



Cancelled Transactions

Section s 88A and 107 of the Duties Act 2008

As at 1 July 2021

Duty is not chargeable on a cancelled transaction.¹ A cancelled transaction is a dutiable transaction that has not been, and will not be completed.

When duty is chargeable on a cancelled transaction

Duty is chargeable on a cancelled transaction if the transaction has been cancelled so that a replacement transaction or a subsale transaction can be entered into.

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Duty is chargeable on a transaction that is cancelled to give effect to a novation, or a subsale to a person who is not a party to the transaction, or to the parties to the transaction.

Example

Annie and Bob enter into an agreement to transfer dutiable property to themselves as individuals. They then cancel the agreement so they can enter into another agreement to transfer the same property to their discretionary trust. The Commissioner would consider the second transaction a subsale transaction and duty would be charged on both transactions.

Assessment or reassessment for cancelled transactions

Apply using Form FDA1 [‘Exemption for Cancelled or Terminated Transactions’](#) to request the Commissioner reassess the duty liability of a transaction that has been cancelled.

In accordance with section 54 of the Taxation Administration Act 2003, the Commissioner may refund duty that has already been paid.

A transaction record that was lodged in Revenue Online can be cancelled. See the [Online Duties - Frequently Asked Questions](#) for information about processing cancelled transactions. If the transaction record was duty endorsed through Revenue Online, the application form and original transaction record, together with any other transaction record that has been duty endorsed and all Certificates of Duty, must be forwarded to RevenueWA.

If the cancelled transaction is an agreement to transfer dutiable property, you cannot apply for a reassessment more than five years after the original assessment was made, or more than 12 months after the day on which the agreement became a cancelled transaction, whichever is the later.

For all other dutiable transactions, you cannot apply for a reassessment more than five years after the original assessment was made.

Termination of general conditional agreements

A general conditional agreement is an agreement, such as a contract for sale, where its completion is conditional on an event that is defined in section 87(2) of the Duties Act, such as subject to finance.² If the agreement is an issue of title or a subdivision conditional agreement, then it is not a general conditional agreement.

See the [‘Conditional Agreements’](#) fact sheet for more information about general conditional agreements.

A general conditional agreement is terminated on relevant grounds if³

- x it is not completed because certain conditions of the agreement⁴ were not fulfilled and
- x duty would not be charged on the agreement under section 107 of the Duties Act because it would meet the criteria of a cancelled transaction.

² Duties Act s87.

³ Duties Act s88A.

⁴ of a type referred to in section 88A(2) of the Duties Act.

