of an Annual GST information report will be the due date for lodgment of the entity's income tax return. Where there is no obligation to lodge an income tax return the due date will be 28 February.

TERMS USED

Activity statement – a form that allows the taxpayer or representative to report obligations for GST, luxury car tax (LCT), wine equalisation tax (WET), PAYG withholding, PAYG instalments, FBT instalments and fuel tax credits (FTC).

Business activity statement (BAS) – a personalised form lodged by those taxpayers who have an obligation to lodge an activity statement and have a GST role as well as other obligations such as WET, LCT, PAYG instalments, PAYG withholding, FBT instalments and FTC. A BAS must be lodged with the Tax Office for each tax period.

Cessation event – occurs to a provisional head company of a MEC group if the company ceases to be qualified to be the provisional head company, or the company ceases to exist.

Consolidated entity – is an entity which is part of either a consolidated group or a multiple entry consolidated (MEC) group.

Consolidated group – consists of an Australian resident head company and all of its Australian resident wholly-owned subsidiaries. An eligible wholly-owned group becomes a consolidated group after notice of a choice to consolidate is given to the Commissioner.

Eligible tier-1 – company member of a MEC group means there is no other entity interposed between the tier-1 company and the 'top' company. The requirements are detailed in section 719-15 of the ITAA 1997.

Full self assessment taxpayer – is as defined in subsection 6(1) of the ITAA 1936 and means any of the following:

- (a) a company
- (b) the trustee of a trust that is a corporate unit trust in relation to the current year for the purposes of Division 6B of Part III
- (c) the trustee of a trust that is a public trading trust in relation to the current year for the purposes of Division 6C of Part III
- (d) the trustee of a fund that is an eligible ADF (as defined in section 267) in relation to the current year
- (e) the trustee of a fund that is an eligible superannuation fund (as defined in section 267) in relation to the current year
- (f) the trustee of a fund that is a pooled superannuation trust (as defined in section 267) in relation to the current year

but does not include those companies previously exempt from the COIN system as per section 148 of the ITAA 1936.

Note: A corporate limited partnership is taken to be a company under section 94J, so it will fall within paragraph (a) of this definition.

GST return – refers to the BAS when referring to the entity's monthly or quarterly GST obligation.

Head Company – of a consolidated group must be an Australian resident and beneficially owns all of the membership interests in at least one other company. It is further defined in subsection 703-15 (1) of the ITAA 1997.

Instalment activity statement – a personalised form issued by the Tax Office for reporting tax obligations to be lodged by taxpayers who are either not registered or required to be registered for GST, or who are not required to report GST in a particular period, but may have other reporting obligations

Legislative instrument – means an instrument registered on the Federal Register of Legislative Instruments as required by the *Legislative Instruments Act 2003*. It is an instrument in writing:

- (a) that is of a legislative character; and
- (b) that is or was made in the exercise of a power delegated by the Parliament.

It determines the law or alters the content of the law, rather than applying the law in a particular case and it has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right. Tax Office rulings are not legislative instruments.

MEC group – means a multiple entry consolidated group. A MEC group consists of certain Australian-resident entities that are wholly-owned subsidiaries of a foreign 'top' company. The requirements are set out in subdivision 719-B of the ITAA 1997.

Notification of choice – is made by the head company of a consolidatable group or jointly by the tier-1 companies of a potential MEC group. It is given in the approved form to the Commissioner and states that the group is taken to be consolidated on and after a day that is specified in the choice.

PAYG instalments – system used for paying instalments during the income year towards a taxpayer's expected tax liability on business and investment income. The actual tax liability is worked out at the end of the income year when the annual income tax return is assessed. PAYG instalments for the year are credited against the assessment to determine whether the taxpayer owes more tax or is owed a refund.

PAYG withholding – is the system whereby payers withhold amounts from payments to payees and report and pay the withheld amounts to the Tax Office.

Provisional Head Company – of a MEC group means the company that holds an appointment in force under section 719-60 of the ITAA 1997 as the provisional head company of the group.

Special Conversion Event – occurs when a consolidated group converts into a MEC group. The requirements are outlined in section 719-40 of the ITAA 1997.

Subsidiary Member – of a consolidated group must be an entity which is an Australian resident and must be a wholly-owned subsidiary of the head company of the group. The requirements are listed in section 703-15 of the ITAA 1997.

Substituted accounting period – is an accounting period that has a balancing date different to the normal balancing date of 30 June.

Taxation Law – takes the meaning set out in subsection 995-1(1) of the ITAA 1997, and is an Act of which the Commissioner has general administration, or regulations under such an act.

Chapter 51 - Archived versions

Chapter 51: Version 4 – July 2006 (will link to chapter 51 pdf)
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Chapter 54: Version 4 – July 2006 (will link to chapter 54 pdf)
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APPENDIX A

Due dates for lodgment of activity statements in relation to the majority of taxpayers involved in the activity statement processes (excluding those with substituted accounting periods) are as follows:

Quarterly GST (WET, LCT) and (FT) and any other quarterly obligations (PAYGW, PAYGI, FBTI)

Period	Due Date
Quarter 1 (July to September)	28 October
Quarter 2 (October to December)	28 February
Quarter 3 (January to March)	28 April
Quarter 4 (April to June)	28 July

Quarterly GST (WET, LCT) and (FT) and monthly PAYGW, and any other quarterly obligations (PAYGI, FBTI)

Period	Due Date
July Monthly PAYGW	21 August
August Monthly PAYGW	21 September
July – September GST, WET, LCT, PAYGI & FBTI September PAYGW	28 October
October Monthly PAYGW	21 November
November Monthly PAYGW	21 December
October – December GST, WET, LCT, PAYGI & FBT December PAYGW	28 February
January monthly PAYGW	21 February
February Monthly PAYGW	21 March
January – March GST, WET, LCT, PAYGI & FBTI March PAYGW	28 April
April Monthly PAYGW	21 May
May Monthly PAYGW	21 June
April – June GST, WET, LCT, PAYGI & FBTI June PAYGW	28 July

No GST (WET, LCT), and quarterly PAYGW and/or PAYGI and/or FBTI

Period	Due Date
Quarter 1 (July to September)	28 October
Quarter 2 (October to December)	28 February
Quarter 3 (January to March)	28 April
Quarter 4 (April to June)	28 July

Quarterly Consolidated PAYGI – lodged by the head company (regardless of any other obligations)

Period	Due Date
Quarter 1 (July to September)	21 October
Quarter 2 (October to December)	21 January
Quarter 3 (January to March)	21 April
Quarter 4 (April to June)	21 July

No GST (WET, LCT), Quarterly PAYGI, FBTI or monthly PAYGW

Period	Due Date
July Monthly PAYGW	21 August
August Monthly PAYGW	21 September
July – September PAYGI and/or FBTI September PAYGW	28 October
October Monthly PAYGW	21 November
November Monthly PAYGW	21 December
October – December PAYGI and/or FBTI December PAYGW	28 February
January Monthly PAYGW	21 February
February Monthly PAYGW	21 March
January – March PAYGI and/or FBTI March PAYGW	28 April
April Monthly PAYGW	21 May
May Monthly PAYGW	21 June
April – June PAYGI and/or FBTI June PAYGW	28 July

Monthly GST (WET, LCT), (FT) and other monthly or quarterly obligations**OR****No GST (WET, LCT), PAYGI, or FBTI, and Monthly PAYGW only**

Period	Due Date
July	21 August
August	21 September
September	21 October
October	21 November
November	21 December
December	21 January
January	21 February
February	21 March
March	21 April
April	21 May
May	21 June
June	21 July

ABBREVIATIONS

FT – Fuel tax

FBTI – Fringe Benefit Tax Instalment

GST – Goods and Services Tax

WET – Wine Equalisation Tax

LCT– Luxury Car Tax

PAYGI – Pay as you go (PAYG) instalments

PAYGW – Pay as you go (PAYG) withholding