

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

2016 - 2017

**Division/Agency:** Australian Taxation Office  
**Question No:** 191  
**Topic:** GST – Registration to charge  
**Reference:** Hansard – page 54-55  
**Senator:** Gallagher

**Question:**

Senator GALLAGHER: What is the arrangement if you are collecting GST but you are not registered to collect GST? What would happen in that situation?

Mr Dyce: You are not allowed to collect GST if you are not registered. You are not allowed to charge GST if you are not registered, and that is—

Senator GALLAGHER: Is that a separate sort of offence?

Mr Dyce: That is a separate provision, yes. But the law does not allow you to charge GST where you are not registered.

Senator GALLAGHER: And there are penalties for that, I presume?

Mr Dyce: That is a breach. I would have to take on notice for exactly what type of offence it is.

**Answer:**

When an entity is carrying on an enterprise, GST law requires that entity to be registered for GST from the date the entity's turnover first meets the registration turnover threshold. To ensure compliance with the law, registration sometimes needs to be retrospective.

If tax invoices are provided to the recipient of the supply purporting to contain a GST amount and a retrospective registration has not happened then these could be considered false or misleading statements and the person/entity may be liable for administrative penalties contained within section 284-75(4) of Schedule 1 to the *Taxation Administration Act* (1953). Penalties for no shortfall statements vary from 20 to 60 penalty units depending on culpability. A penalty unit is currently \$180.00.

A person not retrospectively registered may also be guilty of a prosecutable offence for issuing the false or misleading statement (tax invoice). The offence and penalty provisions are contained within Part III sub-division B of the *Taxation Administration Act* (1953). The penalties range from 20 to 50 penalty units and/or a period up to 12 months imprisonment depending on the level of culpability and the number of offences.