



Cancelled or Terminated Transactions

Sections 88A, 107 and 205Y of the *Duties Act 2008*

Duty is not chargeable on certain transactions that are cancelled or terminated.

BUNDLE ID

| Cancelled transaction | Terminated on relevant grounds |
|--|--|
| <p>A cancelled transaction is one that has not been, and will not be, carried into effect.</p> <p>Use this form to apply for a transaction to be assessed or reassessed as a cancelled transaction within the later of:</p> <ul style="list-style-type: none">• five years after the original assessment was made or• 12 months after the day on which the agreement becomes cancelled, if the transaction is an agreement to transfer dutiable property. | <p>Duty is not payable on a general conditional agreement that is terminated on relevant grounds.</p> <p>This applies if the agreement is not carried into effect within 12 months because a condition cannot be fulfilled for reasons not within the control of a party to the agreement or a person related to a party to the agreement. Section 87(2) of the <i>Duties Act 2008</i> provides the conditions that make an agreement a general conditional agreement (such as finance declined).</p> <p>Use this form to apply to terminate your transaction on relevant grounds.</p> |

The following transactions cannot be cancelled or terminated on relevant grounds:

- a call option of a simultaneous put and call option
- an assignment of a call option
- a transaction cancelled so that a subsale transaction or replacement transaction can be entered into or
- a terms contract if the taxpayer has obtained exclusive use or control of the property.

Information requirements

Submit with this form the transaction record (e.g. contract for sale) and a completed [Foreign Transfer Duty Declaration](#) for each taxpayer.

Keep this form for auditing purposes if you cancelled or terminated the transaction on Revenue Online – Online Duties.

See page 5 for definitions of the terms used in this form. For further information, see the '[Cancelled Transactions](#)' fact sheet available from www.wa.gov.au

Lodging party details

| | | | |
|----------------|--|--|----------|
| Name | | | |
| Postal address | | | |
| Suburb | | | Postcode |

Transaction details

| | | | |
|--|--|--|--|
| Type of transaction (e.g. agreement for the transfer of dutiable property) | | | |
| Date of transaction | | | |
| Dutiable property details (e.g. property address, business name, etc) | | | |

Party details

Seller/Transferor

| | | | |
|-----------|--|--|--|
| Full name | | | |
|-----------|--|--|--|

Buyer/Transferee

| | | |
|----------------|--|----------------------|
| Full name | | Date of birth or ACN |
| Full name | | Date of birth or ACN |
| Postal address | | |
| Suburb | | Postcode |

1. When was the dutiable transaction cancelled / terminated?

2. Has the transaction been cancelled so that a subsale transaction or replacement transaction can be entered into?

Yes ☐ No ☐

If **YES**, provide full details of the subsale or replacement transaction. If the transaction has been lodged or self-assessed, provide the Bundle ID..

| |
|--|
| |
| |
| |

3. Did the taxpayer obtain exclusive use or control of the property under a terms contract (within the meaning in the *Sale of Land Act 1970*), whether or not the dutiable transaction was for any reason not fully carried into effect?

Yes ☐ No ☐

4. Is there an ongoing dispute between the parties about the performance of the transaction, for example legal action? Yes ☐ No ☐

If **YES**, provide details of the dispute:

5. What type of agreement is the transaction?

- | | |
|--|--|
| General Conditional Agreement <input type="checkbox"/> | Unconditional Agreement <input type="checkbox"/> |
| | Issue of Title Conditional Agreement <input type="checkbox"/> |
| | Subdivisional Conditional Agreement <input type="checkbox"/> |
| | Farming Land Conditional Agreement <input type="checkbox"/> |
| | Mining Tenement Conditional Agreement <input type="checkbox"/> |

[Go to question 6](#)

[Go to question 7](#)

6. Which condition was not fulfilled?

| | |
|---|---|
| A satisfactory private ruling from the Commissioner of Taxation of the Commonwealth <input type="checkbox"/> | The vendor obtaining approval for renewing an existing lease over commercial property <input type="checkbox"/> |
| The purchaser obtaining funds to finance the purchase <input type="checkbox"/> | The vendor obtaining a new lease or assignment of the current lease over business premises <input type="checkbox"/> |
| The purchaser obtaining a satisfactory building inspection, geotechnical or environmental report <input type="checkbox"/> | The sale of another property by a purchaser <input type="checkbox"/> |
| The vendor obtaining consent to transfer a lease of leasehold land to the purchaser <input type="checkbox"/> | The purchaser obtaining approval from a regulatory body <input type="checkbox"/> |
| The authorisation of the payment of a first home owner grant to the purchaser <input type="checkbox"/> | The results of due diligence inquiries against objective criteria <input type="checkbox"/> |
| The purchaser obtaining a licence to trade or the grant of a franchise <input type="checkbox"/> | Other <input type="checkbox"/> |

7. Has duty been paid or has the due date for payment passed? Yes ☐ No ☐

8. Why is the transaction not going ahead?

IMPORTANT

A person who provides information to the Commissioner knowing it to be false or misleading in a material particular commits an offence under the *Taxation Administration Act 2003*. The penalty for the offence is:

- a) \$20,000 and
- b) three times the amount of tax that was avoided or might have been avoided if the false or misleading information had been accepted as true.

I/We declare I/we have provided true, complete and correct answers and information.

This declaration must be signed by all taxpayers or the agent

| Purchasers' / transferees' signatures | | | | Agent's signature |
|---------------------------------------|--|-------|--|-------------------|
| Person 1: | | Date: | | |
| Person 2: | | Date: | | |

More information

Visit www.wa.gov.au/government/publications/about-transfer-duty or call us on 08 9262 1100

See the '[Cancelled Transactions](#)' fact sheet

| | |
|---|---|
| Enquiry: www.osr.wa.gov.au/DutiesEnquiry Office: RevenueWA Level 3, 200 St Georges Tce <u>PERTH WA</u> 6000 | Lodge online: www.osr.wa.gov.au/portal Post: RevenueWA GPO Box T1600 PERTH WA 6845 |
|---|---|

Terms used

Taxpayer means a person who is or may be liable to pay duty. If there are two or more persons, the taxpayer is considered to be all parties.

A **general conditional agreement** is an agreement, such as a contract for sale, that is conditional on any of the events specified in section 87(2) of the *Duties Act 2008*. A general conditional agreement is not:

- (a) a farming land conditional agreement
- (b) a mining tenement conditional agreement
- (c) an issue of title conditional agreement
- (d) a subdivision conditional agreement or
- (e) an unconditional agreement.

A **subsale transaction** means another dutiable transaction which results in a beneficial interest in the dutiable property being held by:

- (a) a person who is not a party to the cancelled transaction, a result which is contemplated or provided for under the cancelled transaction
- (b) a person who is not a party to the cancelled transaction, a result which is substantially similar in effect to the effect of the cancelled transaction or
- (c) another person, as a result of an agreement, arrangement or understanding between a person liable to pay duty and any other party to the transaction.

A **replacement transaction** means another dutiable transaction that:

- (a) is between all of the same parties as the parties to the cancelled transaction
- (b) is substantially similar in effect to the cancelled transaction and
- (c) in the opinion of the Commissioner, is a scheme or arrangement, or part of a scheme or arrangement, for which the sole or dominant purpose of any party is to avoid, reduce or defer the payment of tax.