

## 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 ATO 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 ATO.*

**Date of effect:** 1 October 2010

**Key legislation:** various

### PURPOSE

1. This chapter discusses the:
  - (i) approved form provisions, and the mandatory requirements for completion and lodgment of approved forms
  - (ii) various lodgment due dates and how the due dates are determined
  - (iii) obligations to lodge returns, forms and elections (including special lodgment requirements for specific taxpayers),

and forms the foundation of our lodgment policy contained in the subsequent chapters of Part C

### INTRODUCTION

2. Taxpayers are required to lodge correct documents by the due date regardless of whether any related liability is paid.
3. Generally, only one lodgment of a form per period is required. For example, only one income tax return is required for an income year, or one activity statement per tax period. However, a taxpayer may be required to lodge different forms for different liabilities within one period.
4. Failing to lodge an approved form by the due date may attract a failure to lodge on time penalty - see Chapter 98 'Penalties for failing to lodge documents on time').
5. At times, taxpayers may experience circumstances that prevent them from lodging by the due date. The law allows the Commissioner to defer the time for lodgment of an approved form and other prescribed forms – see Chapter 55 'Deferral of the due date for lodgment or suspension of lodgment enforcement action').
6. We will differentiate our treatment of taxpayers who fail to meet their lodgment obligations. The factors considered include the taxpayer's compliance history, their individual circumstances and the reasons for their non-compliance, as well as whether the proposed action is fair and reasonable in the circumstances.

7. In limited cases where there is little revenue at risk, or the value of information to be provided in a document is minimal, and where follow up action would not be cost effective, we may consider that it is not appropriate to pursue lodgment of forms which have not been lodged by the due date. This decision may be reviewed at any time and does not have to be subject to receipt of new information.
8. A decision not to pursue the lodgment of a form does not remove the taxpayer's obligation to lodge that document.
9. Taxpayers will not be advised if a decision is made not to pursue lodgment of a form.

## **POLICY**

10. The policy contained in Part C seeks to make it as simple as possible for taxpayers to meet their obligations under the law, to lodge forms on time and to ensure the integrity of the tax system.

## **LODGMET REQUIREMENTS AND DUE DATES – APPROVED FORMS**

11. The law requires certain information to be given to the Commissioner in an approved or prescribed form.
12. The term 'approved form' may be defined differently for the purposes of particular legislation. Law Administration Practice Statement PS LA 2005/019 Approved forms explains the requirements and procedures for the approval of approved forms, which can be a return, notice, statement, application or other document. [A list of forms approved by the Commissioner of Taxation](#) is available on the ATO website.
13. Approved or other prescribed form requirements may be set:
  - (i) by a Legislative Instrument registered on the Federal Register of Legislative Instruments
  - (ii) by a notice published in the *Commonwealth of Australia Gazette*
  - (iii) by specific legislation, or
  - (iv) as the Commissioner directs.
14. The requirements of section 388-50 apply to any Act which defines 'approved forms' as having the meaning given in section 388-50 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).
15. Approved forms that must meet the requirements of section 388-50 of Schedule 1 to the TAA include:
  - (i) activity statements
    - business activity statements (BAS)
    - instalment activity statements (IAS)
  - (ii) income tax returns from the 2001 and subsequent income years
  - (iii) fringe benefits tax (FBT) returns commencing from the 1 April 2001 year of tax
  - (iv) pay as you go (PAYG) withholding annual report from the 2001 and subsequent income years
  - (v) tax file number (TFN) declarations since 1 July 2000

- (vi) early payment claims for fuel tax credits (FTC)
  - (vii) fuel tax (FT) returns for non-business payers
  - (viii) any other document where there is a specific legislative requirement for them to be lodged in the approved form as defined by section 388-50 of Schedule 1 to the TAA.
16. Other approved forms and prescribed forms as defined specifically for the purposes of particular legislation are also required to be given to the Commissioner under various Superannuation Acts.

### **Activity statements and instalment notices**

17. The activity statement is the approved form to report various tax obligations, which may include any or all of the following:
- (i) Goods and services tax (GST)
  - (ii) Wine equalisation tax (WET)
  - (iii) Luxury car tax (LCT)
  - (iv) PAYG instalments
  - (v) PAYG withholding
  - (vi) FBT instalments
  - (vii) FT
18. Generally, a taxpayer is only required to lodge one activity statement in respect of a particular tax period. An exception to this rule is where a head company of a consolidated group is required to lodge two activity statements in respect of a particular period. One activity statement will account for the consolidated group's PAYG instalment and another activity statement will account for the other reporting obligations of the head company in the same way that the subsidiary members also report their own other activity statement obligations. The subsidiary members do not account for PAYG instalments while in the group.
19. Lodgment of the activity statement is accepted as notification of all the obligations contained on the statements even where a taxpayer does not notify a particular tax related liability. Where no amount is notified against a liability it will be considered to be notification that the amount is nil and where it is subsequently determined that there should have been an amount included the taxpayer may be liable to a penalty of a shortfall amount as they have made a false and misleading statement.
20. Reporting obligations are generally monthly or quarterly, however, in certain circumstances can be annual or twice yearly. Where entities choose to report branch activities separately, they will need to lodge an activity statement for each branch for each period.
21. Taxpayers in the PAYG instalment system using the income times rate option are required to notify us even if they have a 'nil' liability for PAYG instalments.
22. A 'nil' notification is also required when a payer has made a PAYG withholding payment or provided a benefit treated as a PAYG withholding payment, but the amount withheld is 'nil'.
23. Where we have estimated a withholding liability the taxpayer may notify actual liabilities on a statutory declaration. Although such a declaration does not technically meet the requirements of an approved form, we will not generally take

further action to require lodgment of an activity statement if all liabilities for that period have been notified by this means.

24. As a general rule, lodgment for each tax period is required. This applies to a taxpayer who is registered or required to be registered for GST, whether or not the net amount is a refund, nil or the taxpayer is liable for GST on taxable supplies attributable to that period.
25. Taxpayers with a substituted accounting period (SAP) for income tax purposes who report GST and PAYG withholding on a quarterly basis will report those liabilities consistent with the standard reporting periods. The standard quarterly reporting periods are the tax periods ending 30 September, 31 December, 31 March and 30 June. Taxpayers with a SAP reporting PAYG instalments on a quarterly basis will report those amounts consistent with the quarters aligned to the taxpayer's SAP.
26. Eligible taxpayers may elect to pay PAYG instalments annually. Taxpayers must make an election to report annually by the date on which the first quarterly instalment would otherwise be due.
27. Annual elections for PAYG instalments, once made, will remain in force until either the taxpayer is no longer eligible for the annual option, or they choose to revert to quarterly reporting. Any change to a reporting period will occur at the beginning of the income year.
28. Head companies of consolidated groups that would otherwise be eligible do not have the option of reporting and paying PAYG instalments annually.

### **Completing and lodging approved forms**

29. An approved form must contain all required information, declarations and signatures and must be lodged in the manner required by the Commissioner which may include electronic lodgment (such as *e-tax*, tax agent and business portals), interactive voice recognition, telefiling, telephone and paper lodgment.
30. If a document is overdue, it is the responsibility of the Commissioner to make a decision on whether to secure lodgment. In certain circumstances we may accept forms where they do not meet the requirements of an approved form. For example, if it appears that the taxpayer has made a genuine attempt to meet their reporting obligations, the approved form may be accepted as lodged, even if some details are incomplete.
31. Where no form has been approved or prescribed, the law requires that the information should be given even where no specific form is available.

### **LODGMET DUE DATES**

32. 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.
33. Forms delivered to our premises are considered lodged on the day delivery is made. Forms given to ATO staff 'in-the-field', for example at a tax agent's office, a taxpayers business or residence or at a court are considered lodged on the day they are received by the ATO.
34. Generally, documents lodged electronically, for example using electronic lodgment system (ELS), are considered lodged on the day the validation certificate is issued.

Returns lodged using *e-tax*, are considered lodged when you receive a lodgment confirmation.

## **Due Dates - Legislative Instrument**

### ***Income tax returns***

35. The due dates for lodgment for income tax returns as set out in the legislative instrument 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 15<sup>th</sup> day of the 7<sup>th</sup> 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.

36. 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.

### ***Annual superannuation return and statements***

37. Due dates for lodgment of various returns and statements by superannuation providers are set out in legislative instruments, which also set out the requirements for lodging the documents in the approved form, for example whether lodgment is required in paper form or electronically through accepted mediums such as CD Rom and DVD.
38. From the 2008 income year, trustees of self-managed superannuation funds must give an annual return which combines the income tax and regulatory return as well as the member contributions statements to the Commissioner, by the same date they are required to lodge their income tax return. Prior to the 2008 income year, self managed superannuation funds were required to lodge their member contributions statements by 31 March or such later date as the Commissioner allowed.
39. 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.
40. Prior to and including the 2005 income year, superannuation providers were required to give a statement to the Commissioner for superannuation surcharge purposes by the same date they were required to lodge their income tax return.

41. Lodgment requirements are notified in the same legislative instrument or gazette for other documents including annual franking account returns and venture capital deficit deferral returns.

### ***Income tax – consolidated groups***

42. The head company of a consolidated group only needs to lodge one return which will cover any pre- and post-consolidation periods.
43. The income tax return lodged by a head company of a consolidated group includes the consolidated details of all subsidiary members for the duration of their time in the group.
44. An entity that is a subsidiary member of a consolidated group is not required to lodge an income tax return for the duration of their time in the group.
45. An entity that moves in and out of a consolidated group during an income year only has to lodge one return for that year but must account for the periods the entity was not a subsidiary member of a group.

The [Consolidation reference manual](#) provides more information about consolidations

### **Due Dates – Legislation**

#### ***Annual FBT return***

46. Clients with an FBT obligation are required to lodge an annual FBT return. The FBT year differs from the standard financial year. The FBT year is from 1 April to 31 March of the following year.
47. Lodgment of annual FBT returns is due by 21 May following the close of the year of tax.

#### ***Superannuation***

48. In addition to the due date outlined in the legislative instrument, superannuation providers have other legislated due dates in relation to other reporting requirements.
49. The Departing Australia Superannuation Payment (DASP) annual report is due on or by 31 October each year.
50. 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 or such later date as the Commissioner may allow.
51. Superannuation providers, other than a self-managed funds, must report lost members in an approved form to the Lost Members Register (which is maintained by the ATO) at the end of each half year. 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 of the following year.
52. Superannuation providers must also give 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 of the following year.
53. Where a superannuation guarantee shortfall occurs in any quarter, employers must give superannuation guarantee charge statements by 28 May, 28 August, 28

November and 28 February respectively. These due dates relate to quarters that commence on 1 January, 1 April, 1 July and 1 October each year.

54. A superannuation provider must give the Commissioner a statement where the provider has been given a release authority and has paid an amount out of the superannuation plan in accordance with that release authority. The statement must be given within 30 days after the date of the payment.
55. Where contraventions of the *Superannuation Industry (Supervision) Act 1993* by a trustee(s) of a self managed superannuation fund are required to be reported to the ATO by an auditor or an actuary, the auditor/actuary contravention report must be lodged in the approved form as soon as practicable.

### **Other obligations**

56. Where a person gives a TFN declaration to a payer, the TFN declaration must be lodged with us within 14 days of the declaration being made, except where the payer is a labour hire firm and the payee has not commenced work.
57. For each financial year, investment bodies must give us a written report 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.
58. 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

### **Activity statements**

59. The legislated due dates for taxpayers required to lodge monthly or quarterly activity statements are as set out in Appendix A.
60. The due date for lodgment and/or payment 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,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.
61. Where an obligation exists to notify the Commissioner of the PAYG instalment, 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.
62. 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.

### ***PAYG withholding – annual reports***

63. Under the PAYG withholding system, payers who withhold amounts from payments such as:
- (i) payments for work or services
  - (ii) voluntary agreements, and
  - (iii) labour hire arrangements,
- have an obligation to report annually either electronically or in paper form.
64. If lodging by paper the obligation to lodge is not fulfilled unless the payer lodges both a PAYG payment summary statement and all the relevant payment summaries.
65. Payers (employers) who choose to self-print their payment summaries must lodge them electronically with the ATO. Payers who lodge electronically are not required to complete a payment summary statement or send paper payment summaries to the ATO.
66. Any payer registered for PAYG withholding must lodge an annual report if there were any withholding events for the income year, including where the amount is 'nil'.
67. Any of the requirements for providing an annual report may be varied either for one payer or a class of payers. Variations for a class of payers can be given to each entity or made by way of a notice contained in a Legislative Instrument.
68. Variations for an individual payer must be made by written notice to the payer. For example, the ATO may forgo the need for a payer to lodge an annual report where that payer had 'nil' withholding for the income year and is no longer in business.
69. Under the PAYG withholding system, payers required to report no ABN withholding events have an obligation to lodge an annual report listing all those events. This report is called the *PAYG withholding where ABN not quoted annual report*.
70. There are two due dates for reporting PAYG withholding information for the year:
- (ii) The due date is 14 August 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
    - reportable fringe benefit amounts
  - (iii) The due date is 31 October for payers who have an obligation to lodge a report where there is a PAYG withholding:
    - '*where ABN not quoted*' reporting obligation
    - annual report – payment to foreign residents
    - from interest and dividends and royalty payments to non-residents



*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.*

**Activity Statements and Instalment Notices - circumstances where notification not required**

71. Taxpayers with a PAYG instalment obligation only who have elected or defaulted to the GDP-adjusted notional tax method, do not need to lodge the instalment notice unless varying the instalment amount. The instalment or varied instalment amount must be paid by the due date. The approved form for varying the instalment amount is the instalment notice.
72. Where the taxpayer's only obligation is GST and they have elected to pay the GST instalment amount, the ATO will not require notification unless they vary the instalment amount. For FT purposes, these taxpayers must treat each GST instalment quarter as if it were a tax period. They may choose whether to give a FT return for any instalment quarter, however, they must lodge a return in the last quarter of a financial year if they have an increasing FT adjustment. There is no lodgment obligation except in these circumstances.
73. Where the taxpayer has GST and PAYG instalment obligations only and pays both using the instalment amount option, there is no lodgment obligation unless varying the instalment amounts.
74. There is no lodgment obligation for eligible annual PAYG instalment payers who choose to pay an annual PAYG instalment amount advised by us, unless they wish to vary the amount or calculate their instalment using the 'income times rate method'.

**Elections – activity statements**

75. Where the law allows a taxpayer to vary their lodgment requirements, an election is the accepted mechanism.
76. Taxpayers may need to make elections to access streamlined reporting and instalment payment options. In some instances such elections may place additional lodgment obligations on taxpayers. For example, choosing the GST streamlined reporting option results in the need to also lodge an annual GST information report.
77. Elections are required to be made in the approved manner which can occur:
  - (ii) by ticking the appropriate box on an activity statement and lodging the form by the due date
  - (iii) by telephone
  - (iv) in writing.
78. Failure to make an election by the date required may exclude the taxpayer from their preferred option.
79. The ATO may also disallow an election, for example, an election to pay GST by instalments where the taxpayer has a poor compliance history.
80. Certain taxpayers may elect to report GST and/or PAYG withholding obligations more frequently than required by law. Reasons for this may include early access to credits, including FT credits (FTC), and more control over cash flow. Taxpayers

making such elections must accept the responsibilities of changing their tax period, including more frequent exposure to a failure to lodge on time penalty and the general interest charge for failing to pay on time.

81. Eligible taxpayers will be able to elect to pay GST by instalments. This election, is usually made via the first quarterly activity statement of an income year, but must be completed and lodged by the appropriate due date.
82. An election to report and pay (or claim a refund of) GST annually must be made in the approved form by the due date, unless approval to allow a late election has been granted. This election may be lodged using interactive voice recognition, contacting the call centre or by writing to the ATO.
83. Those who are eligible to report and pay, or claim a refund of **GST annually** (that is **elect annual tax periods**) and wish to use this option must make an election by the due date. These elections need to be made by:
  - (ii) 28 October, for a quarterly lodger
  - (iii) 21 August, for a monthly lodger
84. The ATO may accept late elections after these dates.
85. Taxpayers that elect to pay GST by instalments quarterly are required to lodge an annual GST return. This is in addition to the notification of the instalment amount on quarterly activity statements where they have other activity statement obligations.
86. Taxpayers who elect to report and pay (or claim a refund of) GST annually are also required to lodge an annual GST return. Taxpayers have an annual tax period and will report and calculate their annual GST liability on the annual GST return.
87. Where taxpayers have registered for FT and have elected to report their GST annually, they are also required to lodge their FT return annually. The FT return and the annual GST return are combined on the same form.
88. If at any time during the year taxpayers elect to report GST amounts using the GST streamlined reporting method, they are also required to lodge an annual GST information report.
89. The ATO may, at any time, require a fuller and further GST return. The fuller and further return may be requested to cover more than one tax period. Any such return must be made in the approved form.
90. Taxpayers eligible to pay PAYG instalments annually may elect to do so by the date on which the first quarterly instalment would otherwise be due.
91. Once the annual election has been made, it will remain in force until either the taxpayer is no longer eligible for the annual option, or they choose to revert to quarterly reporting. Any change to a reporting period will occur at the beginning of the income year.
92. Head companies of consolidated groups that would otherwise be eligible do not have the option of reporting and paying PAYG instalments annually.
93. 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).
94. Where a taxpayer would otherwise be eligible to report GST obligations on a quarterly basis there is provision for them to elect to report monthly.
95. If a taxpayer makes an election to report GST obligations on a monthly basis, they may:

- (ii) withdraw the election if more than twelve months have passed since the election took effect, or
  - (iii) ask the ATO to revoke the election if less than twelve months have passed.
96. While the ATO would normally allow an early revocation of a monthly election, it would not be approved where we consider that the taxpayer is exploiting the provision. Particular consideration would be given to the level of purchases (and hence claims for GST credits on a monthly basis) and the expected level of sales made in the following quarters (thereby delaying their GST payments).
97. The ATO will only backdate the revocation of a taxpayer's monthly election where the application is received on or before the last day of the first month in the relevant quarter. In all other cases, the revocation will generally take effect from the start of the next quarterly tax period after the taxpayer lodges their application.
98. If a taxpayer is required, based on annual GST turnover being \$20 million or more to report GST obligations on a monthly basis the taxpayer may apply to have the monthly reporting period revoked. The ATO would generally change the taxpayer to a quarterly reporting period if the expected turnover falls below \$20 million and the taxpayer has been using monthly tax periods for at least 12 months.
99. Taxpayers wishing to participate in the deferred GST scheme must elect to report GST electronically on a monthly basis.

#### **Due Dates - As the Commissioner directs**

100. 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).
101. 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.

#### **Special lodgment requirements**

##### ***GST***

102. Several special rules modify the general rule about who is required to lodge a GST return.

##### ***GST groups***

103. An entity that is the representative member of a GST group for the whole of a tax period is required to lodge an activity statement accounting for the GST obligations of the group. The other group members (i.e. the 'non-reporting members') who have obligations other than GST need to report these obligations on their own activity statements. All members of the group must have the same tax period for the period of time that they are grouped.
104. If an entity lodges a valid application to form a GST group within a tax period, the date of effect of the application will be backdated to the beginning of that tax period. The representative member must ensure that each non reporting member of the group has not notified GST amounts for that tax period.

105. Where a GST group that has elected to pay the notified instalment amount either quarterly or annually has a change in membership, an annual GST return to cover the period up until the membership change must be lodged by the 21<sup>st</sup> of the month following the change in membership.

### ***GST joint ventures***

106. The joint venture operator of a GST joint venture must lodge a GST return for the GST joint venture for each tax period applying to the joint venture operator. The tax periods applying to the joint venture operator may not be the same as the tax periods otherwise applying to other participants in the joint venture.
107. Where an entity is a joint venture operator for more than one GST joint venture, a separate activity statement is required for each GST joint venture, unless the joint venture operator has elected to consolidate GST returns relating to all the GST joint ventures of the joint venture operator.

### ***GST branches***

108. Where an entity separately registers each of its branches as GST branches, it is required to lodge a separate GST return for each branch for each tax period that applies to the entity.
109. If the entity carries on enterprises outside its GST branches, it must also lodge a GST return in relation to those other enterprises.

### ***Fuel tax***

110. Several of the special rules, which modify the general rule about who is required to lodge a GST return, are also adopted for the purposes of the FT law.
111. An entity that is the representative member of a GST group for the whole of a tax period is required to account for the FT obligations of the group in their activity statement for the period.
112. The joint venture operator of a GST joint venture must account for the FT obligations of the GST joint venture for a tax period in the activity statement that they lodge on behalf of the joint venture.
113. An entity who is the joint venture operator for more than one GST joint venture and has elected to consolidate the GST returns relating to all of the GST joint ventures for which the entity is the joint venture operator, must also consolidate all of the FT returns relating to those GST joint ventures.
114. An entity that has separately registered each of its branches as GST branches is also required to lodge a separate FT return for each branch for the tax periods that apply to the entity.
115. Entities carrying on an enterprise outside its GST branches must also lodge a FT return in relation to those other enterprises.

### ***Supplies by creditors in satisfaction of debts***

116. A supply in satisfaction of a debt occurs when a person supplies the debtor's property to a third person, in satisfaction of the debtor's debt. For example, if a person repossesses goods and sells them to recover a debt, they are considered to

be making a sale on behalf of the debtor and be liable for GST in the same way as if the debtor had made the sale.

117. Taxpayers who are not registered or required to be registered for GST who, during a month:

- make a taxable supply in satisfaction of a debt, or
- make an increasing adjustment to any such supplies (whether made in that month or a previous month),

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

### ***Residents acting for non-residents***

118. Non-residents are not required to lodge a GST return for a tax period where either the net amount for the period is nil or their taxable supplies/importations are all made through a resident agent.

### ***Settlement of insurance claims***

119. Where an entity makes any taxable supplies under section 78-50 of the *A New Tax System (Goods and Services Tax) Act 1999* during a month and the entity is not registered or required to be registered during that month, it must lodge a GST within 21 days after the end of the month in relation to those supplies.

### ***Large PAYG withholders***

120. Large withholders who make a payment which is equal to the total liability for the reporting period, are not required to lodge a separate notification at the time of the payment. However, where the payment is less than the liability (for example partial payment), the remitter must contact us to advise the total liability for the period.

121. Where the payment is less than the liability because the remitter is utilising a net GST credit, the remitter must notify us of their full liability using a PAYG withholding liability notification form.

122. Large withholders are required to report the total amount paid for salary, wages and certain other payments on their activity statement, either monthly or quarterly. Where a large withholder has no other activity statement reporting obligations, a quarterly activity statement will be provided to allow this figure to be reported.

### ***PAYG withholding branches***

123. An entity may choose to divide its PAYG withholding reporting and paying responsibility into separate PAYG withholding branches where it meets certain conditions related to its accounting systems, and activities or locations.

124. The entity remains responsible for all reporting obligations although it has divided into branches.

125. Where the entity is a large withholder, each branch will have large withholder status because they still remain part of the large withholder entity.

### ***Company officers (including public officers)***

126. Every company which carries on a business or derives income from property in Australia is required to be represented by a public officer appointed by the company, unless exempted by the Commissioner.
127. The public officer is responsible for the carrying out of all responsibilities required of the company under the *Income Tax Assessment Act 1936*, (ITAA 1936), *Income Tax Assessment Act 1997* (ITAA 1997) and Schedule 1 to the *Taxation Administration Act 1953* (TAA) or the regulations. If the company does not meet all of its requirements, the public officer will be liable to the same penalties that would accrue to the company.

### ***Agents and trustees (including receivers)***

128. An agent or trustee will have the same responsibilities as the taxpayer for complying with income tax legislation in respect of the income, or any profits, or gains of a capital nature, derived in a representative capacity, or derived by the principal by virtue of an agency, and for payment of tax.

### ***Liquidators***

129. Section 254 of the ITAA 1936 makes a liquidator personally liable for the income tax obligations and liabilities arising under the ITAA 1936 from the date of their appointment. As the liquidator takes control of a company's affairs on behalf of creditors, members and, in court initiated cases, the Court, the liquidator's responsibility prevails over the responsibility of the public officer under section 252 of the ITAA 1936 to lodge a return.
130. Further, under section 163 of ITAA 1936 the Commissioner can also require the liquidator to lodge returns for periods prior to the liquidator's date of appointment.
131. The Commissioner will only require lodgment of any returns by a liquidator after having regard to the following factors:
- The prospect for, and likely size of, a dividend being paid to unsecured creditors.
  - The likelihood that the return would, if lodged, reveal an increase in the tax liabilities owed to the Commissioner.
  - The availability of books and records of the company taxpayer which would make it possible for the liquidator to prepare the returns.
  - The likelihood that the liquidator's cost of preparing those returns would be covered by the assets of the liquidated company without resulting in an inordinate adverse impact on returns to other creditors.
  - The wider community benefits of having the tax returns lodged.

### ***Deceased taxpayer***

132. For deceased estates, we have the same powers and remedies for the assessment and recovery of taxes and charges from the trustees of the estate as we would have had against the taxpayer if the taxpayer were still alive (see Chapter 32 'Deceased Estates'). The trustee is obliged to provide any returns or other information that the taxpayer was liable to provide.

## ***Bankruptcy***

133. In the Full Federal Court in *DFC of T v. Jones* (1999) 99 ATC 4373, it was held that the Commissioner of Taxation has the power under section 168 of the ITAA 1936 to issue two part-year assessments in respect of the one year of income.
134. From the date of that decision (29th March 1999), taxpayers who become bankrupt during an income year will be assessed for the period from the beginning of the income year to the day the taxpayer became bankrupt, and assessed separately for the period from the day after the date of bankruptcy to the end of the income year.
135. This may require lodgment of separate returns for the pre and post-bankruptcy periods.
136. Where bankruptcy occurs during an activity statement period, separate activity statements may be required for both the periods before and after the date of bankruptcy.
137. There is no requirement in relation to PAYG instalments or PAYG withholding to complete separate activity statements for pre and post-bankruptcy. However, for GST, LCT and WET the Commissioner may determine that another tax period applied to a person from the date of bankruptcy to what would otherwise have been the end of the tax period. This will place a requirement on the taxpayer and their representative to lodge separate activity statements for both the periods prior to and after the date of bankruptcy detailing GST amounts.
138. When a taxpayer who has been making GST instalment payments becomes bankrupt, an annual GST return accounting for the period up to the date of bankruptcy must be lodged by the 21st day of the month following bankruptcy.

## ***Incapacitated entities***

139. A representative of an incapacitated entity must take on the GST reporting period that applied to the incapacitated entity. The representative must also take on the GST reporting period that applied to the incapacitated entity for the purpose of lodging a FT return.
140. Returns for GST instalment payers or GST annual reporters who become bankrupt or for instalment payers or annual reporters, (not an individual), who go into liquidation, receivership or for any reason ceases to exist, are 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.

## ***Electronic lodgment requirements***

141. An entity with an annual turnover of \$20 million or more must lodge GST returns electronically.
142. An entity that is required to lodge GST returns electronically must also notify electronically all other BAS amounts where notification is required on the same day as the GST return.
143. The ATO will allow reasonable time for the taxpayer to arrange their affairs to meet electronic reporting and payment requirements.
144. An entity may also choose to lodge and pay electronically.

145. Generally, entities required to lodge electronically will be excluded from any concessional lodgment arrangements offered as an incentive to engage in electronic transactions.

### ***Varying reporting requirements***

146. Reporting periods for tax obligations such as GST and PAYG withholding can be varied in certain circumstances. Generally a change in reporting period will be triggered by:

- (i) change in eligibility
- (ii) poor compliance history, or
- (iii) client initiated/requested.

### ***Change in eligibility***

147. GST legislation provides for the revision of monthly/quarterly status based on GST turnover with effect from the first day of a three month tax period. Where the monthly tax periods have been determined based on GST turnover the tax period will not be varied within 12 months of the date of the determination.

148. PAYG withholding legislation requires that a payer's classification be changed from small to medium if the total amount withheld in the preceding financial year exceeded \$25,000 or, from small or medium to large if the total amount withheld in the preceding financial year exceeded \$1 million. Each year we will conduct a review and advise affected payers if there is a change in their status.

149. Where a more frequent reporting period is required following a review (for example a change in status from a 'medium' withholder to a 'large' withholder) we will allow a reasonable amount of time for the taxpayer to arrange their affairs.

### ***Poor compliance history***

150. We will consider a taxpayer to have a poor compliance history if:

- (i) the taxpayer has a history of lodging approved forms late or not at all, or
- (ii) we have taken action to establish liabilities because of a lack of co-operation by the taxpayer.

These are indicative only and any other relevant factors will be taken into account.

151. GST legislation has a specific provision for the Commissioner to determine that one month tax periods apply to a taxpayer who has a history of failing to comply with any taxation obligation, when the taxpayer would otherwise qualify for quarterly tax periods.

152. If monthly tax periods have been imposed because of a poor compliance history, the taxpayer reporting requirement will not revert to quarterly tax periods for a minimum of twelve months.

153. Where monthly tax periods apply for GST, they will also apply for FT, LCT and WET.

154. Where GST lodgments are not up to date, an otherwise eligible taxpayer will not be offered the option of a quarterly instalment amount set by the Commissioner.

155. A taxpayer's PAYG withholding status may be varied from small to medium or large, or from medium to large, for failing to comply with withholding obligations. This will



result in more frequent reporting and payment obligations. Any such variation made on the basis of a poor compliance history will apply for a twelve month period. If a taxpayer is also registered for GST, both the PAYG withholding and GST reporting will be changed to monthly. These are reviewable decisions, a person who is dissatisfied with these variations may object against these decisions.

156. More frequent reporting and payment obligations will not necessarily be applied on each and every occasion that a taxpayer fails to comply with an obligation. Those taxpayers who consistently fail to meet their obligations may benefit from the more frequent reporting/payment requirements. Additionally, it offers an opportunity for those taxpayers who are having difficulty managing cash flows, to account for their liabilities monthly on a more structured arrangement than through the voluntary payments option.

### ***Client initiated / requested***

157. For PAYG withholding, the payer may apply in writing to have the withholder status varied downwards. Generally an application will only be allowed where the payer's amounts withheld are likely to have fallen permanently below the relevant threshold or where other unusual circumstances apply. There is no set period of time for which this new reporting period applies. We will notify the withholder of the determination which will only have effect for a particular month if it is given before that month. A payer who is dissatisfied with this determination has the right to object against the decision.
158. Eligible taxpayers can elect to report PAYG instalments annually by notifying the ATO in the approved form, on or before the day on which the first quarterly instalment would otherwise be due. An annual election remains in force until the taxpayer ceases to meet annual eligibility criteria, or chooses to revert to quarterly instalments the following year. Any change to a reporting period will occur at the beginning of the year of income.

### ***Consequences of varying reporting requirements***

159. When a taxpayer makes an election to report obligations more frequently than they are legislatively required to, they fall under the provisions governing their chosen reporting period. This choice also provides additional exposure to penalties for failing to lodge statements on time. For example, if a taxpayer elects a monthly reporting period and is subsequently late with any lodgment, a failure to lodge on time penalty may be applied in respect of each document not lodged by the due date.
160. Taxpayers would generally make this election to either gain earlier access to GST or FTC or to assist them to manage their cash flow by making more frequent payments.
161. Taxpayers wishing to make more frequent payments towards their expected activity statement liabilities are able to do so voluntarily without the requirement to change their lodgment period. A booklet of payment vouchers may be obtained to facilitate voluntary payments.

### ***Income tax exemptions - partnerships***

162. The Commissioner may grant an exemption from lodging a partnership return where:

- (i) the partnership's only income is either rent from an investment property held by the partners as co-owners or interest derived jointly by the partners; or both and each partner shows their share of the income and expenses in their own tax return; or
- (ii) an application for exemption from lodging a partnership tax return has been approved by the ATO.

163. An exemption is not granted where a partner is claiming a credit for amounts withheld, under the no ABN withholding rules, from payments made to a partnership.

## TERMS USED

Activity statement – a form that allows the taxpayer or representative to report obligations for GST, LCT, WET, PAYG withholding, PAYG instalments, FBT instalments and 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 ATO 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:

- (i) a company
- (ii) 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
- (iii) 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
- (iv) the trustee of a fund that is an eligible ADF (as defined in section 267) in relation to the current year
- (v) the trustee of a fund that is an eligible superannuation fund (as defined in section 267) in relation to the current year
- (vi) the trustee of a fund that is a pooled superannuation trust (as defined in section 267) in relation to the current year
- (vii) the trustee of an FHSA (as defined in subsection 6(1) of the ITAA 1936) in relation to the current year.

*Note: A corporate limited partnership is taken to be a company under section 94J (ITAA 1936) so it will fall within paragraph (a) of this definition.*

GST return – refers to the BAS when referring to the entity's annual, 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.

Income time rate option – when an entity is required to report their 'actual' income amount for an instalment period which is then multiplied by the advised 'Commissioner's rate' to determine their PAYG instalment liability.

Instalment activity statement – a personalised form issued by the ATO 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. ATO 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 ATO.

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.

## 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 (FTC) 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 (FTC) 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)**

<b>Period</b>	<b>Due Date</b>
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**

<b>Period</b>	<b>Due Date</b>
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), (FTC) and other monthly or quarterly obligations**

**OR**

**No GST (WET, LCT), PAYGI, or FBTI, and Monthly PAYGW only**

<b>Period</b>	<b>Due Date</b>
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

FTC – Fuel tax credit

FBTI – Fringe benefit tax instalment

GST – Goods and services tax  
WET – Wine equalisation tax  
LCT– Luxury car tax  
PAYGI – Pay as you go instalments  
PAYGW – Pay as you go withholding

**Chapter 51 & associated chapters - Archived versions**

Chapter 51: Version 4 – July 2006 (will link to chapter 51 pdf)
Chapter 54: Version 4 – July 2006 (will link to chapter 54 pdf)
Chapter 51: Version 5 – July 2008 (will link to chapter 51 pdf)
Chapter 52: version 5 – July 2008 (will link to chapter 52 pdf)
Chapter 56: version 5 – July 2008 (will link to chapter 56 pdf)