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
A cancelled transaction is one that has not been, and will not be, carried into effect. Use this form to apply for a transaction to be assessed or reassessed as a cancelled transaction within the later of: • 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.	Duty is not payable on a general conditional agreement that is terminated on relevant grounds. 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 *Duties Act 2008* provides the conditions that make an agreement a general conditional agreement (such as finance declined). Use this form to apply to terminate your transaction on relevant grounds.

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:

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5. What type of agreement is the transaction?

General Conditional Agreement ☐	Unconditional Agreement ☐ Issue of Title Conditional Agreement ☐ Subdivisional Conditional Agreement ☐ Farming Land Conditional Agreement ☐ Mining Tenement Conditional Agreement ☐
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	☐	The vendor obtaining approval for renewing an existing lease over commercial property	☐
The purchaser obtaining funds to finance the purchase	☐	The vendor obtaining a new lease or assignment of the current lease over business premises	☐
The purchaser obtaining a satisfactory building inspection, geotechnical or environmental report	☐	The sale of another property by a purchaser	☐
The vendor obtaining consent to transfer a lease of leasehold land to the purchaser	☐	The purchaser obtaining approval from a regulatory body	☐
The authorisation of the payment of a first home owner grant to the purchaser	☐	The results of due diligence inquiries against objective criteria	☐
The purchaser obtaining a licence to trade or the grant of a franchise	☐	Other	☐

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

8. Why is the transaction not going ahead?

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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

Lodge online through the Online Services Portal: https://osr.wa.gov.au/revenuewaconnect

Office: RevenueWA
Level 3, 200 St Georges Tce
PERTH WA 6000

Post: RevenueWA
GPO Box T1600
PERTH WA 6845

Privacy statement

The Commissioner of State Revenue collects personal information under the authority of the *Taxation Administration Act 2003* and the *First Home Owner Grant Act 2000* (Acts) for the purposes of administering and enforcing those Acts and the State revenue laws. The collected information is protected by the confidentiality provisions in the Acts. We will not use your information outside of revenue administration purposes or share your information without your consent except in circumstances required or authorised by law.

See www.wa.gov.au/organisation/department-of-treasury-and-finance/revenuewa-privacy-and-personal-information for details about how your personal information is handled.

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.