

ATO RECEIVABLES POLICY

PART D Registration of Entities

Chapter 62 APPLYING FOR GOODS AND SERVICES TAX REGISTRATION

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

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

Key legislation: Divisions 23 and 25 of the *A New Tax System (Goods and Services Tax) Act 1999*

PURPOSE

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

INTRODUCTION

2. The *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) commenced on 1 July 2000 and provided for the introduction of a broad based tax of 10 per cent on the supply of most goods and services consumed in Australia, including imports.
3. Entities carrying on an enterprise with a GST turnover of \$75,000 (or \$150,000 for non-profit bodies) or more are required to register, while those with a turnover of less than \$75,000 (or \$150,000 for non-profit bodies) may register if they choose.
4. If an entity is registered or required to be registered they must pay GST on any taxable supplies and taxable importations that they make. They are entitled to input tax credits which arise on creditable acquisitions and creditable importations. Activities carried out as an employee, or in pursuit of a hobby are not considered to be an enterprise and are not eligible for GST registration.

POLICY

General Principle

5. If an entity is required to be registered, it must apply in the approved form to the Commissioner within 21 days of becoming required to be registered. If an entity is entitled to be registered but not required to do so, it may apply at any time.
6. The Commissioner must register an entity for GST if:

- an application for registration has been made in the approved form, and
 - the Commissioner is satisfied that the entity is carrying on an enterprise, or intends to carry on an enterprise from the date specified in the application.
7. Although there are no specific provisions requiring the Commissioner to establish the identity of the applicant under the GST Act, the Commissioner has an implied power to seek information necessary to establish the identity of the entity. The GST application is an approved form for the purposes of section 388-50 of Schedule 1 to the *Taxation Administration Act 1953* (TAA) so that the applicant must provide the information and/or documents the Commissioner requires.
 8. Carrying on an enterprise includes doing anything in the course of commencement of that enterprise. Activities that are considered to be carried on in the commencement of an enterprise may include a genuine feasibility study, or signing a franchise agreement. However, the mere intention to commence an enterprise will not.
 9. For a full definition of entity and enterprise refer to Miscellaneous Taxation Ruling MT2006/1 *The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number*. Although this ruling is written for Australian business numbers (ABNs), the concepts of entity and enterprise also apply for GST purposes.
 10. Any entity that carries on an enterprise may choose to register:
 - despite the fact that its GST turnover is below the registration turnover threshold (see paragraph 3). Choosing not to register for GST when GST turnover is less than the threshold does not remove an entity's entitlement to an ABN
 - if it is not yet carrying on an enterprise but intends to do so, the entity can register with a date of effect not earlier than the date they intend to commence the enterprise.
 11. An entity's registration will generally take effect from the date the entity specifies in its registration application, unless the Commissioner specifies another date. The Commissioner must notify the entity in writing of:
 - the date of effect of the registration
 - the registration number, and
 - the tax periods that apply to the entity.
 12. The Commissioner must also register an entity if satisfied that the entity is required to be registered, even if the entity has not applied for registration.
 13. The Australian Business Registrar must also enter the date of effect of the entity's GST registration in the Australian Business Register (ABR).
 14. Where an entity that has an ABN applies for GST registration, or an entity applies for ABN and GST registration at the same time, the GST registration number will be the same as the ABN.

Entities subject to special rules

15. A government entity may apply to be registered even if it is not an entity as defined, and even if it is not carrying on an enterprise. However, a government

entity is not required to be registered even if it is carrying on an enterprise and its GST turnover meets the registration turnover threshold.

16. A non-profit sub-entity may be registered for GST if the criteria set out in section 63-5 of the GST Act are met.
17. If an entity supplies taxi travel as part or all of its enterprise, it must register for GST irrespective of its GST turnover. Taxi travel is travel that involves transporting passengers, by taxi or limousine, for fares.
18. The representative of an incapacitated entity (an individual who is bankrupt or an entity that is in receivership or liquidation or otherwise has a representative as defined in section 195-1 of the GST Act) must register for GST in that capacity, if the incapacitated entity is registered or required to be registered.
19. A resident agent of a non resident is required to be registered if the non-resident is registered or required to be registered.

Branching

20. To register for GST branching, a parent entity must fulfill the following criteria:
 - the parent entity must be registered for GST and apply in the approved form for registration of the branch
 - the branch must be separately identifiable either by its activity, or by its location
 - the branch must have an independent accounting system
 - the parent entity must carry on, or plan to carry on, an enterprise through the branch.

The parent entity cannot have GST branches if it is a member of a GST group.

Grouping

21. The Commissioner must approve a GST group if the following conditions are met:
 - the group is made up of two or more entities
 - the entities apply jointly for approval as a GST group in the approved form
 - each of the entities satisfies the membership requirements for a GST group, and
 - the application nominates one of the entities which is an Australian resident to be the representative member of the group.
22. The Commissioner must decide the date of effect of a GST group and may approve backdating of the GST group.
23. An entity may only join an existing group with monthly or quarterly tax periods at the beginning of the group's tax period. If a proposed member of such a group is created at a time other than the beginning of the group's tax period, it must register for any tax obligations in its own right until beginning of the group's next tax period.

GST joint ventures

24. The Commissioner must approve two or more entities as the participants in a GST joint venture where the following conditions are met:
- the joint venture is for the exploration or exploitation of mineral deposits, or for a purpose specified in the A New Tax System (Goods and Services Tax) Regulations 1999
 - the joint venture is not a partnership, and
 - the entities satisfy the participation requirements and jointly apply in the approved form for approval as a GST joint venture, nominating one of those entities or another entity to be the joint venture operator of the joint venture. If another entity outside the joint venture agreement is nominated as the joint venture operator, that entity must be registered for GST and account on the same GST basis as the participants of the joint venture.

Backdating registrations

25. The Commissioner has the power to backdate an entity's registration.
- Where no registration application is made:
 - the date of effect can be backdated to the date the entity was required to be registered.
 - Where a registration application is made:
 - the date of effect can be backdated to the date the entity was required to be registered or an earlier date (if the entity was eligible) as specified in the application.
26. Backdating a registration requires GST to be paid on taxable supplies made from that date but also allows input tax credits to be claimed on creditable acquisitions or importations, provided the correct documentation is held.

Refusal to register

27. The Commissioner may refuse an application for GST if satisfied that the entity is not carrying on an enterprise, or does not intend to carry on an enterprise from a particular date specified in the application, except where special rules apply, such as non-profit sub entities and government entities.
28. The Commissioner may also refuse to register an applicant if the application is not in the approved form or if the Commissioner is not satisfied as to the identity of the applicant because they have not proven their identity. For a non-individual applicant proof of identity may include proof of the identity of some individuals who are associates of the entity.
29. The Commissioner must notify the entity in writing of the decision. An entity can object to this decision and to other GST decisions set out in Subdivision 110-F of Schedule 1 to the TAA.

TERMS USED

ABN (Australian business number) – the entity's ABN as shown in the Australian Business Register.

Approved form – takes the meaning set out in section 388-50 of Schedule 1 to the TAA and includes requirements concerning declarations, full completion of the form

and the manner in which the form must be given. The Commissioner may combine in the same approved form more than one return, notice, statement or other document (for example, the business activity statement).

Carrying on an enterprise – is defined in section 195-1 of the GST Act to include doing anything in the course of the commencement or termination of the enterprise.

Creditable acquisition – has the meaning given by section 11-5 of the GST Act. You make a creditable acquisition if:

- (a) you acquire anything solely or partly for a creditable purpose
- (b) the supply of the thing to you is a taxable supply
- (c) you provide, or are liable to provide, consideration for the supply, and
- (d) you are registered or required to be registered.

Creditable importation – has the meaning given by section 15-15 of the GST Act. You make a creditable importation if:

- (a) you import goods solely or partly for a creditable purpose
- (b) the importation is a taxable importation, and
- (c) you are registered or required to be registered.

Creditable purpose – has the meaning given by section 11-15 of the GST Act in relation to creditable acquisitions and section 15-10 of the GST Act in relation to creditable importations.

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

Entity – refer to MT 2006/1.

GST branch – has the meaning given by section 54-5 of the GST Act.

GST group – has the meaning given by section 48-5 of the GST Act.

GST turnover – means:

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

Incapacitated entity – is an individual who is bankrupt, an entity that is in receivership or liquidation or an entity that has a representative as defined in section 195-1 of the GST Act.

Input tax credit – means an entitlement arising under section 11-20 or 15-15 of the GST Act.

Joint venture operator – for a GST joint venture, is the entity nominated to be the joint venture operator under paragraph 51-5(e), or approved as a replacement joint venture operator for the joint venture under paragraph 51-70(1)(c) of the GST Act.

Non-profit sub entity – has the meaning given by Division 63 of the GST Act.

Tax period – is the period for which an entity that is registered or required to be registered must lodge a GST return. These periods may be one month, three months, annual or, in limited circumstances, another tax period such as a substituted accounting period.

Taxable importation has the meaning given by sections 13-5 and 114-5 of the GST Act.

Taxable supply – has the meaning given by sections 9-5, 78-50, 84-5 and 105-5 of the GST Act.