

ATO RECEIVABLES POLICY

PART D Registration of Entities

Chapter 65 CANCELLING GST REGISTRATIONS

The policy in this chapter is to be followed by Tax Office staff. We have made every effort to ensure 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 the chapter is wrong or misleading, please advise the Tax Office.

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

Key legislation: Section 25-50 to section 25-99 of the *A New Tax System (Goods and Services Tax) Act 1999*

PURPOSE

1. This chapter outlines the requirements for cancelling a goods and services tax (GST) registration.

INTRODUCTION

2. If a registered entity is no longer entitled to hold a GST registration, it must apply to have its registration cancelled.
3. If a registered entity is no longer required to hold a GST registration, but is entitled to that registration (for example, its GST turnover has dropped below the registration threshold), it may apply to have its registration cancelled.
4. An entity that is required to be registered for GST cannot cancel its GST registration.
5. Cancellation of GST registration will also result in cancellation of fuel tax credit, luxury car tax and wine equalisation tax registrations.

POLICY

6. Generally, if a registered entity ceases to carry on an enterprise or disposes of the enterprise, it must apply for cancellation of its registration. An entity stops carrying on an enterprise when it concludes doing everything in the course of terminating its enterprise.
7. An entity must request cancellation of their GST registration within 21 days of ceasing to carry on an enterprise.
8. For a full definition of entity and enterprise refer to Miscellaneous Tax Ruling 2006/1 The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number - the meanings apply to GST and the Australian business number (ABN).

9. An entity with a GST turnover below the registration turnover threshold of \$75,000 (or \$150,000 for non-profit bodies) that is not otherwise required to be registered may also apply to have its GST registration cancelled.
10. Special rules require that taxi or limousine drivers must be registered for GST irrespective of their turnover for as long as they are carrying on an enterprise supplying travel for fares.
11. Entity types which are entitled to a GST registration without carrying on an enterprise (see Chapter 62 'Applying for goods and services tax registration') may not be required to cancel their GST registration.
12. The entity is registered, not the enterprise, so if an entity carrying on an enterprise is changed (for example, changes from a partnership to a company), it must cancel its former registration and the new entity may apply for a new registration.
13. The Commissioner must cancel a GST registration if the entity has applied in the approved form and the following are satisfied:
 - the entity has been registered for at least 12 months, and
 - the Commissioner is satisfied that the entity is not required to be registered.
14. If an entity has applied for cancellation of a GST registration, the Commissioner may cancel a GST registration if the applicant has been registered for less than 12 months if he is satisfied that the entity is not required to be registered, either because the enterprise has ceased or the turnover is below the threshold.
15. The Commissioner must also cancel the entity's GST registration, even if the entity has not applied for cancellation, if the Commissioner:
 - is satisfied that the business is not carrying on an enterprise
 - is satisfied that a superannuation fund has been wound up or is no longer complying and is not otherwise carrying on an enterprise, or
 - believes on reasonable grounds that the entity is not likely to carry on an enterprise for at least 12 months.
16. The Commissioner must notify the client of any decision made in relation to cancelling the GST registration. If the Commissioner decides to cancel the registration, the notice must specify the date of effect of the cancellation. If the registration has been cancelled the entity may still have a tax liability to adjust for input tax credits received on importations and acquisitions it still had immediately prior to the cancellation.

GST groups

17. The Commissioner must revoke the approval of a GST group if the nominated representative member applies in the approved form for the GST group to be revoked. If the Commissioner is satisfied that none of its members, or only one of its members, satisfy the membership requirements of the group, the approval for a GST group will be revoked by the Commissioner.
18. A member of a GST group that becomes incapacitated will generally be forced to exit the GST group. Such an entity would normally have a concluding tax period under section 27-40 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) and, as this tax period would differ from those applying to other members, the entity would no longer satisfy the membership requirements of the

group. The entity may, however be entitled to rejoin the group at the start of its next tax period.

GST branches

19. The Commissioner must cancel the registration of a GST branch of an entity if:
 - the parent entity has applied for cancellation of registration in the approved form, and
 - the branch had been registered for at least 12 months.
20. The parent entity must apply for cancellation of registration of a GST branch if the entity is not carrying on an enterprise through the branch.
21. The Commissioner must also cancel the registration of a GST branch if satisfied that the parent entity:
 - is not carrying on an enterprise through the branch, and
 - will not carry on an enterprise through the branch in the following twelve months.
22. If both these conditions apply to a GST branch, the Commissioner may cancel the registration, even without a request being lodged.
23. Cancellation of a parent entity's registration will automatically cancel the GST branch registration.

Date of effect

24. The Commissioner must decide the date on which the cancellation of a registration takes effect. In accordance with subsection 25-60(1) of the GST Act, the date of effect of cancellation may be any day occurring before, on or after the day on which the Commissioner makes the decision to cancel the registration. That is, it may be any day on or after 1 July 2000.
25. The Commissioner will not cancel a registration from any date when the entity was required to be registered or when the entity was operating on a GST-registered basis.
26. Where an entity that was required to be registered applies to cancel its registration, the Commissioner will ordinarily accept the date the entity chooses to cancel from, even if this is an earlier date providing they were not required to be registered after that date, and they have been registered for 12 months.
27. If an entity is registered but is not required to be registered (a voluntary registration), and it has operated on a GST-registered basis, the date of cancellation will not be retrospective. The Commissioner will negotiate a prospective date if the application does not state one.
28. If an entity is voluntarily registered but the Commissioner is satisfied that it has never operated on a GST-registered basis, the Commissioner may accept the application to cancel the GST registration from an earlier date.
29. If an entity is voluntarily registered and has stopped operating on a GST-registered basis from a certain date, the Commissioner may accept its application to cancel its GST registration from the start of the tax period on or after the date it stopped operating on a GST-registered basis.

30. The Commissioner will be satisfied that an entity stopped operating (or never operated) on a GST-registered basis from a certain date if, from that date or earlier date the entity:
- did not hold themselves out to other businesses as being registered for GST
 - did not issue any tax invoices or adjustment notes
 - did not claim any input tax credits, special transitional credits or indirect transitional credits, and
 - the entity has made a declaration to the Tax Office that satisfies all of the above points.

Refusals

31. If the Commissioner decides not to cancel the GST registration or chooses a different date for cancellation than the date requested, the applicant can object to those decisions under Part IVC of the *Taxation Administration Act 1953*.

TERMS USED

ABN – means the entity’s Australian business number as shown in the Australian Business Registrar.

Approved form – has the meaning given by section 388-50 of Schedule 1 to the *Taxation Administration Act 1953*.

Carrying on an enterprise - includes doing anything in the course of the commencement or termination of the enterprise.

Commissioner – means the Commissioner of Taxation.

Enterprise – refer to Miscellaneous Tax Ruling MT 2006/1 – the New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an ABN.

Entity – refer to MT 2006/1.

GST – means goods and services tax that is payable under GST law.

GST turnover – means:

- in relation to meeting a turnover threshold – has the meaning given by subsection 188-10(1) of the GST Act, and
- in relation to not exceeding a turnover threshold – has the meaning given by subsection 188-10(2).

Registration turnover threshold – has the meaning given by sections 23-15 and 63-25 of the GST Act.