PS LA 2011/15 - Lodgment obligations, due dates and deferrals

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Practice Statement Law Administration

PS LA 2011/15

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SUBJECT: **Lodgment obligations, due dates and deferrals**

PURPOSE: **To provide guidelines on:**

- **general lodgment obligations including supporting voluntary lodgment compliance, specific lodgment requirements and lodgment requirements for special classes of person**
- **lodgment due dates and how these dates are determined, and**
- **deferring lodgment obligations**

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STATEMENT

1. The efficient administration of the taxation and superannuation systems relies on information that entities[1] give to the Commissioner. Information is generally required to be given to the Commissioner in the approved form or in a prescribed form.

[1] Entity takes the meaning of section 960-100 of the *Income Tax Assessment Act 1997* (ITAA 1997).

Approved form

2. 'In the approved form' means in a form that satisfies the requirements of section 388-50 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

3. An approved form must contain all required information, declarations and signatures and must be lodged in the manner required by the Commissioner. This may include electronic lodgment (such as e-tax; standard business reporting; tax agent, business activity statement (BAS) agent and business portals; electronic commerce interface; interactive voice recognition), telephone and paper lodgments.

4. Law Administration Practice Statement PS LA 2005/19 *Approved forms* explains the requirements and procedures for the approval of approved forms, that are paper or virtual forms.

5. A consolidated list of forms that have been approved by the Commissioner as approved forms is available on the ATO's website at www.ato.gov.au. Examples include:

   - goods and services tax (GST) returns:
     - BAS
     - annual GST returns
   - income tax returns for the 2001 and subsequent income years
   - fringe benefits tax (FBT) returns commencing from the 1 April 2001 year of tax
   - instalment notices and instalment activity statements
   - pay as you go (PAYG) withholding annual report for the 2001 and subsequent income years
   - tax file number (TFN) declarations since 1 July 2000, and
   - fuel tax (FT) returns for non-business payers.

   An approved form also includes any other document where there is a specific legislative requirement for lodgment in the approved form.

Prescribed form

6. 'In the prescribed form' includes where an Act administered by the Commissioner has its own definition of 'approved form'. In this situation the requirements of that provision will apply instead of the requirements of section 388-50 of Schedule 1 to the TAA.

7. 'In the prescribed form' also includes where an Act is silent in respect of any requirements for a document and the Commissioner requires a document to be created in connection with the exercise of either an implied power or his power of general administration of a taxation law.

8. The Commissioner considers lodgment to have been made in a prescribed form if:

   - the requirements of the relevant legislative provision have been satisfied, or
   - the Commissioner requires a document to be created in connection with the exercise of either an implied power or his power of general administration of a taxation law, where sufficient information is provided to enable effective and efficient administration of the taxation and superannuation laws.

9. In the context of the above, this practice statement provides guidance on:

- the general lodgment obligations to lodge returns, forms, elections and other documents
- the specific lodgment requirements
- the lodgment requirements for special classes of persons
- the various lodgment due dates and how these dates are determined, and
- the deferring of lodgment obligations.

EXPLANATION

A. GENERAL LODGMENT OBLIGATIONS

10. Entities are required to lodge documents by the due date regardless of whether any related liability is paid. This is essential to the efficient operation and administration of the taxation and superannuation systems, as the information provided in these forms is valuable to the Commissioner and the continued maintenance of community confidence.

11. Generally, only one lodgment of a document per period is required. However, an entity may be required to lodge:

- further or fuller returns for a period, and/or
- different documents for different liabilities within one period.

Compliance measures

12. Where a document is not lodged by the due date, the Commissioner will consider appropriate action to achieve lodgment of the document.

13. The action taken by the Commissioner in relation to entities that fail to meet their lodgment obligations will differ depending on their particular circumstances. These include reasons for non-lodgment, compliance history, level of knowledge of tax and superannuation laws and other relevant individual circumstances.

14. The measures available to the Commissioner in dealing with overdue documents include:

- making direct contact with the entity and/or their agent. This may include:
  - ensuring the entity is aware of the legal obligation to lodge by the due date
  - advising the entity of the consequences of non-lodgment or late lodgment
  - in certain circumstances, accepting lodgment of activity statements over the telephone to expedite finalisation of compliance actions
  - sending letters demanding lodgment that include final notices for income tax and FBT returns
- applying a failing to lodge on time (FTL) penalty. The Commissioner's policy on the FTL penalty is set out in Law Administration Practice Statement PS LA 2011/19 *Administration of penalties for failing to lodge documents on time*

- issuing an assessment or default assessment, making estimates and/or bringing tax related liabilities to account. The Commissioner's policy on making default assessments is set out in Law Administration Practice Statement PS LA 2007/24 *Making default assessments: section 167 of the Income Tax Assessment Act 1936 and other similar provisions,* and/or
- referring the matter for prosecution where the entity can reasonably be categorised as high risk by their actions or inactions in relation to meeting lodgment obligations. The policy on prosecution is set out in the *Prosecution Policy of the Commonwealth*.

15. All communications, actions and decisions must be consistent with the Taxpayers' Charter and Corporate Management Practice Statement PS CM 2007/01 *Respecting clients' rights of review*.

16. Further, any personal information collected by the Commissioner must comply with the *Privacy Act 1988*, in particular with the requirements of Australian Privacy Principle 5.2 and the *Tax File Number Guidelines 2011*. The Commissioner's privacy policy is located at ato.gov.au/privacy. The policy includes information on how entities can access and seek correction of information the Commissioner holds about them, how entities may complain about a breach of the Australian Privacy Principles and how the Commissioner will deal with any privacy complaint.

Non-pursuit

17. In limited circumstances, the Commissioner may consider that it is not appropriate to pursue lodgment of documents that have not been lodged by the due date. These circumstances may include:

    - 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.

    This decision may be reviewed at any time. A review of this decision is not dependent on the receipt of new information.

18. A decision not to pursue the lodgment of a document does not remove the entity's obligation to lodge that document. Entities will generally not be advised if a decision is made not to pursue lodgment of a document.

Income tax

19. At law, the Commissioner is required to publish a notice in the Commonwealth of Australia Gazette that sets out the lodgment requirements and lodgment due dates of income tax returns for the year of income.[2]

20. In this notice, the Commissioner may exempt such classes of entities not liable to pay income tax from their obligation to lodge returns.[3]

21. The Commissioner satisfies the requirement to publish a Gazette notice by registering a legislative instrument[4] on the Federal Register of Legislative Instruments.[5]

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[2] Section 161 of the *Income Tax Assessment Act 1936* (ITAA 1936).
[3] Subsection 161(1A) of the ITAA 1936.
[4] 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

22. The Commissioner may require an entity to give a further or fuller return or information about the entity's financial affairs.[6]

23. An entity may notify the Commissioner when it is not required to lodge an income tax return or further income tax returns. However, notwithstanding such notification, the Commissioner retains the right to require entities to give a return or further or fuller returns.

Income tax – consolidated groups7

24. For the year in which a consolidated group is formed, the head company only needs to lodge one income tax return that will cover any pre and post-consolidation periods. 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.

25. 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.

26. 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 all the periods the entity was not a subsidiary member of a group.

27. Where a group has made a choice to either consolidate or form a multiple entry consolidated (MEC) group[8] it is the responsibility of either the head company or the provisional head company to ensure the relevant information related to the choice is given to the Commissioner in the approved form.

28. The law allows the Commissioner to defer the statutory due date for lodgment.[9] However this general power does not operate to defer the period within which an entity could lodge a choice to consolidate a consolidatable group.[10] In *MW McIntosh Pty Ltd and Anor v. FC of T* [2009] FCAFC 88, the Full Federal Court held that subsection 388-55(1) of Schedule 1 to the TAA did not generally extend to a provision that was permissive, such as section 703-50 of the ITAA 1997, as the legislative intention is that the period within which the choice was to be made is fixed.

29. The Consolidation Reference Manual and Chapter 35 of the *ATO Receivables Policy* on the ATO's website provide more information about consolidations (links to these documents are provided in the 'Other references' section of this practice statement).

Fringe benefits tax

30. An entity which is an employer must lodge an FBT return if it has a fringe benefits taxable amount in an FBT year.[11] An FBT year is 1 April to 31 March.[12]

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.

[5] Section 56 of the *Legislative Instruments Act 2003.*
[6] Sections 162 and 163 of the ITAA 1936.
[7] Consolidated group has the meaning given by section 703-5 of the ITAA 1997.
[8] MEC group has the meaning given by section 719-5 of the ITAA 1997.
[9] Subsection 388-55(1) of Schedule 1 to the TAA.
[10] Section 703-10 of the ITAA 1997.
[11] Section 68 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
[12] Section 136 of the FBTAA.

31. The Commissioner may by notice in writing require any person, whether an employer or not, to furnish a return in relation to an FBT year in the manner and within the time specified in that notice. This is notwithstanding that the relevant entity has furnished or otherwise been required to furnish a return in respect of that FBT year.[13]

Activity statements and instalment notices

32. At law, the Commissioner may combine several approved forms into one.[14] Lodgment obligations in an activity statement may include GST, GST instalments, wine equalisation tax (WET), luxury car tax (LCT), FT, PAYG instalments, PAYG withholding and FBT instalments.

33. The activity statement is the document used to lodge a GST return. Where no amount is notified against a liability it will be considered to be notification that the amount is nil. Where it is subsequently determined that there should have been an amount included, the entity may be liable to an administrative penalty relating to false or misleading statements.[15]

34. Activity statement reporting obligations are generally monthly or quarterly, however, in certain circumstances an entity may report annually or biannually. Where entities choose to report GST and/or PAYG withholding branch[16] activities separately, they will need to lodge an activity statement for each branch for each period.

35. Lodgment of GST returns is required where an entity is registered or required to be registered for GST. This applies regardless of whether the net amount is a refund, nil balance or the entity is liable for GST on taxable supplies attributable to the relevant period.

36. The Commissioner may, at any time, require a further or fuller GST return and with respect to one or more tax periods.[17]

37. Entities using the 'income times rate' option[18] in the PAYG instalment system are required to notify the Commissioner of their PAYG instalment liability even where this is 'nil'.

38. A 'nil' notification is also required when an entity has made a PAYG withholding payment or provided a benefit treated as a PAYG withholding payment, but the amount withheld is 'nil'.

Substituted accounting periods

39. Entities with a substituted accounting period[19] (SAP) for income tax purposes that report GST and PAYG withholding on a quarterly basis will report these liabilities in accordance with the standard reporting periods.[20] SAP entities reporting PAYG instalments on a quarterly basis will report these amounts consistent with the quarters aligned to the entity's SAP.

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[13] Section 69 of the FBTAA.
[14] Subsection 388-50(2) of Schedule 1 to the TAA.
[15] Section 284-75 of Schedule 1 to the TAA.
[16] PAYG withholding branch has the meaning given by section 16-142 of Schedule 1 to the TAA.
[17] Section 31-20 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
[18] Subsections 45-110(1) and 45-115(1) and paragraph 45-125(1)(b) of Schedule 1 to the TAA.
[19] Substituted accounting period is an accounting period that has a balancing date different to the normal balancing date of 30 June. For further information refer to PS LA 2007/21 *Substituted Accounting Periods (SAPs).*
[20] The standard quarterly reporting periods are the tax periods ending 30 September, 31 December, 31 March and 30 June.

Electronic lodgment

40. An entity with a GST turnover[21] of $20 million or more must lodge GST returns and make payments electronically.[22] Entities participating in the deferred GST scheme[23] must also report GST electronically and on a monthly basis. An entity that is required to lodge GST returns electronically must also notify all other BAS amounts[24] electronically where notification of these amounts is required on the same day.[25] An entity may also choose to lodge and pay electronically if not otherwise required to do so.[26]

41. The Commissioner generally follows an administrative practice of issuing at least one warning for entities to adopt electronic lodgment and payment arrangements before considering administrative penalties. Law Administration Practice Statement PS LA 2011/2 *Administration of penalties for the non-electronic notification (NEN penalty) and non-electronic payment (NEP penalty)* sets out the circumstances where these administrative penalties will be applied.

Variation of reporting periods

42. 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 one or more of the following:

- a change in eligibility
- a poor compliance history
- a client request.

43. The GST law provides for the determination of monthly tax periods based on GST turnover with effect from the first day of a three month tax period.[27] Where the monthly tax periods have been determined based on GST turnover the tax period cannot be varied within 12 months of the date of the determination.[28]

44. The PAYG withholding law requires that an entity's status 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.[29] Each year the Commissioner will conduct a review and advise affected entities if there is a change in their status.

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[21] GST turnover takes the meaning given by Division 188 of the GST Act.
[22] Subsections 31-25(2) and 33-10(2) of the GST Act.
[23] Section 33-15 of the GST Act and Division 33 of the *A New Tax System (Goods and Services Tax) Regulations 1999*.
[24] BAS amounts means any debts or credits that arise directly under the *BAS provisions. BAS provisions are (1) indirect tax law that is any of GST law, wine tax law, luxury car tax law, fuel tax law (2) Part VII of the FBTAA and (3) Parts 2-5 and 2-10 of Schedule 1 to the TAA that are about the PAYG system.
[25] Section 388-80 of Schedule 1 to the TAA.
[26] Subsections 31-25(1) and 33-10(1) of the GST Act.
[27] Subsection 27-15(2) of the GST Act.
[28] Paragraph 27-25(2)(b) of the GST Act.
[29] Sections 16-95 and 16-100 of Schedule 1 to the TAA.

45. An entity'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.[30] 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 an entity is also registered for GST, both the PAYG withholding and GST reporting periods will be changed to monthly.

46. 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 entities that are having difficulty managing their cash flow, to account for their liabilities monthly on a more structured arrangement than through the voluntary payments option.

47. Further, the entity may apply in writing to have the withholder status varied downwards. Generally an application will only be approved where the entity'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. The Commissioner will notify the withholder of the decision that will only have effect for a particular month if it is given before that month.[31] 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) the Commissioner will allow a reasonable amount of time for the entity to arrange their affairs.

48. The Commissioner's decision to refuse to revoke monthly GST periods and to vary an entity's PAYG withholding status are reviewable decisions where entities have the right to object against these decisions.[32]

Fuel tax credits for non-GST entities

49. Eligible entities that are not registered for GST, nor required to be registered for GST, can claim fuel tax credits on a fuel tax return.[33] The tax periods for a fuel tax return are as specified by the entity.[34]

Activity statements and instalment notices – circumstances where lodgment obligation created

50. Instalment notices and PAYG/GST instalment obligations on activity statements may only require payment of the notified amount. However, lodgment obligations are created where an entity:

- has elected or defaulted to the GDP-adjusted notional tax[35] method for calculating their PAYG instalment amount and are varying the instalment amount
- is eligible and elects for annual PAYG instalments and either varies the instalment amount or calculates their instalment using the 'income times rate' method

[30] Paragraph 16-115(5)(c) of Schedule 1 to the TAA.
[31] Section 16-110 of Schedule 1 to the TAA.
[32] Subsection 110-50(2) and sections 16-110 and 16-115 of Schedule 1 to the TAA
[33] Subsection 41-5(3) and section 42-5 of the *Fuel Tax Act 2006* (FT Act)
[34] Section 61-20 of the FT Act
[35] GDP adjusted notional tax has the meaning given by section 45-405 of Schedule 1 to the TAA.

- whose only obligation is GST instalments and varies that instalment amount
- has FT and GST instalment obligations and has an increasing FT adjustment in the last quarter of the financial year
- has GST instalment and quarterly PAYG instalment obligations and is varying one or both of the instalment amounts.

Elections – activity statements and instalment notices

51. Where the law allows an entity to vary their lodgment requirements, an election is the accepted mechanism.

52. Failure to make an election by the due date may exclude the entity from their preferred option.[36]

53. Certain entities may elect to report GST and/or PAYG withholding obligations more frequently than otherwise required by law. Reasons for this may include early access to credits, including FT credits, and more control over cash flow. For example, where an entity would otherwise be eligible to report GST obligations on a quarterly basis there is provision for them to elect to report monthly. Entities making such elections must accept the responsibilities of changing their tax period, including more frequent exposure to FTL penalty and general interest charge (GIC) for failing to pay on time.

54. However, entities 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.

Monthly GST reporting

55. If an entity makes an election to report GST obligations on a monthly basis, they may:
    - withdraw the election if more than twelve months have passed since the election took effect,[37] or
    - ask the Commissioner to revoke the election if less than twelve months have passed.[38]

56. While the Commissioner would normally allow an early revocation of a monthly election, it would not be approved where the Commissioner considers that the entity is exploiting the provision. For example, an entity may seek to have monthly reporting revoked immediately prior to a period where they are in receipt of seasonal income. The sole purpose for seeking to report quarterly is to make payment of GST at a later time.

57. The Commissioner will only backdate the revocation of an entity'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 entity lodges their application.

[36] See paragraphs 165 to 171 of this practice statement.
[37] Section 27-20 of the GST Act.
[38] Section 27-22 of the GST Act.

58. If an entity is required, based on GST turnover being $20 million or more, to report GST obligations on a monthly basis, the entity may apply to have the monthly reporting period revoked. The Commissioner would only change the entity to a quarterly reporting period if the GST turnover falls below $20 million and the entity has been using monthly tax periods for at least 12 months.

59. GST law has a specific provision for the Commissioner to determine that one month tax periods apply to an entity that has a history of failing to comply with any taxation obligation, when the entity would otherwise qualify for quarterly tax periods.[39] If monthly tax periods have been imposed because of a poor compliance history, the entity's reporting requirement will not revert to quarterly tax periods for a minimum of twelve months.[40]

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

GST instalments

61. Entities that are eligible and elect to pay GST instalments quarterly are required to lodge an annual GST return.[41] This is in addition to the notification[42] of the instalment amount on quarterly activity statements where they have other activity statement obligations.

62. Where GST lodgments are not up to date, an otherwise eligible entity will not be offered the option of a quarterly GST instalment amount set by the Commissioner.[43]

Annual GST reporting

63. Entities who are eligible and elect to report and pay (or claim a refund of) GST annually must lodge an annual GST return. These entities have an annual tax period and will report and calculate their annual GST liability on the annual GST return. Where entities have registered for FT and have elected to report and pay their GST annually, they must also lodge their FT return annually. The FT return and the annual GST return are combined on the same document.

64. Entities may need to make elections to access streamlined reporting and instalment payment options. In some instances, such elections may place additional lodgment obligations on entities such as the requirement to lodge an annual GST information report to complete their reporting.

Annual PAYG instalments

65. Eligible entities may elect to pay PAYG instalments annually.[44] Once the annual election has been made, it will remain in force until either the entity 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.

66. Head companies of consolidated groups that would otherwise be eligible do not have the option of reporting and paying PAYG instalments annually.[45]

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[39] Paragraph 27-15(1)(c) of the GST Act.
[40] Paragraph 27-25(2)(b) of the GST Act.
[41] Section 162-60 of the GST Act.
[42] Section 162-75 of the GST Act.
[43] Paragraph 162-5(1)(d) of the GST Act.
[44] Section 45-140 of Schedule 1 to the TAA.
[45] Section 45-720 of Schedule 1 to the TAA.

PAYG withholding annual reports

67. Under the PAYG withholding system, entities who withhold amounts from particular kinds of payments have an obligation to report annually[46] either electronically or in paper form. Common payments from which amounts are withheld include:

- payments for work or services (individuals) including retirement payments
- annuities, benefits and compensation payments
- superannuation lump sum payments
- superannuation income streams
- voluntary agreements
- labour hire arrangements and other specified payments
- employment termination payments
- alienated personal service payments
- departing Australia superannuation payments
- supplies where the recipient does not quote their Australian business number (ABN).
- dividend, interest and royalty payments made to non-residents
- payments to foreign residents.

68. If lodging using an ATO printed form, the obligation to lodge is not fulfilled unless the entity lodges both a completed PAYG withholding payment summary statement and all the relevant payment summaries.

69. Entities who choose to self-print their payment summaries must lodge them electronically with the Commissioner. Entities who lodge electronically are not required to complete a PAYG withholding payment summary statement or send paper payment summaries to the Commissioner.

70. Any entity registered for PAYG withholding must lodge an annual report if there were any withholding events for the income year. This applies even if the withheld amount is 'nil'.

71. Any of the requirements for providing an annual report may be varied either for one entity or a class of entities.[47] Variations for a class of entities can be given to each entity or made by way of a notice contained in a legislative instrument.

72. Variations for an individual entity must be made by written notice to the entity. For example, the Commissioner may forgo the need for an entity to lodge an annual report where that entity had 'nil' withholding for the income year and is no longer in business.

73. Entities required to report withholding events where no ABN is quoted have an obligation to lodge an annual report listing all those events.[48] This report is called the PAYG withholding where ABN not quoted – annual report.

[46] Sections 16-152 and 16-153 of Schedule 1 to the TAA.
[47] Subsections 16-153(6) and 16-153(7) of Schedule 1 to the TAA.
[48] Paragraph 16-153(1)(a) of Schedule 1 to the TAA.

74. Entities required to report no TFN withholding events associated with closely held trusts[49] have an obligation to lodge an annual TFN withholding report.[50]

    These no TFN withholding events are:

    - trustees of eligible trusts distributing income to certain beneficiaries,[51]and
    - certain beneficiaries becoming presently entitled to income of eligible trusts.[52]

75. Entities that pay dividends, interest and royalties to overseas entities have an obligation to lodge an annual report of the payments made. This report is called the PAYG withholding from interest, dividends and royalty payments – annual report.

76. Entities making payments to foreign residents engaged in certain activities, such as sports and entertainment, construction and related activities and organising casino gaming junkets, have an obligation to lodge an annual report of the payments made and the amounts withheld. This report is called the PAYG withholding annual report – payments to foreign residents.

Minerals resource rent tax

77. From 1 July 2012, the minerals resource rent tax (MRRT) applies to entities that have coal and iron ore projects in Australia.

MRRT instalments

78. An obligation to lodge an MRRT instalment liability notice arises where an entity has either a mining project interest[53] or holds a pre-mining project interest[54] during an instalment quarter and its instalment rate for the quarter is greater than zero or it has mining revenue or pre-mining revenue relating to that quarter.[55]

79. Entities liable to pay an instalment for an instalment quarter, including nil amounts, must lodge an MRRT instalment liability notice to notify the Commissioner of their instalment income.[56]

80. However, an entity will not be required to pay an MRRT instalment where the Commissioner has determined a nil rate for that entity or that class of entities. This may occur where the Commissioner is of the opinion that the entity or class of entities is unlikely to be liable to pay MRRT for that MRRT year.[57] The Commissioner may also exempt such an entity or class of entities from having to lodge MRRT instalment liability notices.[58]

[49] Defined at section 102UC of the ITAA 1936.
[50] Section 16-152 of Schedule 1 to the TAA.
[51] Section 12-175 of Schedule 1 to the TAA.
[52] Section 12-180 of Schedule 1 to the TAA.
[53] Section 15-5 of the *Minerals Resource Rent Tax Act 2012* (MRRTA).
[54] Section 70-25 of the MRRTA.
[55] Subsection 115-10(1) of Schedule 1 to the TAA
[56] Subsection 115-15(1) of Schedule 1 to the TAA.
[57] Subsections 115-45(2) and 115-45(3) of Schedule 1 to the TAA.
[58] Subsection 115-15(3) of Schedule 1 to the TAA.

MRRT and starting base returns

81. If an entity has a mining project interest or holds a pre-mining project interest during an MRRT year, they must give the Commissioner an MRRT return for that year that relates to all such interests.[59]

82. Further, entities may be directed to give the Commissioner:[60]

- such further or fuller MRRT returns, or
- such other MRRT returns for an MRRT year or specified period, whether or not the entity has lodged an MRRT return for the same period.

83. The Commissioner may, by legislative instrument, exempt a class of entities from having to give an MRRT return for an MRRT year.[61]

84. An entity is also not required to give the Commissioner an MRRT return where it has made a valid choice to apply the simplified MRRT method[62] and it has notified the Commissioner of that choice.[63] The entity should notify the Commissioner of its choice by completing the designated parts of the MRRT return.[64]

85. Entities must also give the Commissioner a starting base return for the first MRRT year[65] if a choice has been made to choose a valuation approach for all starting base assets of a mining project interest or pre-mining project interest.[66]

86. Entities must lodge all returns electronically unless the Commissioner determines otherwise.[67] Further information of how to lodge MRRT returns is located at www.ato.gov.au/mrrt.

MRRT consolidations

87. The head company of a consolidated group or MEC group or provisional head company of a MEC group (head company) that has notified the Commissioner of its choice to consolidate for income tax purposes may choose to consolidate for MRRT purposes.[68] Generally the consolidation choice takes effect on the day the choice is made upon which all mining and pre-mining project interests of the subsidiary members of the group transfer to the head company.[69] As the holder of the projects the head company assumes the responsibility of meeting MRRT instalment obligations and accounting for them in its MRRT return.

88. An entity that is a subsidiary member of a group for the whole of the MRRT year is not required to lodge MRRT instalment liability notices and an MRRT return for that MRRT year.

89. An entity that moves in or out of a group during an MRRT year that holds or has a mining or pre-mining project interest while it is not a member of the group must lodge an MRRT return unless it has been given an exemption from having to lodge by the Commissioner.

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[59] Subsection 117-5(1) of Schedule 1 to the TAA.
[60] Subsection 117-15(1) of Schedule 1 to the TAA.
[61] Paragraph 117-5(5)(b) of Schedule 1 to the TAA.
[62] Subsection 117-5(4) of Schedule 1 to the TAA.
[63] Section 200-10 of the MRRTA.
[64] Subsection 119-5(3) of Schedule 1 to the TAA
[65] Subsection 117-20(1) of Schedule 1 to the TAA.
[66] Section 85-5 of the MRRTA.
[67] Section 117-25 of Schedule 1 to the TAA.
[68] Section 215-10 of the MRRTA.
[69] Section 215-20 of the MRRTA.

90. An entity that moves in or out of a group during an MRRT year that holds or has a mining or pre-mining project interest while it is not a member of a group must pay MRRT instalments and lodge MRRT instalment liability notices unless a nil rate determination applies to it.

Petroleum resource rent tax

Petroleum resource rent tax (PRRT) instalment statement

91. An entity is required to lodge an instalment statement for a petroleum project where there is a liability to pay an instalment in respect of an instalment period or there has been a liability in a previous instalment period.[70]

92. For onshore petroleum projects and interests in the North West Shelf project instalment statements are only required to be lodged for instalment periods commencing on or after 1 July 2013.[71]

PRRT returns and starting base returns

93. An obligation to lodge an PRRT return arises where an entity derives assessable receipts in relation to a petroleum project.[72]

94. An entity may make a valuation choice for starting base purposes for interests in petroleum projects, exploration permits and retention leases that existed just before 2 May 2010 and which transitioned into the PRRT regime on 1 July 2012 with the extension to onshore petroleum interests and the North West Shelf project. If a valuation choice is made they will need to lodge a starting base return.[73]

PRRT consolidations

95. The head company of a consolidated group or MEC group or provisional head company of a MEC group (head company) that has notified the Commissioner of its choice to consolidate for income tax purposes may choose to consolidate for PRRT purposes.[74] The consolidation choice takes effect on the day the choice is made upon which all subsidiary members' interests in onshore petroleum projects transfer to the head company.[75] As the holder the head company assumes the responsibility of meeting PRRT instalment obligations and lodging the PRRT returns for all onshore petroleum project interests.

96. An entity that is a subsidiary member of a group for the whole of the financial year is not required to lodge PRRT instalment statements and PRRT returns for any interests in onshore petroleum projects for that financial year.

97. An entity that holds interests in onshore petroleum projects that moves into, and remains in, a group in a financial year does not have to lodge a PRRT return for any of those interests for that financial year.

98. An entity that holds interests in onshore petroleum projects at the time it moves out of a group where it derives assessable receipts in that year of tax, has to lodge PRRT returns for those interests for that financial year.

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[70] Section 98 of the *Petroleum Resource Rent Tax Assessment Act 1987* (PRRTAA).
[71] Section 46 of Schedule 1 to the *Petroleum Resource Rent Tax Assessment Amendment Act 2012*.
[72] Section 59 of the PRRTAA.
[73] Section 22 of Schedule 2 to the PRRTAA.
[74] Section 58N of the PRRTA.
[75] Section 58Q of the PRRTA.

99. An entity that holds interests in onshore petroleum projects that moves in or out of a group during a financial year where it is not in a group for an instalment period ending in that financial year, will need to pay PRRT instalments and lodge PRRT instalment statements for onshore projects that have an instalment liability or had an instalment liability in a previous instalment period.

100. As the choice to consolidate only applies in respect of interests in onshore petroleum projects, subsidiary members must still meet PRRT obligations in respect of their interests in offshore petroleum projects including the North West Shelf petroleum project.

B: SPECIFIC LODGMENT REQUIREMENTS

GST groups

101. An entity that is the representative member of a GST group[76] for a tax period is required to lodge an activity statement accounting for the GST obligations of the group.[77] Non-reporting members of GST groups may have to lodge activity statements in respect of non-GST obligations. All members of the group must have the same tax period for the period of time that they are grouped.

102. If a GST group is formed, dissolved, or its membership changed part way through a tax period, entities that were not in the GST group for part of a tax period will also have to lodge their own GST return for that time as if it were a tax period.

GST joint ventures

103. The joint venture operator of a GST joint venture[78] must lodge a GST return for the GST joint venture for each tax period applying to the joint venture operator.[79] 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.

104. 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.[80]

GST branches

105. Where an entity separately registers each of its branches as GST branches,[81] it is required to lodge a separate GST return for each branch for each tax period that applies to the entity.[82]

106. If the entity carries on enterprises outside its GST branches, it must also lodge a GST return in relation to those other enterprises.[83]

[76] GST group has the meaning given by section 48-5 of the GST Act.
[77] Section 48-60 of the GST Act.
[78] GST joint venture takes the meaning of section 51-5 of the GST Act.
[79] Section 51-50 of the GST Act.
[80] Subsection 51-52(1) of the GST Act.
[81] GST branch has the meaning given by section 54-5 of the GST Act.
[82] Subsection 54-55(1) of the GST Act.
[83] Subsection 54-55(3) of the GST Act.

Fuel tax

107. Several of the special rules that modify the general rule about who is required to lodge a GST return, are also adopted for the purposes of the FT law.[84]

108. 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 its activity statement for the period.

109. 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. An entity that 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.

110. 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. Entities carrying on an enterprise outside its GST branches must also lodge a FT return in relation to those other enterprises.

Excise

111. Excise duty is a tax on excisable goods that include alcohol (excluding wine), tobacco, fuel and petroleum products (including gaseous fuels) produced or manufactured in Australia.

112. Excise duty is imposed at the time excisable goods are manufactured or produced. However, the time at which the liability for excise duty becomes payable depends on how authority is given to deliver the excisable goods into the Australian market.

113. Authority to deliver excisable goods can be given on an ad hoc basis, known as prepayment of duty, or on a continuing basis, known as a periodic settlement permission.

Closely held trusts

114. Eligible trustees must lodge a TFN report for any quarter beneficiaries decide to quote them their TFN.[85] If the trustee has no new TFNs to report for a quarter, lodgment of the TFN report is not required.

115. At the end of each income year trustees must lodge an annual trustee payment report. This is contained in the statement of distribution and included as part of the trust's income tax return.

116. If a trustee is required to withhold amounts from a beneficiary that are to be paid to the Commissioner, they must register for PAYG withholding for closely held trust purposes.[86]

117. Where a beneficiary's TFN has not been quoted, eligible trustees must withhold payment where:

- the trustee distributes income,[87] or
- that beneficiary becomes presently entitled to income.[88]

[84] Subdivision 70A of the FT Act.
[85] Subsection 202DP(1) of the ITAA 1936.
[86] Section 16-140 of Schedule 1 to the TAA.
[87] Section 12-175 of Schedule 1 to the TAA.

118. These no TFN withholding events must be reported by the trustee lodging an annual TFN withholding report.[89] Payment of the total of the withheld amounts must be made on an annual activity statement.

Taxable payments reporting – Building and construction industry

119. Most entities in the building and construction industry have an obligation to report the total payments they make to each contractor for building and construction services.[90]

120. Entities are required to report if all of the following apply to them:[91]

- business activities are primarily in the building and construction industry[92]
- entity has an ABN
- payments are made for building and construction services.[93]

121. For each supplier, an entity needs to report the following details:[94]

- ABN (if known by the purchaser)
- name and address
- gross amount paid
- total GST included in the gross amount paid
- other information as required by the Commissioner.

Large PAYG withholders

122. Large PAYG withholders,[95] who make a payment that 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 the Commissioner to advise the total liability for the period.

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

124. 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.

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[88] Section 12-180 of Schedule 1 to the TAA.
[89] Section 16-152 of Schedule 1 to the TAA.
[90] Regulation 64 of the *Taxation Administration Regulations 1976* (TAR).
[91] Subregulation 64(1) of the TAR.
[92] Subregulation 64(5) of the TAR.
[93] Subregulation 64(6) of the TAR.
[94] Subsection 405-10(2) of Schedule 1 to the TAA.
[95] Section 16-95 of Schedule 1 to the TAA.

PAYG withholding branches

125. An entity may choose to divide its PAYG withholding reporting and paying responsibilities into separate PAYG withholding branches where it meets certain conditions related to its accounting systems, and activities or locations.[96]

126. The entity remains responsible for all reporting obligations even though it has divided into branches.

127. Where the entity is a large withholder, each branch will have a large withholder status because it still remains part of the large withholder entity.

Exemptions from lodging partnership income tax returns

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

- the entity's only income is either rent from an investment property held by the individual partners as co-owners where they are not carrying on a business and/or interest derived jointly by the partners and each partner shows their share of the income and expenses in their own tax return, or
- an application for an exemption from lodging a partnership tax return has been approved by the Commissioner.

129. 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.

130. Further information concerning exemptions to lodge partnership returns is found in the partnership income tax return instructions for the relevant income year.

C: LODGMENT REQUIREMENTS FOR SPECIAL CLASSES OF PERSONS

Public officers

131. Every company that 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.[97]

132. The public officer is responsible for the carrying out of all responsibilities required of the company under the ITAA 1936, the ITAA 1997,the TAA, regulations related to these Acts and any indirect tax law. 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)

133. An agent or trustee[98] will have the same responsibilities as the entity for complying with income tax law 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.[99]

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[96] Section 16-142 of Schedule 1 to the TAA.
[97] Section 252 of the ITAA 1936 and section 444-10 of Schedule 1 to the TAA.
[98] Agent and trustee has the meaning given in subsection 6(1) of the ITAA 1936
[99] Section 254 of the ITAA 1936.

Trustees of deceased estates

134. The Commissioner has the same powers and remedies for the assessment and recovery of tax payable on income derived by the deceased up to the time of death that would have been available if the deceased were still alive. That is, the trustee is obliged to provide any returns or other information that the deceased was liable to provide or would have been liable to provide if still alive.

Liquidators

135. A liquidator[100] may be personally liable for the income tax requirements and liabilities arising under the ITAA 1936 from the date of their appointment101 or from the date of the Commissioner's notification.[102] 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 overrides the responsibility of the public officer under section 252 of the ITAA 1936 to lodge the return.

136. Further, the Commissioner can also require the liquidator to lodge returns for periods before the liquidator's date of appointment.

137. 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 entity that 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, and
- the wider community benefits of having the tax returns lodged.

Individuals who become bankrupt

138. In *Deputy Commissioner of Taxation v. Jones* [1999] FCA 308, 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.

139. From the date of that decision (29th March 1999), individuals who become bankrupt during an income year will be assessed for the period from the beginning of the income year to the day the individual became bankrupt. They will also be assessed separately for the period from the day after the date of bankruptcy to the end of the income year. This may require lodgment of separate returns for the pre and post-bankruptcy periods.

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[100] Liquidator means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company.
[101] Section 254 of the ITAA 1936.
[102] Section 260-45 of Schedule 1 to the TAA.

140. 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.

141. 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 tax period for an individual who becomes bankrupt ends at the end of the day before they become bankrupt.[103] This will place a requirement on the individual and their representative to lodge separate activity statements for both the periods before and after the date of bankruptcy detailing GST, LCT and WET amounts.

Representatives of incapacitated entities

142. A representative of an incapacitated entity[104]must take on the GST reporting periods that apply to the incapacitated entity.[105] The representative must also take on the GST reporting period that applied to the incapacitated entity for the purpose of lodging a FT return.[106]

143. This extends to notifying the Commissioner of an amount of GST for which the entity is liable (or an increasing adjustment[107] the entity has where the representative is aware or could reasonably be expected to be aware) and the Commissioner has not been notified in the GST return or otherwise.[108] The notification must be given to the Commissioner before the day on which the representative declares a dividend to unsecured creditors of the incapacitated entity.[109]

144. A representative must give the Commissioner GST returns (or FT returns) for tax periods during which they are registered in that capacity and are liable to pay any GST and FT debts incurred during that period. However, in some circumstances, a GST or FT liability that arises while a representative is registered may remain the liability of the incapacitated entity, for example, an adjustment that relates to a pre-appointment supply.[110]

145. Further, a representative must give the Commissioner a GST return if:[111]

- the incapacitated entity has failed to give the Commissioner a GST return for a tax period, and
- the Commissioner directs the representative in writing to give the Commissioner a GST return.

146. In directing the representative to give a GST return, the Commissioner must consider:[112]

- the likelihood a dividend to unsecured creditors of the incapacitated entity will be declared or the likely amounts of any such dividend
- the likelihood any GST or FT return given to the Commissioner would result in a liability

[103] Subsection 27-39(1) of the GST Act.
[104] Incapacitated entity means (i) an individual that is bankrupt or (ii) an entity that is in liquidation or receivership or (iii) an entity that has a representative in accordance with section 195-1 of the GST Act.
[105] Section 58-35 of the GST Act.
[106] Section 70-25 of the FT Act.
[107] Increasing adjustment has the meaning given in section 195-1 of the GST Act.
[108] Section 58-60 of the GST Act.
[109] Subsection 58-60(2) of the GST Act.
[110] Section 58-10 of the GST Act.
[111] Subsection 58-50(1) of the GST Act.
[112] Subsection 58-50(4) of the GST Act.

- whether the cost to the representative of preparing the return would result in an unreasonable impact on the other creditors of the incapacitated entity
- the availability of records make it possible to prepare the return.

147. A representative of an incapacitated entity is not required to give a GST or FT return for a tax period if:[113]

- the entity's net amount for the tax period is zero
- the entity does not have an increasing adjustment that is attributable to the tax period, and
- the entity is not liable for GST or FT that is attributable to the tax period.

D. LODGMENT DUE DATES AND HOW THESE DATES ARE DETERMINED

148. Approved and prescribed forms are due for lodgment by due dates specified in a legislative instrument, legislated due dates, within prescribed periods or as required by the Commissioner. Entities or their representatives are required to lodge such documents as and when they fall due.

149. 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 an FTL penalty.[114] 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.[115]

150. Documents delivered to ATO premises are considered lodged on the day delivery is made. Entities should allow sufficient time when posting documents so they are with the Commissioner by the due date. Documents given to ATO staff, for example at a tax agent's office, a taxpayer's business or residence or a court, are considered lodged on the day they are received by the ATO officer.

151. Generally, documents lodged electronically are considered lodged on the day the validation certificate is issued. Returns lodged using *e-tax*, are considered lodged when a lodgment confirmation is received.

152. Where a document is sent by an entity but is not recorded as lodged by the Commissioner, the date of lodgment is the date on which lodgment of the document could reasonably have been made. Depending on an entity's compliance history, evidence that the document was lodged may be required to establish the lodgment date.

153. The law allows the Commissioner to defer the statutory due date for lodgment.[116] This power may be exercised individually, by way of concession for some electronic lodgments or through the Lodgment program where progressive lodgment dates are available and are representative of the service provided by registered tax agents[117] and BAS agents.[118]

154. Lodgment due dates, including the Lodgment program, are located on the ATO's website (www.ato.gov.au).

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[113] Section 58-55 of the GST Act.
[114] Section 388-52 of Schedule 1 to the TAA.
[115] See definition of 'business day' under section 995-1 of the ITAA 1997.
[116] Subsection 388-55(1) of Schedule 1 to the TAA.
[117] Registered tax agent means an entity that is registered under the *Tax Agent Services Act 2009* (TASA) as a registered tax agent.
[118] Registered BAS agent means an entity that is registered under the TASA as a registered BAS agent.

Due dates for lodgment that are set out in the legislative instrument[119]

155. The due dates for lodgment of income tax returns and other statements as set out in the legislative instrument are currently as follows:

Individuals, partnerships and trusts:

- for the income year ended 30 June, on or by 31 October following the end of the income year, or
- for those entities that have adopted a SAP, on or before the last day of the 4th month after the close of their accounting period.

Full self-assessment taxpayers[120] *(including head companies of consolidated groups and non-regulated superannuation funds):*

- for the income year ended 30 June, on or by 31 October following the end of the income year, or
- for those entities that have adopted a SAP, on or by the 15th day of the 7th month after the close of their accounting period.

Non-full self-assessment taxpayers[121]

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

156. Entities 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

157. Trustees of self-managed superannuation funds must give an annual return that combines the income tax and regulatory return as well as the member contributions statement to the Commissioner, by the same date they are required to lodge their income tax return. Before the 2008 income year, trustees of self-managed superannuation funds were required to separately lodge their member contributions statements by 31 March or such later date as the Commissioner allowed.

158. A superannuation provider, other than a self-managed superannuation fund, must give the member contributions statement to the Commissioner on or by 31 October following the end of the financial year.

159. Before the 2006 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.

Due dates for lodgment that are legislated

Annual FBT returns

160. Lodgments of annual FBT returns are due by 21 May following the close of the FBT year being 31 March.[122]

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[119] Registered on the Federal Register of Legislative Instruments at www.frli.gov.au.
[120] Full self-assessment taxpayer is a taxpayer as defined in subsection 6(1) of the ITAA 1936.
[121] Non-full self-assessment taxpayers are companies whose activities cover overseas shipping (section 129 of the ITAA 1936) or insurance and re-insurance (sections 144 and 148 of the ITAA 1936) or control of non-residents' money (section 255 of the ITAA 1936).
[122] Section 68 of the FBTAA.

Superannuation

161. Superannuation providers, other than self-managed superannuation funds, must report lost members to the Lost Members Register (that is maintained by the Commissioner) at the end of each half calendar year.

Lost members statement[123]

Period	Due Date
1 January to 30 June	31 October in that year
1 July to 31 December	30 April in the following year

162. Superannuation providers must also give a statement of unclaimed money to the Commissioner at the end of each half calendar year.

Statement of unclaimed money[124]

Period	Due Date
1 January to 30 June	31 October in that year
1 July to 31 December	30 April in the following year

163. Where a superannuation guarantee shortfall occurs in any quarter, employers must give superannuation guarantee charge statements as follows:

Superannuation guarantee charge statement[125]

Period	Due Date
1 July to 30 September	28 November in the next quarter
1 October to 31 December	28 February in the next quarter
1 January to 31 March	28 May in the next quarter
1 April to 30 June	28 August in the next quarter

164. 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.[126]

165. Where an auditor or actuary is required to report contraventions of the *Superannuation Industry (Supervision) Act 1993* (SISA) by a trustee(s) of a self-managed superannuation fund to the Commissioner, the auditor or actuary contravention report must be lodged as soon as practicable.[127]

[123] Regulation 6 of *Superannuation (Unclaimed Money and Lost Members) Regulations 1999.*
[124] Section 15A of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* and Legislative instrument SPR 2009/2 *Unclaimed money days and scheduled statement days*.
[125] Section 33 of the *Superannuation Guarantee (Administration) Act 1992.*
[126] Subsection 390-65(2) of Schedule 1 to the TAA.
[127] Subsection 129(3) of the SISA.

Activity statements, instalment notices and annual GST reporting

166. The due date for any activity statement that reports:

- a monthly GST obligation is 21 days after the period end[128] (this is notwithstanding any other monthly or quarterly obligation that may also be reported on that document)
- a monthly PAYG withholding obligation only will have a due date of 21 days after the period end[129]
- quarterly PAYG instalments for the head company of a consolidated group is 21 days after the period end,[130] and
- quarterly obligations that include one or more of GST, WET, LCT, FT, GST instalments, PAYG instalments, FBT instalments and PAYG withholding is 28 days after the period end, except the December quarter where the due date is 28 February.[131]

167. The due date for quarterly instalment notices that report variations in PAYG and/or GST instalments is 28 days after the period end, except the December quarter where the due date is 28 February.[132]

168. The legislated due dates for entities required to lodge monthly or quarterly activity statements are as set out in Appendix A.

169. Notwithstanding the above due dates, where the Commissioner notifies a PAYG instalment amount, the payment (and any reporting) is due on or before the 21st day after the day notice is given.[133]

170. The due date for lodgment and/or payment for entities with SAPs that:

- have not chosen to pay GST monthly, or are not required to pay GST monthly, and
- 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.

171. Where an obligation exists to notify the Commissioner of an annual PAYG instalment amount, notification is due on or before the 21st day of the fourth month after the end of the income year. For 30 June balancers this will be 21 October following the end of the income year.[134]

172. Generally, the due date for lodgment of an annual GST return or information report 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 or information report will be 28 February.[135]

[128] Section 31-10 of the GST Act.
[129] Section 16-150 and subsection 16-75(2) of Schedule 1 to the TAA.
[130] Section 45-715 of Schedule 1 to the TAA.
[131] Subsection 45-61(2) of Schedule 1 to the TAA and subsection 162-70(4) of the GST Act.
[132] Subsection 45-61(2) of Schedule 1 to the TAA and subsection 162-70(4) of the GST Act.
[133] Subsection 45-112(3) of Schedule 1 to the TAA.
[134] Section 45-70 of Schedule 1 to the TAA.
[135] Sections 151-45 and 162-60 of the GST Act.

Miscellaneous – GST

173. Where an entity, that 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 entity must lodge a GST return within 21 days after the end of the month in relation to supplies made in that month.[136]

174. Entities not registered or required to be registered for GST, that make a taxable supply or 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.

175. 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.[137]

176. Where an entity makes any taxable supplies under section 78-50 of the GST Act during a month and the entity is not registered or required to be registered during that month, it must lodge a GST return within 21 days of the end of the month relating to those supplies.[138]

177. Returns for GST instalment payers or annual GST 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.[139]

178. A GST group that has a change in membership must lodge a GST return for the instalment/reporting period by the 21st of the month following the change of membership where the GST group has elected to:

- pay and if applicable report by GST instalments,[140] or
- report and pay GST annually.

The instalment/reporting period ends when the membership of the group changes.

Fuel tax returns

179. The due date for a fuel tax return for an entity that is not registered for GST, nor required to be registered for GST, is 21 days after the end of the fuel tax period.[141]

PAYG withholding annual reports

180. Due dates for reporting PAYG withholding information for the year include:

- 14 August[142] for entities who have an obligation to report on:
  - payments for work and services (individuals) including retirement payments
  - annuities, benefits and compensation payments

[136] Subsection 105-15(1) of the GST Act.
[137] Section 57-40 of the GST Act.
[138] Section 78-85 of the GST Act.
[139] Section 162-90 of the GST Act.
[140] Section 162-95 of the GST Act.
[141] Subsection 61-15(2) of the FT Act
[142] Subsection 16-153(2) of Schedule 1 to the TAA.

- superannuation lump sums
- superannuation income streams
- voluntary agreements
- labour hire and other specified payments
- employment termination payments
- alienated personal services payments
- non-cash benefits
- reportable fringe benefit amounts
- reportable employers superannuation contributions.

Note: where the PAYG withholding annual report has been prepared by a registered agent, concessionary due dates may apply as set out in the Lodgment program.

- 31 October[143] for entities who have an obligation to report on:
  - supplies where the recipient has not quoted an ABN
  - certain payments to foreign residents
  - interest, dividend and royalty payments to non-residents.
- 30 September for entities with an obligation to report on:[144]
  - payments made to beneficiaries of closely held trusts where the beneficiaries have not provided their TFN to the trustee.
- 28 October for payment to the Commissioner on an annual activity statement in relation to:[145]
  - amounts withheld from payments by trustees of closely held trusts where beneficiaries have not provided their TFN to the trustee.

A list of PAYG withholding forms can be filtered from the consolidated list of approved forms on the ATO's website at www.ato.gov.au.

181. The Departing Australia Superannuation Payment (DASP) annual report is due on or by 31 October each year.[146]

182. If DASP data records are reported as part of the PAYG withholding payment summary annual report, then the due date for the annual report is 14 August each year or such later date as the Commissioner may allow.[147]

Minerals resource rent tax

Instalments

183. The due date for lodgment of the MRRT instalment liability notice and payment of the MRRT instalment is the 21st day of the month following the end of the instalment quarter.[148]

[143] Subsection 16-153(1) of Schedule 1 to the TAA.
[144] Subsection 16-152(2) of Schedule 1 to the TAA.
[145] Subsection 16-75(5) of Schedule 1 to the TAA.
[146] Paragraph 16-153(1)(a) of Schedule 1 to the TAA.
[147] Subsection 16-153(2) of Schedule 1 to the TAA.
[148] Subsection 115-15(2) and section 115-25 in Schedule 1 to the TAA.

Returns

184. If an entity has either a mining project interest or holds a pre-mining project interest during an MRRT year it will need to lodge an MRRT return by the first day of the sixth month following the end of the MRRT year.[149]

185. If an entity makes a valuation choice in respect of starting base assets of a mining project interest it has or pre-mining project interest it holds then it needs to lodge a starting base return. The due date for lodgment of a starting base return is on or before the first day of the sixth month after the end of the first MRRT year of the entity that had the mining project interest, or held the pre-mining project interest, on 1 July 2012.[150]

186. The Commissioner may allow a class of entities further time to lodge an MRRT return or exempt a class of entities from being required to lodge an MRRT return by legislative instrument.[151] The Commissioner may also allow further time for entities to lodge their starting base returns.[152] Further information on lodgment due dates of MRRT returns and starting base returns can be located at www.ato.gov.au/mrrt.

Petroleum resource rent tax

Instalments

187. The due dates for lodgment of the PRRT instalment statements for a year of tax are 21 October, 21 January and 21 April in the year of tax concerned.[153]

Returns

188. Lodgment of annual returns for financial years commencing on or after 1 July 2006 are due 60 days after the end of the year of tax or such further time as the Commissioner allows.[154] For financial years commencing prior to 1 July 2006, lodgment of annual returns was due 42 days after the end of the year of tax.

189. If an entity makes a starting base valuation choice for the purposes of the PRRTA, lodgment of a starting base return is due by 30 August 2013 or such further time as the Commissioner allows.[155] Further information on due dates for lodging starting base returns can be located at ato.gov.au/prrt.

Excise

190. Under prepayment, an entity must lodge an excise return detailing the excisable goods to be delivered into the Australian market and the excise duty must be paid on the goods before a Delivery Authority will be given by the Commissioner, which allows the entity to deliver the goods into the Australian market.

[149] Paragraph 117-5(3)(a) in Schedule 1 to the TAA.
[150] Paragraph 117-20(3)(a) of Schedule 1 to the TAA.
[151] Paragraphs 117-5(3)(b) and 117-5(5)(a) of Schedule 1 to the TAA.
[152] Paragraph 117-20(3)(b) of Schedule 1 to the TAA.
[153] Section 95 of the PRRTAA.
[154] Subsection 59(1) of the PRRTAA.
[155] Section 22 of Schedule 2 to the PRRTAA

191. However, a periodic settlement permission (PSP) allows an entity to deliver excisable goods for a specified period (settlement period) and to defer lodging an excise return and paying excise duty until the due date specified in the PSP.[156]

192. A PSP may specify a settlement period as follows:

- a recurring 7 day period,[157] or
- a calendar month if:[158]
  - the entity is a small business entity or included in a class prescribed by the regulations, or
  - the goods to be delivered for home consumption are of a kind prescribed by the regulations.

193. In all situations, the due date for lodgment of the excise return and payment of excise duty are the same, and are as follows:

- if the PSP applies in respect of a 7 day period and specifies goods other than gaseous fuels, the 1st business day following the end of the 7 day period[159]
- if the PSP applies in respect of a 7 day period and specifies gaseous fuels, the 6th business day following the end of the 7 day period[160]
- if the entity is a small business entity and the PSP applies in respect of a calendar month, on or before the 21st day of the following month,[161] and
- if the entity is included in a class prescribed by the regulations or has permission to enter goods of a kind mentioned in the regulations in respect of a calendar month, the due date is prescribed as a condition by the regulations.[162]

194. Further information is available at Excise essentials at www.ato.gov.au/Excise.

Other lodgment obligations where due dates are legislated

TFN Report

195. A TFN report that trustees of certain closely held trusts must lodge when beneficiaries have quoted them their TFN is due:[163]

- one month after the end of the quarter to which it relates, or
- within such further time as the Commissioner allows.

Taxable payments reporting – Building and construction industry

196. An entity in the building and construction industry that has an obligation to report payments made or liable to be made to a supplier must give a 'Division 405 report' to the Commissioner within 21 days after the end of the quarter.[164]

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[156] Section 61C of the *Excise Act 1901* (EA).
[157] Paragraph 61C(1)(a) of the EA.
[158] Paragraph 61C(1)(b) of the EA.
[159] Paragraph 61C(3)(a) of the EA.
[160] Paragraph 61C(3)(b) of the EA.
[161] Paragraph 61C(3)(c) of the EA.
[162] Paragraph 61C(3)(d) of the EA.
[163] Subsection 202DP(2) of the ITAA 1936.
[164] Subsection 405-10(1) of Schedule 1 to the TAA.

197. However, the Commissioner may by written notice vary this reporting requirement.[165] Currently, the Commissioner has determined that entities required to give a 'Division 405 report' must do so annually via a *Taxable payments annual report.*

198. The due date for lodgment of the *Taxable payments annual report* is 21 July. For entities that lodge their business activity statement quarterly the due date is 28 July.

TFN declaration

199. With one exception, where an entity gives a TFN declaration to an entity, this must be lodged with the Commissioner within 14 days of the declaration being made.[166] The exception is where the payer is a labour hire firm and the payee has not commenced work.

Annual investment income report

200. For each financial year, investment bodies must give the Commissioner a written report in relation to all investments in the investment body. 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.[167]

Elections

201. Eligible entities may elect to pay PAYG instalments annually. Entities must make an election to report annually by the date on which the first quarterly instalment would otherwise be due[168] and this is generally 28 October.

202. Eligible entities will be able to elect to pay GST by instalments. This election generally must be made on or before 28 October of the financial year to which it relates.[169] The election is usually made on the first quarterly activity statement in the income year (or the first quarterly activity statement issued after eligibility criteria are met).

203. Those entities that are eligible to report and pay, or claim a refund of, GST annually (that is, elect annual tax periods) must make an election by the due date. Annual GST tax period elections are generally due:[170]

- for quarterly reporters, on or before 28 October in that financial year to which it relates, or
- for monthly reporters, on or before 21 August in that financial year.

204. 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 if this is later than the dates set out above.

205. The Commissioner may accept elections after the due date in certain circumstances.

[165] Subsection 405-10(4) of Schedule 1 to the TAA.
[166] Section 202CD of the ITAA 1936.
[167] Subregulation 56(3) of the *Income Tax Regulations 1936*.
[168] Subsection 45-140(2) of Schedule 1 to the TAA.
[169] Section 162-25 of the GST Act.
[170] Section 151-20 of the GST Act.

E. DEFERRING LODGMENT OBLIGATIONS

206. At times, entities may experience circumstances that prevent them from lodging by the due date. The law generally allows the Commissioner to defer the time for lodgment of an approved form and a prescribed form.

207. The Commissioner has the discretionary power to defer the time within which an approved form is to be given to the Commissioner or another entity.[171]

208. The existence of this discretion does not mean that the entity has an entitlement to it being exercised, but it does enable the time for lodgment to be deferred where warranted.

209. The Commissioner will generally grant a deferral where it is fair and reasonable to do so having taken into account all relevant circumstances. This approach seeks to balance the Commissioner's obligation to administer taxation and superannuation laws consistently and to do so fairly having regard to an entity's individual situation.

210. The purpose of deferring the due date for lodgment is to facilitate the lodgment of documents by entities (or their representatives) that are unable to be lodged by the due date but have the ability or potential to lodge at a particular time in the future. Deferring the due date for lodgment provides a further period of time in which to lodge without incurring an FTL penalty or other administrative penalties and provides the Commissioner with an alternative to undertaking further compliance action.

211. A deferral of the due date for lodgment does not defer the time for payment.[172] However, the Commissioner does have power under a separate provision to defer the time for payment of a tax-related debt.[173] Refer to Law Administration Practice Statement PS LA 2011/14 *General debt collection powers and principles*.

212. Where possible, a lodgment deferral request should be made before the lodgment due date. A request may be made by telephone, but in some cases it may be necessary to apply in writing to assist the Commissioner to make a more informed decision. Requests by registered agents will generally need to be in writing. The preferred method for receiving deferral requests made by registered agents is through the Tax Agent Portal or the BAS Agent Portal.

213. In any request for a deferral of the due date for lodgment, an entity or the entity's representative will need to:

- provide details of the particular circumstances that make them unable to lodge on time
- propose a deferred date for lodgment, and
- give an assurance that future obligations will be met on time once the stated circumstances are resolved.

214. In determining whether it is fair and reasonable to grant a deferral, the Commissioner will consider:

- the reason why the entity or their representative is unable to lodge on time
- the value of the information contained in the document

[171] Subsection 388-55(1) of Schedule 1 to the TAA.
[172] Subsection 388-55(2) of Schedule 1 to the TAA.
[173] Section 255-10 of Schedule 1 to the TAA.

- the size and structure of the entity (large corporate entities are more likely to have the ability to overcome circumstances that might otherwise adversely affect their ability to lodge by the due date)
- the risk to revenue
- the entity's compliance history as a whole (that is lodgment of taxation returns, activity statements and other documents, payment of amounts on time and previous dealings with the Commissioner, to gain a view of the entity's level of compliance)
- the length of time needed to lodge the document (a deferral will usually be granted where an entity has a good compliance history and requests a short period of additional time to lodge), and
- any other relevant information that includes individual circumstances.

215. Each request will be considered on its merits and the deferred due date will be determined having regard to the particular circumstances of the entity.

216. If a lodgment deferral is granted, it is granted on a short term basis to allow time to overcome problems preventing the lodgment of the relevant document. Lodgment deferrals will not be extended on a permanent basis.

Lodgment deferrals in exceptional or unforseen circumstances

217. The Commissioner will generally consider it fair and reasonable to grant a deferral to entities where the inability to lodge by the due date is reasonably attributed to exceptional or unforseen circumstances, such as:

- natural disasters (flood, fire, drought, cyclones, earthquake and similar events) or other disasters or events that may have, or have had, a significant impact on individuals, regions or, particular industries
- the serious illness or death of the individual or their representative
- impeded access to records (for example, records seized during a police search or retained as evidence in a court matter), and
- the advanced age or the youth of an individual, the serious illness or death of a family member, a problem due to language difficulties or considerable lack of knowledge and understanding of taxation obligations.

218. A lodgment deferral can be granted even where the circumstances leading to their inability to lodge on time continue to be beyond the entity's control so that they may not be able to meet future obligations on time. For example, where arm's length partners or beneficiaries cannot influence the preparation timeframe of the respective partnership or trust returns.

219. The fact that an entity may have a poor lodgment compliance history should not prevent granting a request for a deferral of time to lodge, where the inability to lodge was caused by circumstances beyond their control or if it would be otherwise fair and reasonable to grant the deferral.

Lodgment deferrals in other circumstances

220. In some circumstances, such as an individual being overseas or away from home the individual should, where possible, make arrangements to deal with their taxation affairs either before or during their absence. Where an individual is absent at the time of normal bulk activity statement generation, it may be possible to generate an activity statement in advance so that the individual can meet lodgment and payment obligations on time.

221. If an entity presents a lodgment deferral proposal that is either unacceptable or has some aspects that are unacceptable to the Commissioner, a more suitable arrangement may be negotiated.

222. Where fraudulent alterations made by an entity's representative without the authority of the entity are detected in a document already lodged, the Commissioner will generally advise the entity of the requirement to lodge a fresh document. The due date for lodgment of this document will be deferred for 30 days from the date of the advice from the Commissioner. A longer deferral period may be granted, if requested, depending on the entity's circumstances.

223. Where the generation of an activity statement is delayed, if necessary, on generation the Commissioner may defer the lodgment due date to provide the entity reasonable time to lodge the document.

224. Further, there may be occasions where the late provision of information from a third party delays the issue of an activity statement, for example, Customs data required for inclusion on the activity statement for participants in the deferred GST scheme. The individual circumstances of a participant in this case may be such that a deferral is warranted.

Collective lodgment deferrals

225. Collective lodgment deferrals may be granted to a class of entities affected by a common event such as a natural disaster or delayed legislation. Where the Commissioner can reasonably assume that a common event has sufficiently impacted on all of a defined population, a collective lodgment deferral may be granted without individual applications being made by the entities involved.

226. For example, where industrial instruments prevent employees of schools and associated bodies from working over the Christmas holiday shutdown period, collective lodgment deferrals may be granted to all entities affected in this way. This may extend to other entities where it can be demonstrated that excessive costs of compliance impact on their capacity to meet reporting obligations during this period.

Lodgment deferrals where there are new legislative measures

227. On occasions, the Government may announce new legislative measures that will have retrospective application once enabling legislation is enacted. The general approach of the Commissioner to administering retrospective changes is to apply the existing law until the proposed changes are enacted. The Commissioner cannot insist on the application of a proposed law that has the effect of increasing entities' liabilities or of paying money to entities where there is no legal basis. However, the tax law allows the Commissioner to accept returns as lodged. Law Administration Practice Statement PS LA 2004/6 *The ATO role in providing information or advice on the potential application of announced changes to the tax law, or where legislative change is contemplated but not announced*, discusses the limited situations in which the Commissioner may advise entities that they can satisfy their obligations by anticipating the effects of a proposed legislative change. These decisions are not taken lightly and must be defensible having regard to the *Financial Management and Accountability Act 1997*.

228. In limited circumstances, it may be appropriate to grant a general deferral of the due date for lodgment. Generally, the fact that a new legislative measure will have retrospective application but has not been enacted will not be sufficient for a deferral of the due date for lodgment.

Lodgment deferrals of TFN declarations for labour hire firms

229. Labour hire firms and recruitment agencies acting in the capacity of a labour hire firm, are given a deferral for lodgment of TFN declarations. These entities are required to forward TFN declarations to the Commissioner within 14 days from the commencement of the relationship, that is, from when the payee actually commences working for the payer (the labour hire firm), and not from the date the payee has made the declaration. This is because the labour hire firm will usually have the payee complete a TFN declaration at the time of registering with the labour hire firm (for convenience only), but the payee may not commence a working relationship until a substantial time later, if at all.

Concessionary lodgment arrangements

230. The Commissioner may also introduce concessionary lodgment arrangements subject to certain conditions being met. These arrangements are subject to review and may be revoked at any time. An example is the two-week deferral that applies to most quarterly activity statements lodged using the Business Portal or Electronic Commerce Interface.

Lodgment deferrals for clients of registered tax and BAS agents

231. Tax agents have an important role in assisting entities to meet their lodgment obligations. BAS agents also have an important role in assisting entities to meet their activity statement lodgment obligations. The Lodgment Program has been specifically developed to assist tax and BAS agents (agents) in managing their workload throughout the year. Nevertheless, circumstances may arise that prevent agents from meeting all of their obligations under the Lodgment Program.

232. Agents may be granted deferrals of time to lodge documents, where exceptional or unforeseen circumstances exist that affect their ability to lodge by the due date. Such circumstances may include:

- practice management factors, for example

  - the serious illness of a sole practitioner
  - prolonged but unexpected staff absences
  - prolonged and expected staff absences where other factors have prevented replacement by suitably qualified staff
- natural and other disasters (flood, fire, drought, cyclone, earthquake or similar events)
- impeded access to records (for example, records seized during a police search or retained as evidence in a court matter).

233. Further, it may be otherwise fair and reasonable to grant agents deferrals where despite making a concerted effort to achieve lodgment for a period, a small number of documents will not be lodged by the due date.

234. Lodgment deferral requests from an agent must:

- be in writing or submitted by other means approved by the Commissioner (for example, the Tax Agent Portal)
- contain sufficient information for the Commissioner to make a decision (except where tax agents can self assess deferrals of eligible documents), and
- generally, be made before:
  - the end date assigned under the Lodgment Program
  - where the obligation is not covered by the Lodgment Program – the due date for lodgment.

These requirements may be relaxed where circumstances associated with natural or other disasters exist so that it is unreasonable to expect that the request be submitted in writing. Generally, requests made after the due or end dates generally will only be considered where the agent can provide a detailed explanation of the circumstances that prevented the request being made before the due date.

235. Lodgment deferral requests from agents will be considered having regard to some or all of the following factors:

- the circumstances that gave rise to the request
- past lodgment performance
- reporting period
- document type
- number of deferrals
- size of the practice
- value of the information required, and
- risk to revenue.

236. Lodgment deferrals may be granted to agents subject to certain conditions being met (for example, the electronic lodgment of documents). Representations from tax practitioners and accounting professional associations may result in further concessions to either a particular group of entities or to entities with a particular end date in the Lodgment Program.

Self-assessment of lodgment deferrals by tax agents

237. Tax agents are able to self assess lodgment deferrals for specific lodgment dates and document types. Further information regarding the deferral period and document types eligible for self-assessed lodgment deferrals is available in the Lodgment Program. Where a tax agent self-assessed deferral is granted, tax agents may be notified by means of a changed due date for the document in the Tax Agent Portal or Electronic Lodgment Service. BAS agents cannot self-assess lodgment deferrals.

Communication of lodgment deferral decision

238. Generally, in cases where it has been decided to defer the due date for lodgment, the Commissioner will advise the entity or their representative:

- of the income year or tax period to which the deferral applies
- of the deferred due date by which lodgment is to be made and from which an FTL penalty may be calculated if lodgment is not made by the deferred due date, and
- that action to secure lodgment may be commenced without further notice if lodgment is not made by the deferred due date.

239. The Commissioner may also communicate collective lodgment deferral decisions through the ATO's website (www.ato.gov.au) and other external mediums. For example, entities impacted by natural disasters would be notified in this manner.

240. Where a deferral to lodge an income tax return is granted, any other returns, statements or notices with due dates that are linked by law to the due date of the income tax return will therefore become due on the deferred date (for example, an annual GST return).

241. If a lodgment deferral request is disallowed or varied, the Commissioner will document factors considered and reasons for making the decision and communicate those reasons to the entity. Entities will also be advised of their rights of review.

Lodgment deferrals and payment consequences

242. A decision by the Commissioner to defer a lodgment due date is separate to a decision to defer a payment due date. Where entities require both lodgment and payment deferrals, separate requests will be necessary. This applies to lodgment and payment deferrals beyond the statutory due dates or deferred due dates already allowed, for example, under the Lodgment program.

243. There will be cases where it is inappropriate to defer the due date for lodgment but it may be appropriate to defer the due date for payment. An inability to pay by the due date is not a valid reason for failing to lodge on time.

244. Alternatively, there will be circumstances, such as the situation where payment can be made but lodgment information is not yet available, where it is appropriate to defer the due date for lodgment but not payment.

245. Where the lodgment and payment due dates are deferred and provided lodgment and payment in full are made by the deferred due dates, no FTL penalties will apply and no GIC will apply for failing to pay on time.

Suspension of lodgment enforcement action

246. The Commissioner may agree to suspend lodgment enforcement action by not actively pursuing overdue documents for a period of time. Such a decision may arise either:

- as the result of an express request from the entity or the entity's representative for enforcement action to be suspended, or
- because the reasons given in a deferral request are not sufficient to allow the deferral.

Where lodgment enforcement action is suspended, an FTL penalty may be applied and calculated from the original due date. Notwithstanding suspension of lodgment enforcement action, payment is required by the due date with the GIC being applied for any late payment.

247. Matters that will be taken into consideration when deciding whether to suspend lodgment enforcement action include:

- information provided by the entity and other information that may be held (or obtained) by the Commissioner
- the circumstances that led to the inability to lodge on time and the effect of requiring immediate lodgment
- the stage that current lodgment enforcement action has reached and the grounds put forward by the entity to justify suspension of that action
- the offer made by the entity and the ability to meet that offer without seriously impacting on the ability to meet other obligations as and when they fall due
- whether there is a likely risk to the revenue or to the efficient operation and administration of the taxation system
- compliance history (that is lodgment of taxation returns, activity statements and other documents as well as payment of amounts on time and the history of the entity's previous dealings with the Commissioner), and
- the likelihood of the entity lodging the document within the period allowed.

248. All arrangements made must stipulate that an FTL penalty may be applied from the original due date until lodgment is received. If a suspension of lodgment enforcement action request is either not granted or is varied, the Commissioner will document all of the factors considered and the reasons for making the decision, and will communicate them to the entity.

249. A request for suspension of lodgment enforcement action after the issue of a final notice for lodgment of certain documents, such as income tax returns, will not generally be granted, as potential prosecution action may be compromised.

APPENDIX A

Abbreviations

FTC – Fuel tax credit

FBTI – Fringe benefits tax instalment

PAYGI – Pay as you go instalments

PAYGW – Pay as you go withholding

Statutory due dates for lodgment of activity statements in relation to the majority of entities 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)

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), (FTC) 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

Amendment history

Date of amendment	Part	Comment
11 March 2014	Paragraph 5	***www.ato.gov.au*** changed to ***ato.gov.au*** in line with ATO Style Guide.
	Paragraph 16	Insert new paragraph 16 .
	Paragraphs 86 and 186	***www.ato.gov/mrrt changed to ato.gov/mrrt*** in line with ATO Style Guide.
	Paragraphs 154, 180 and 239	***www.ato.gov.au*** changed to ***ato.gov.au*** in line with ATO Style Guide.
	Paragraph 189	***www.ato.gov.au***/prrt changed to ato.gov.au/prrt in line with ATO Style Guide.
	Paragraph 194	***www.ato.gov.au/Excise*** changed to ***ato.gov.au***/Excise in line with ATO Style Guide.
	Legislative references	Include Privacy Act 1988.
8 August 2013	Various	Updating content to clarify and broaden the lodgment & lodgment deferral messages. Significant issues include: • Compliance measures (12-15) • Ordering of paragraphing to better structure IT, FBT, AS and PAYG obligations (18-75) • Non-lodgment advice notification policy (22) • MW McIntosh Pty Ltd and Anor v. FC of T [2009] FCAFC 88 to support administering consolidated groups (27) • FBT obligations (29-30) • Pay as you go withholding - no TFN annual reporting associated with closely held trusts obligation (73) • Minerals resource rent tax lodgment obligations (76-89) • Petroleum resource rent tax lodgment obligations (90-99) • Excise lodgment obligations (110-112) • Closely held trust reporting obligations (113-117) • Taxable payments reporting – building and construction industry as reporting obligations (118-120) • Minerals resource rent tax – lodgment due dates (182-185) • Petroleum resource rent tax – lodgment due dates (amended text) (186-188) • Excise – lodgment due dates (189-193) • TFN report – lodgment due dates (194) • Lodgment deferrals where activity statements are generated late (222) • Lodgment deferrals – registered tax agent and BAS agents – amalgamating

Date of amendment	Part	Comment
		both groups (230-235) • 'Legislative linkage' between lodgment and payment deferrals removed and replaced by paragraph detailing their separate administration (241)

Legislative references	ITAA 1936 6(1) ITAA 1936 102UC ITAA 1936 129 ITAA 1936 144 ITAA 1936 148 ITAA 1936 161 ITAA 1936 161(1A) ITAA 1936 162 ITAA 1936 163 ITAA 1936 168 ITAA 1936 202CD ITAA 1936 202DP(1) ITAA 1936 202DP(2) ITAA 1936 252 ITAA 1936 254 ITAA 1936 255 ITAA 1997 703-5 ITAA 1997 703-50 ITAA 1997 703-10 ITAA 1997 719-5 ITAA 1997 960-100 ITAA 1997 995-1 TAA 1953 Sch 1 Pt 2-5 TAA 1953 Sch 1 12-175 TAA 1953 Sch 1 12-180 TAA 1953 Sch 1 16-75(2) TAA 1953 Sch 1 16-75(5) TAA 1953 Sch 1 16-95 TAA 1953 Sch 1 16-100 TAA 1953 Sch 1 16-110 TAA 1953 Sch 1 16-115 TAA 1953 Sch 1 16-115(5)(c) TAA 1953 Sch 1 16-140 TAA 1953 Sch 1 16-142 TAA 1953 Sch 1 16-150 TAA 1953 Sch 1 16-152 TAA 1953 Sch 1 16-152(2) TAA 1953 Sch 1 16-153 TAA 1953 Sch 1 16-153(1) TAA 1953 Sch 1 16-153(1)(a) TAA 1953 Sch 1 16-153(2) TAA 1953 Sch 1 16-153(6) TAA 1953 Sch 1 16-153(7) TAA 1953 Sch 1 Pt 2-10 TAA 1953 Sch 1 45-61(2) TAA 1953 Sch 1 45-70 TAA 1953 Sch 1 45-110(1) TAA 1953 Sch 1 45-112(3) TAA 1953 Sch 1 45-115(1) TAA 1953 Sch 1 45-125(1)(b) TAA 1953 Sch 1 45-140 TAA 1953 Sch 1 45-140(2)

	TAA 1953 Sch 1 45-405 TAA 1953 Sch 1 45-715 TAA 1953 Sch 1 45-720 TAA 1953 Sch 1 110-50(2) TAA 1953 Sch 1 115-10(1) TAA 1953 Sch 1 115-15(1) TAA 1953 Sch 1 115-15(2) TAA 1953 Sch 1 115-15(3) TAA 1953 Sch 1 115-25 TAA 1953 Sch 1 115-45(2) TAA 1953 Sch 1 115-45(3) TAA 1953 Sch 1 117-5(1) TAA 1953 Sch 1 117-5(3)(a) TAA 1953 Sch 1 117-5(3)(b) TAA 1953 Sch 1 117-5(4) TAA 1953 Sch 1 117-5(5)(a) TAA 1953 Sch 1 117-5(5)(b) TAA 1953 Sch 1 117-15(1) TAA 1953 Sch 1 117-20(1) TAA 1953 Sch 1 117-20(3)(a) TAA 1953 Sch 1 117-20(3)(b) TAA 1953 Sch 1 117-25 TAA 1953 Sch 1 119-5(3) TAA 1953 Sch 1 255-10 TAA 1953 Sch 1 260-45 TAA 1953 Sch 1 284-75 TAA 1953 Sch 1 388-50 TAA 1953 Sch 1 388-50(2) TAA 1953 Sch 1 388-52 TAA 1953 Sch 1 388-55(1) TAA 1953 Sch 1 388-55(2) TAA 1953 Sch 1 388-80 TAA 1953 Sch 1 390-65(2) TAA 1953 Sch 1 405-10(1) TAA 1953 Sch 1 405-10(2) TAA 1953 Sch 1 405-10(4) TAA 1953 Sch 1 444-10 TAR 1976 64 TAR 1976 64(1) TAR 1976 64(5) TAR 1976 64(6) ANTS(GST)A 1999 27-15(1)(c) ANTS(GST)A 1999 27-15(2) ANTS(GST)A 1999 27-20 ANTS(GST)A 1999 27-22 ANTS(GST)A 1999 27-25(2)(b) ANTS(GST)A 1999 27-39(1) ANTS(GST)A 1999 31-10 ANTS(GST)A 1999 31-20 ANTS(GST)A 1999 31-25(1) ANTS(GST)A 1999 31-25(2) ANTS(GST)A 1999 33-10 (1) ANTS(GST)A 1999 33-10(2)

	ANTS(GST)A 1999 33-15 ANTS(GST)A 1999 48-5 ANTS(GST)A 1999 48-60 ANTS(GST)A 1999 51-5 ANTS(GST)A 1999 51-50 ANTS(GST)A 1999 51-52(1) ANTS(GST)A 1999 54-5 ANTS(GST)A 1999 54-55(1) ANTS(GST)A 1999 54-55(3) ANTS(GST)A 1999 57-40 ANTS(GST)A 1999 58-10 ANTS(GST)A 1999 58-35 ANTS(GST)A 1999 58-50(1) ANTS(GST)A 1999 58-50(4) ANTS(GST)A 1999 58-55 ANTS(GST)A 1999 58-60 ANTS(GST)A 1999 58-60(2) ANTS(GST)A 1999 78-50 ANTS(GST)A 1999 78-85 ANTS(GST)A 1999 105-15(1) ANTS(GST)A 1999 151-20 ANTS(GST)A 1999 151-45 ANTS(GST)A 1999 162-25 ANTS(GST)A 1999 162-5(1) ANTS(GST)A 1999 162-5(1)(d) ANTS(GST)A 1999 162-60 ANTS(GST)A 1999 162-70(4) ANTS(GST)A 1999 162-75 ANTS(GST)A 1999 162-90 ANTS(GST)A 1999 162-95 ANTS(GST)A 1999 Div 188 ANTS(GST)A 1999 195-1 ANTS(GST)R 1999 Div 33 MRRTA 2012 15-5 MRRTA 2012 70-25 MRRTA 2012 85-5 MRRTA 2012 200-10 MRRTA 2012 215-10 MRRTA 2012 215-20 FBTAA 1986 68 FBTAA 1986 69 FBTAA 1986 136 FBTAA 1986 Pt VII FTA 2006 41-5(3) FTA 2006 42-5 FTA 2006 61-15(2) FTA 2006 61-20 FTA 2006 Subdiv 70A FTA 2006 70-25 EA 1901 61C EA 1901 61C(1)(a) EA 1901 61C(1)(b) EA 1901 61C(3)(a)

	EA 1901 61C(3)(b) EA 1901 61C(3)(c) EA 1901 61 C(3)(d) LIA 2003 56 PRRTAA 1987 58N PRRTAA 1987 58Q PRRTAA 1987 59 PRRTAA 1987 59(1) PRRTAA 1987 95 PRRTAA 1987 98 PRRTAA 1987 Sch 2 22 Petroleum Resource Rent Tax Assessment Amendment Act 2012 Sch 1 46 Privacy Act 1988 SG(A)A 1992 33 SI(S)A 1993 129(3) S(UMLM)A 1999 15A ITR 1936 56(3) S(UMLM)R 1999 6 Financial Management and Accountability Act 1997 Tax Agent Services Act 2009
Related practice statements	PS LA 1998/1 Law Administration Practice Statements PS LA 2004/6 The ATO role in providing information or advice on the potential application of announced changes to the tax law, or where legislative change is contemplated but not announced PS LA 2005/19 Approved forms PS LA 2007/21 Substituted Accounting Periods (SAPs) PS LA 2007/24 Making default assessments: section 167 of the *Income Tax Assessment Act 1936* and other similar provisions PS LA 2011/2 Administration of penalties for the non-electronic notification (NEN penalty) and non-electronic payment (NEP penalty). PS LA 2011/14 General debt collection powers and principles PS LA 2011/19 Administration of documents for failing to lodge documents on time CEI 2014/06/04 Respecting Clients' Rights of Review Respecting clients' rights of review
Case references	Deputy Commissioner of Taxation v. Jones [1999] FCA 308; 99 ATC 4373; (1999) 41 ATR 460 MW McIntosh Pty Ltd v FC of T [2009] FCAFC 88
Other references	*ATO Receivables Policy*: Chapter 35 Collection of consolidated group liabilities Consolidation reference manual Prosecution Policy of the Commonwealth Legislative instrument SPR 2009/2 Unclaimed money days and scheduled statement days. Australian Privacy Principles
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