

GST – IMPACT OF MACHINERY OF GOVERNMENT CHANGES

PURPOSE

To provide guidance to agencies on matters to be dealt with for GST purposes as a result of Machinery of Government (MOG) changes. This will be of importance where any Administrative Arrangement Order (AAO) changes impact on present ACT government entities registered for GST. This assessment will need to be made by individual entities.

BACKGROUND

Whenever MOG changes occur there may be a number of changes that may have to be made within departments and other agencies.

This paper considers a number of issues that agencies may face as a result of MOG changes and provides possible solutions to address those issues.

The MOG changes that may occur include the abolition of a department, the creation of a department, the transfer of part of one department to another department and change of name of a department. Each of these events raises different issues that may need to be dealt with differently.

Agencies have a responsibility to take all reasonable steps to minimise the impact of MOG changes on GST obligations. Such reasonable steps would include early modification of systems, timely advice of changes to suppliers and customers and close liaison with other agencies directly affected by the agencies' MOG changes.

ISSUES

The main issues to be addressed by departments and other GST registered entities following MOG changes are:

Registration changes

The ACT Government registers departments separately for GST purposes, as a result MOG changes which create new departments, abolish existing departments, change departmental names, or move semi autonomous units between departments can have an impact on individual department GST registration. In dealing with registration issues arising from MOG changes, the following actions need to be considered:

- identify whether there is an impact on the agencies current registration, either ABN or GST, or both;
- decide the effective registration date. Ideally, it should be the date from which the agency is able and intending to operate in its new identity; and
- if required, liaise with the Accounting Branch within Treasury (Ph: 620 70330) so that proof of identity can be provided to the ATO.

In practice

It is important to note that where there are MOG changes the ATO allows government agencies a three (3) month period of grace during which tax invoices, not strictly complying with the GST law (for example, the invoice is addressed to the wrong agency), are accepted as valid. The 3 month grace period usually commences on the date of the AAO effecting the MOG changes.

If agencies are of the opinion that it may take longer than 3 months to have tax invoices complying with the GST law, it is recommended that contact be made with the ATO as soon as possible to advise them of the issues being encountered.

If an invoice is received by the gaining agency after the 3 month grace period and bears the losing department the invoice will need to be reissued.

Often invoices will specify business unit names rather than the department name. One option to assist with having complying tax invoices is to register individual business unit names as trading names of the gaining / new department. This means invoices bearing a business unit name can be accepted as valid.

Where an agency makes supplies

If an agency makes a supply the agency is required to issue a tax invoice in respect of each taxable supply. All tax invoices must have the name and ABN of the supplier on them. As a result any MOG change involving a change to the name or ABN of the agency making the supply will require changes to the tax invoices issued by that agency.

Actions an agency should take to ensure compliance with GST law pertaining to tax invoices include:

- deciding what action needs to be taken to be able to produce tax invoices/receipts with the new information on them;
- developing a plan, with a timetable, to change the relevant information in an agency's tax invoices/receipts in accordance with the registration changes that have to be made; and
- if an agency has acquired a division from another agency, coordinate with the other agency to avoid duplication of tax invoices for the same supply being made by that division.

Acquisitions made by an agency

If the MOG changes impact on the name and either the address or ABN of the recipient then the supplier needs to be advised of the new details. Even if the invoice is for an amount less than \$1,000¹, some suppliers still show the recipients details on the tax invoice.

Agencies will therefore need to ensure that they advise suppliers of any changes suppliers will need to make to their tax invoices, and more importantly, the date of effect for such changes.

Recipient created tax invoices (RCTI's)

It is common practice for agencies that make acquisitions from non-government organisations to issue a recipient created tax invoice. As the agency controls the issue of RCTI's, the agency can ensure that the details relevant to particular transactions as a result of MOG changes, are included on the RCTI when it is issued to the supplier.

Agencies will also need to review their current RCTI agreements to ensure the agreements correctly reflect any proposed ABN/GST registration changes.

¹ Note, tax invoices less than \$1,000 are not required to contain the name and address or ABN of the recipient.

Funding Transfers

MOG changes can result in a number of funding transfers being made between agencies. The relevant GST treatment for funding transfers are as follows:

- *Budget adjustment transfers*

Budget adjustment transfers are clearly funding payments within the scope of the appropriations ruling (GSTR 2004/5) and therefore are not subject to GST.

- *Reimbursement of expenditure made by one agency on behalf of another agency during transition*

A situation could arise where a division is transferred between departments, and the losing agency continues to pay some of the accounts of the relevant division for a time after the MOG change. The department then seeks reimbursement from the gaining agency for the expenditure it has made once the financial arrangements have been finalised.

In such a situation, it would be expected that the losing agency has claimed any input tax credits in respect of its expenditures and seeks only to recover the net amount of its expenditure. This is treated in the same manner as a budget transfer and is not subject to GST as there has been no supply by the losing agency to the gaining agency in respect of which the reimbursement is made. It is merely a funding transfer.

- *Agency collects revenue that has to be transferred to another agency as the second agency is now responsible for the area that generates that income.*

If the revenue relates to activities undertaken prior to the date of the MOG changes, the losing agency should retain the revenue and account for any GST to the ATO.

However, agencies may take some time to agree upon the changeover date of financial operations. In some circumstances, changes may need to be made to the ABN and GST registrations before the gaining area can commence to account for the new function. The losing agency may therefore need to account for revenue on behalf of the gaining agency for some time after the MOG changes.

In this situation, agencies will need to liaise with each other and decide which agency will account for the GST. It is suggested that the losing agency should

account for the GST up to the changeover date, with the gaining agency accounting for the GST from the changeover date. If the losing agency receives any payments from customers after the changeover date it should forward them to the gaining agency so that it can account for the GST to the ATO.

- *Australian Taxation Office refunds*

It is possible that delays by the ATO, or others, may result in a BAS refund being sent to the losing agency when it should have gone to the gaining agency. The transfer of the refund to the gaining agency should be treated in a similar manner to the budget transfers arising from MOG changes, that is, there are no GST consequences as there is no supply by the gaining agency.

Should you have any questions concerning the above information, please contact the Accounting Branch of Treasury on 620 70330.